












# ACTS AND RESOLVES

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

# 1997

PUBLISHED BY  
**William Francis Galvin**  
SECRETARY OF THE COMMONWEALTH





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The General Court which was chosen November 5, 1996, assembled on Wednesday, the first day of January, 1997 for the first session.

His excellency, William F. Weld and his Honor Argeo Paul Cellucci served as Governor and Lieutenant Governor respectively until July 29, 1997, when Governor Weld resigned and Lieutenant Governor Cellucci succeeded him as Acting Governor.



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## 1997 ACTS AND RESOLVES

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Secretary of the Commonwealth





**Chapter 1. AN ACT PROVIDING FOR IMPLEMENTATION OF THE SENIOR PHARMACY ASSISTANCE PROGRAM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for implementation of the senior pharmacy assistance program, 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 implementation of the senior pharmacy assistance program, the sums set forth in section two are hereby appropriated from the Children's and Seniors' Health Care Assistance Fund, and shall be for the several purposes and subject to the conditions specified in said section two and subject to the provisions of law regulating the disbursement of public funds, and the conditions pertaining to appropriations acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven.

**SECTION 2.**  
**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**  
*Division of Medical Assistance*

4000-0326	For an interdepartmental service agreement with the executive office of elder affairs that provides for the transfer of funds from this item for the costs of administering enrollment in the senior pharmacy assistance program established pursuant to the provisions of section sixteen B of chapter one hundred and eighteen E of the General Laws; provided, however, that not less than five hundred thousand dollars shall be distributed to home care corporations for the purposes of said interdepartmental service agreement .....	\$1,304,038
4000-0327	For enhancements to the medicaid management information system, so-called, to process claims for the senior pharmacy assistance program established pursuant to the provisions of section sixteen B of chapter one hundred and eighteen E of the General Laws .....	\$300,000

**SECTION 3.** Section 16B of chapter 118E of the General Laws, inserted by section 15 of chapter 203 of the acts of 1996, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following two paragraphs:-

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 on the first day of the month of July which follows the closing of said open enrollment period.

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## Chap. 1

An annual enrollment fee in an amount not to exceed fifteen dollars shall be collected by the division for any eligible person enrolled in the pharmacy assistance program. Said annual enrollment fee shall be collected by deducting said fee from the five hundred dollar covered benefit authorized by this section. The total amount so collected shall be certified by the commissioner of the division and shall be used to defray the administrative costs of said program.

**SECTION 4.** Item 4000-0325 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out the figure "29,325,322" and inserting in place thereof the following figure:- 27,721,284.

**SECTION 5.** Notwithstanding the provisions of section sixteen B of chapter one hundred and eighteen E of the General Laws or any other general or special law to the contrary, the commissioner of the division of medical assistance is hereby authorized and directed to extend the enrollment period for the senior pharmacy assistance program established by said section sixteen B until May thirtieth, nineteen hundred and ninety-seven.

**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance is hereby authorized and directed to redetermine the eligibility of applicants for the pharmacy assistance program established pursuant to section sixteen B of chapter one hundred and eighteen E of the General Laws whose initial eligibility for the benefits of said program in fiscal year nineteen hundred and ninety-eight is denied solely due to the income eligibility criteria in effect for said program on March first, nineteen hundred and ninety-seven; provided, however, that said redetermination shall take place only after (1) the enrollment period for said program has been closed, and (2) if projected spending for the number of applicants determined initially eligible during said enrollment period does not exceed thirty million dollars in said fiscal year. Said redetermination shall be based on any revised federal poverty levels as may be promulgated by the United States Department of Health and Human Services during said enrollment period. Redeterminations shall be processed in the order of the date of application and shall finish when the number of applicants so redetermined, in combination with the number of persons initially determined eligible for said program, reach the projected spending amount of thirty million dollars. Enrollment in said program shall not be opened for the benefits of said program in said fiscal year at any time after the redetermination process has concluded.

**SECTION 7.** This act shall take effect as of February first, nineteen hundred and ninety-seven.

Approved February 14, 1997.

## Chapter 2. AN ACT RESTORING RELIGIOUS FREEDOM IN THE WORKPLACE.

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

**SECTION 1.** The general court hereby finds that there is a significant public interest and

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## Chap. 2

an urgent necessity to restate its intention to protect individuals from discrimination in the workplace based on their sincerely held religious beliefs without regard to whether such beliefs are recognized by an established religious institution, and immediately to restore the right of individuals to be free from discrimination in the workplace based on their sincerely held religious beliefs.

**SECTION 2.** The first paragraph of subsection 1A 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:- As used in this subsection, the words "creed or religion" mean any sincerely held religious beliefs, without regard to whether such beliefs are approved, espoused, prescribed or required by an established church or other religious institution or organization.

**SECTION 3.** The provisions of section two of this act shall apply to all claims arising not earlier than three years before the effective date of this act which have not yet been filed, and to all other claims pending before the commission against discrimination or a court on the effective date of this act, including claims upon which final judgment or judgment after rescript has not entered or as to which a period to file an appeal, certiorari petition, petition for rehearing or similar motion has not expired on said effective date.

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

Approved February 27, 1997.

## **Chapter 3. AN ACT RELATIVE TO THE MASSACHUSETTS TURNPIKE AUTHORITY AND THE METROPOLITAN HIGHWAY SYSTEM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the creation of the turnpike and the metropolitan highway 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 1.** Paragraph (b) of subdivision (4½) of section 20 of chapter 32 of the General Laws, as amended by section 28 of chapter 306 of the acts of 1996, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said board shall consist of five members as follows: the chief financial officer 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 who shall be appointed by the other four members for a term of three years.

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**SECTION 2.** Paragraph (c) of said subdivision (4½) of said section 20 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Nothing in this paragraph shall prevent the chief financial officer, or any other person who serves in the active administration of the system in lieu of said chief financial officer, from being compensated for services rendered in the active administration of the system; provided, however, that the compensation for such services shall not be less than two hundred nor more than fifteen hundred dollars per annum, and shall be payable from the expense fund of the system.

**SECTION 3.** Said subdivision (4½) of said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out paragraphs (e) and (f) and inserting in place thereof the following two paragraphs:-

(e) The general counsel of the authority shall be the legal adviser of the board.

(f) The chief financial officer may be compensated for services rendered as custodian of the funds of the retirement system, provided that the compensation for such services shall not be more than fifteen hundred dollars per annum and shall be payable from the expense fund of the system.

**SECTION 4.** Paragraph (b) of subdivision (4¾) of said section 20 of said chapter 32, as amended by section 29 of chapter 306 of the acts of 1996, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said board shall consist of five members as follows: the chief financial officer 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 who shall be appointed by the other four members for a term of three years.

**SECTION 5.** Paragraph (b) of subdivision (4¾) of said section 20 of said chapter 32, as amended by section 30 of said chapter 306, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said board shall consist of five members as follows: the chief financial officer 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 who shall be appointed by the other four members for a term of three years.

**SECTION 6.** The General Laws are hereby amended by inserting after chapter 81 the following chapter:-

### CHAPTER 81A.

### THE MASSACHUSETTS TURNPIKE AUTHORITY AND THE METROPOLITAN HIGHWAY SYSTEM.



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## Chap. 3

Section 1. There is hereby created a body politic and corporate to be known as the Massachusetts Turnpike Authority which, while within the executive office of transportation and construction, shall not be subject to the supervision and regulation of said executive office or any other department, commission, board, bureau or agency except as specifically provided in any general or special law to the contrary. The authority is hereby authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and operate (a) the turnpike as defined herein; and (b) the metropolitan highway system as defined herein.

The authority is hereby constituted a public instrumentality. The exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

Section 2. The authority shall consist of three members to be appointed by the governor who shall be residents of the commonwealth, not more than two of whom shall be of the same political party. The governor shall designate one of the members as chairperson who shall serve as such during his term of office. The members of the authority in office on March first, nineteen hundred and ninety-seven shall continue for the remainder of their respective terms. The successor of each member shall be appointed for a term of eight years; provided, however, that any person appointed to fill a vacancy shall serve only for the unexpired term. A member of the authority shall be eligible for reappointment. Prior to entering upon the duties of his office, each member of the authority shall take an oath before the governor to administer the duties of his office faithfully and impartially and a record of such oath shall be filed in the office of the state secretary.

The authority shall elect one of the members as vice chairperson thereof. Two members of the authority shall constitute a quorum and the affirmative vote of two members shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

For the purposes of this chapter, the chairperson of the authority shall receive an annual salary equal to the average of the annual salary of the general manager of the Massachusetts Bay Transportation Authority and the annual salary of the executive director of the Massachusetts Port Authority and the remaining members shall each receive an annual salary of twenty-five thousand eight hundred and fifty-two dollars. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. The members shall be eligible to participate in any benefit plan approved by the authority.

The authority may indemnify any member, officer or employee from personal expenses or damages incurred, arising out of any claim, suit, demand or judgment which arose out of any act or omission of such member, officer or employee, including the violation of the civil rights of any person under any federal law if, at the time of such act or omission such member, officer or employee was acting within the scope of his official duties or employment.

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Section 3. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Authority", the Massachusetts Turnpike Authority established by section one.

"Boston extension", all roadways and tunnels for vehicular traffic that constitute that portion of interstate highway route 90 beginning at and including the interchange of interstate highway route 90 and state highway route 128 in the town of Weston and ending in the city of Boston at the interchange of interstate highway route 90 and interstate highway route 93 and such additional highway and bridge components as the general court may from time to time determine and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

"Callahan tunnel", the tunnel for vehicular traffic constructed under the provisions of chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight between the North End section of the city of Boston and the East Boston section of said city and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such tunnel as are necessary for its safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

"Central artery", all roadways and tunnels for vehicular traffic constructed by the highway department that constitute that portion of interstate highway route 93 beginning at a point immediately south of the Southampton street interchange, so-called, and continuing to and including the interchange of interstate highway route 93 and Massachusetts avenue in the South End section of the city of Boston and continuing to and including the interchange of interstate highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston, so-called, and continuing to and including the interchange of state highway route 1 and interstate highway route 93 in the Charlestown section of the city of Boston including, but not limited to, the so-called Charles river crossing portion of interstate highway route 93 and such additional highway and bridge components as the general court may from time to time determine, but excluding the central artery north area.

"Central artery" shall also include such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

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"Central artery north area", all roadways and tunnels for vehicular traffic constructed by the highway department consisting of a portion of state highway route 1 beginning at, but not including, the southern boundary of the Tobin memorial bridge and continuing to the interchange of interstate highway route 93 and state highway route 1, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

"Highway department", the department of highways established pursuant to section one of chapter sixteen.

"Metropolitan highway system", the integrated system of roadways, bridges, tunnels, overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the authority constructs or operates and maintains pursuant to the provisions of this chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the central artery north area, the Sumner tunnel and the Ted Williams tunnel and any additional highway, tunnel and bridge components as the general court may from time to time determine.

"Metropolitan highway system revenues", (i) all rates, fees, tolls, rentals or other charges and other earned income and receipts as derived from or with respect to the ownership, operation, lease, rent or other use or disposition of the metropolitan highway system or any part thereof; and (ii) all other funds received by the authority, from whatever source, relating to the metropolitan highway system.

"Notes or bonds", the notes, bonds or other evidences of indebtedness of the authority issued pursuant to this chapter.

"Massachusetts Port Authority", the Massachusetts Port Authority established pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and fifty-six.

"Sumner tunnel", the vehicular tunnel under Boston harbor, heretofore constructed and financed by the city of Boston under the provisions of chapter two hundred and ninety-seven of the acts of nineteen hundred and twenty-nine, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such tunnel as are necessary for its safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

"Ted Williams tunnel", all or any segments of the roadways, bridges, viaducts and tunnels for vehicular traffic constructed by the highway department that constitute the interstate highway route 90 extension and its connecting roadways and tunnels, including



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(i) the harbor tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state highway route 1A and the Logan airport access and egress roadways with interstate highway route 90 and continuing beneath Boston harbor to and including the interchange of interstate highway route 90 and South Boston Bypass road, but excluding the Logan airport access and egress roadways owned by the port authority on March first, nineteen hundred and ninety-seven and any additional access and egress roadways acquired by the Massachusetts Port Authority after March first, nineteen hundred and ninety-seven; (ii) the seaport access highway, so-called beginning at the interchange of interstate highway routes 90 and 93 and continuing to the interchange of interstate highway route 90 and South Boston Bypass road; and (iii) South Boston Bypass road, a portion of which is also known as South Boston Haul road, beginning at the interchange of interstate highway route 93 and South Boston Bypass road and continuing to the interchange of the seaport access highway, so-called, in the South Boston section of the city of Boston, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased by the highway department in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

"Tobin memorial bridge", the bridge formerly known as the Mystic river bridge, owned and operated by the Massachusetts Port Authority pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and fifty-six.

"Turnpike", the limited access express toll highway, designated as interstate highway route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the authority may construct or operate and maintain pursuant to the provisions of this chapter and any additional highway, tunnel and bridge components as the general court may from time to time determine, extending from the town of West Stockbridge on the commonwealth's border with New York state to, but not including, the interchange of interstate highway route 90 and state highway route 128 in the town of Weston.

"Turnpike corridor", the cities and towns of the commonwealth from the New York state border to state highway route 128 through which the turnpike runs and municipalities contiguous to such cities and towns.

"Turnpike revenues", (i) all rates, fees, tolls, rentals or other charges and other earned income and receipts derived from or with respect to the ownership, operation, lease, rent or other use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the authority, from whatever source, relating to the turnpike.

Section 4. The authority is hereby authorized and empowered:

- (a) to adopt by-laws for the regulation of its affairs and the conduct of its business;
- (b) to adopt an official seal and alter the same at its pleasure;



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(c) to maintain offices at such places within the commonwealth as it may determine and to conduct meetings of the authority in accordance with the by-laws of the authority and the provisions of the second paragraph of section fifty-nine of chapter one hundred and fifty-six B;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the turnpike or any part thereof and, consistent with agreements entered into with the highway department to the extent applicable, the metropolitan highway system or any part thereof, as it may determine; provided, however, that the provisions of chapter ninety-one shall not apply to the authority, except for any parts or areas thereof subject to said chapter ninety-one on March first, nineteen hundred and nineteen-seven;

(f) to acquire sites abutting the turnpike or the metropolitan highway system and to construct or contract for the construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities, tourist information centers and other services and to lease such facilities in such manner and under such terms as it may determine;

(g) to issue notes or bonds for any of its corporate purposes related to the turnpike payable solely from turnpike revenues or portions thereof pledged for their payment and to refund its notes or bonds pertaining to the turnpike or any part thereof or payable from such revenues, as provided in this chapter;

(h) to issue notes or bonds for any of its corporate purposes related to the metropolitan highway system payable solely from the metropolitan highway system revenues or portions thereof pledged for their payment and to refund its notes or bonds pertaining to the metropolitan highway system or any part thereof or payable from such revenues, as provided in this chapter;

(i) to fix and revise from time to time and charge and collect tolls for transit over the turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and place of exit from said turnpike; and provided, further, that the authority shall convene at least two public hearings, each to be held in a community within the turnpike corridor, at least thirty days prior to the effective date of any proposed change in toll structure on the turnpike;

(j) to fix and revise from time to time and charge and collect tolls for transit over the metropolitan highway system; provided, however, that it shall furnish upon request to a user of the metropolitan highway system a toll receipt showing the amount of toll paid, the classification of the vehicle and the date of payment; and provided, further, that the authority shall convene at least two public hearings to be held within the metropolitan Boston area at least thirty days prior to the effective date of any proposed change in toll structure within the metropolitan highway system;

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(k) to adopt such rules and regulations pursuant to the provisions of chapter thirty A and not repugnant to the provisions of the General Laws made applicable to the authority, as the authority determines necessary or appropriate to provide for or govern the construction or reconstruction, including contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use, policing, control or administration of the turnpike, the metropolitan highway system or the authority's business or property affairs. Such regulations may include the authority to grant easements, permits or other forms of authorization for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility, private entity or corporation or person owning or operating such facilities in, on, along, over or under the turnpike or the metropolitan highway system.

Such regulations may impose penalties for violations thereof which, in the case of civil penalties, may be recovered only after notice and hearing conducted by the authority or its designee and subject to judicial review and enforcement pursuant to the provisions of said chapter thirty A or such other civil proceedings under the laws of the commonwealth or the United States as the law may provide and, in the case of criminal penalties, may be recovered in a proceeding in a trial court of the commonwealth by indictment or complaint. The amount of any such civil or criminal penalty, with the exception of penalties imposed under section nineteen, shall not exceed five hundred dollars for each offense, unless the law otherwise provides. The full amount of a civil penalty shall be paid to the authority and eighty percent of a penalty recovered in a criminal proceeding shall be accounted for and paid to the authority. The authority may further provide in such regulations for adjudicatory proceedings that it or its designee conducts which are subject to judicial review and enforcement according to the provisions of said chapter thirty A;

(l) to acquire, lease, hold and dispose of real and personal property or any interest therein in the exercise of its powers and the performance of its duties pursuant to this chapter;

(m) to place and maintain or grant permission by easement or otherwise to any public utility, corporation or person to place and maintain on or under or within the turnpike or the metropolitan highway system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles or other structures to be so located as not to interfere with the safe and convenient operation and maintenance of the turnpike or metropolitan highway system and to contract with any such public utility, corporation or person for such permission on such terms and conditions as may be fixed by the authority. The construction, maintenance and repair of any such ducts, pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures shall be subject to such directions and regulations as the authority may impose.

Whenever the authority shall determine that it is necessary that any such ducts, pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or hereafter may be located in, on, along, over or under the turnpike or the metropolitan highway system be relocated or removed, the public utility, corporation or person owning or operating such facilities shall relocate or remove the same in accordance with the order

of the authority. In case of any such relocation or removal of facilities, the public utility, corporation or person owning or operating the same, its successors or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location;

(n) to acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper or by the exercise of the power of eminent domain in accordance with the provisions of chapter seventy-nine or any alternative method now or hereafter provided by law, such public lands and any fee simple absolute or lesser interest in such private property, or part thereof or rights therein as it may deem necessary for carrying out the provisions of this chapter;

(o) to designate the locations and establish, limit and control such points of ingress to and egress from the turnpike as may be necessary, convenient or desirable in the judgment of the authority to insure the proper operation and maintenance of the turnpike and to prohibit entrance to the turnpike from any point not so designated;

(p) to (i) construct grade separations at locations where the turnpike or metropolitan highway system intersect with or abut public highways or rail lines and to change and adjust the lines and grades of such highways or rail lines so as to accommodate the same to the design of such grade separation; and (ii) change the location of any portion of any public highway or rail line which intersects or abuts the turnpike or the metropolitan highway system in order to improve the safety or efficiency of the turnpike or metropolitan highway system; provided, however, that if the authority shall find it necessary to change the location of a public highway, it shall, after consultation with the highway department, reconstruct the same in as good a condition as the original highway and at such location as the authority, after such consultation, deems most favorable. All costs incident to construction, realignment or reconstruction conducted pursuant to this clause shall be borne by the authority;

(q) to enter upon any lands, waters and premises in the commonwealth for the purpose of making surveys, soundings, drillings and examinations as the authority may deem necessary, convenient or desirable for carrying out the purposes of this chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The authority shall provide reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities. The commonwealth hereby consents to the use of all lands owned by it, including lands lying underwater, which are deemed by the authority to be necessary, convenient or desirable for the construction, operation or maintenance of the turnpike and the metropolitan highway system;

(r) to make and enter into all contracts and agreements necessary, convenient or desirable in the performance of its duties and the execution of its powers under this chapter including, but not limited to, contracts or agreements with state, local or regional public agencies and authorities which the authority deems necessary, convenient, or desirable for the ownership, construction, operation, maintenance, repair, reconstruction, improvement, rehabilitation,



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use, control, administration or policing of the turnpike or any part thereof and the metropolitan highway system or any part thereof and agreements with the highway department and the Federal Highway Administration with respect to compliance with the provisions of Titles 23 and 49 of the United States Code as they may apply to the turnpike or the metropolitan highway system; provided, however, that sections twenty-six to twenty-nine, inclusive, and sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine and sections thirty-nine F to thirty-nine M, inclusive, of chapter thirty shall apply to contracts of the authority to the same extent and in the same manner as they are applicable to the commonwealth. Notwithstanding the provisions of this clause, the authority may, with the approval of the secretary of the executive office of transportation and construction, without competitive bids and notwithstanding the provisions of any general or special law to the contrary, award a contract, otherwise subject to this section, limited to the performance of emergency repairs necessary to preserve the safety of persons or property;

(s) to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, toll collectors and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(t) to receive and accept from any federal agency grants for or in aid of the ownership, construction, operation, maintenance, repair, reconstruction, improvement, rehabilitation, use, control, administration or policing of the turnpike or any part thereof and the metropolitan highway system or any part thereof and to receive and accept aid or contributions from any source of either money, property, labor or other things of value to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(u) to do all acts and things necessary, convenient or desirable to carry out the powers expressly granted in this chapter.

Section 5. (a) For the purposes of this section, (i) the term "cost" shall mean any or all costs, whenever incurred, related to the turnpike or the metropolitan highway system or any part thereof including, without limitation, amounts for the following: acquisition, construction, maintenance, repair, reconstruction, improvement, rehabilitation, use, policing, administration, control or operation of facilities; acquisition of real or personal property; demolitions and relocations; labor, materials, machinery and equipment; services of architects, engineers and environmental and financial experts and other consultants; feasibility studies, plans, specifications and surveys; interest prior to and during the carrying out of any project and for a reasonable period thereafter; reserves for debt service or other capital or current expenses; costs of issuance; working capital, administrative expenses, legal expenses and other expenses necessary or incidental to the aforesaid, to the financing thereof and to the issuance of notes or bonds under the provisions of this chapter; and (ii) the words "costs of issuance" shall mean any amounts payable or reimbursable directly or indirectly by the authority and related to the sale and issuance of notes or bonds and the investment of the proceeds thereof and of revenues securing the same including, without limitation, printing costs, filing and recording fees, fees and charges of trustees, depositories, authen-

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ticipating agents and paying agents, legal and auditing fees and charges, financial consultant fees, costs of credit ratings, premiums for insurance and fees payable for letters or lines of credit or other credit facilities securing notes or bonds, underwriting or placement costs, fees and charges for execution, transportation and safekeeping of notes or bonds, costs and expenses of refunding and other costs, fees and charges in connection with the foregoing.

(b) The authority is hereby authorized to provide by resolution at one time or from time to time for the issuance of notes or bonds of the authority to pay any costs relating to the ownership, construction, maintenance, repair, reconstruction, improvement, rehabilitation, use, policing, administration, control or operation of the turnpike or the metropolitan highway system or any part thereof and to fulfill any of its corporate purposes including, without limitation, for the purpose of providing funds (i) to refund or otherwise repay any or all debt or other obligations of the authority relating to the metropolitan highway system or any part thereof including, without limitation, any notes issued pursuant to chapter one hundred and two of the acts of nineteen hundred and ninety-five; (ii) to refund or otherwise pay any or all other debt or obligations of the authority relating to the turnpike, as defined in chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two, and to allocate such debt or obligations between the turnpike and the metropolitan highway system as the authority deems appropriate; (iii) to make any additional payments to the commonwealth relating to the acquisition by the authority of the central artery, the central artery north area and the Ted Williams tunnel pursuant to section twelve; and (iv) to pay any cost relating to the design, construction, operation, maintenance, administration or policing of the metropolitan highway system or any part thereof prior to their acquisition by the authority.

(c) The authority is hereby authorized and directed to provide by resolution at one time or from time to time for the issuance of notes or bonds of the authority to pay any or all debt or obligations assumed by the authority for any costs relating to the ownership, construction, maintenance, repair, reconstruction, improvement, rehabilitation, use, policing, administration, control or operation of the metropolitan highway system or any part thereof, as recommended in the report of the consultant team on the joint feasibility study regarding the metropolitan highway system dated December first, nineteen hundred and ninety-six authorized pursuant to section thirteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five, as appearing in section one of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-five.

(d) The notes or bonds may be issued as general obligations of the authority or as special obligations of the authority payable, in the case of notes or bonds relating to the turnpike solely from turnpike revenues or any part thereof and, in the case of notes or bonds relating to the metropolitan highway system, solely from metropolitan highway system revenues or any part thereof. The authority may also provide by resolution for the issuance from time to time of temporary notes in anticipation of revenues to be collected or received by the authority or in anticipation of the receipt of other grants or aid.

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The notes or bonds shall be dated, shall bear interest at such rates, either fixed or variable, and shall mature at such times, in the case of notes and any renewals thereof within ten years after their respective dates and, in the case of bonds, not exceeding forty years from their date, as may be determined by the authority and may be made subject to purchase or redeemable before maturity upon the satisfaction of such terms or conditions as may be specified by the authority or at the option of the authority or subject to purchase or redemption prior to maturity at the option of the holder thereof, in either case at such prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the notes or bonds. The authority shall determine the form of the notes or bonds, including any interest coupons to be attached thereto, and shall fix the denominations of such notes or bonds and the places of payment of principal and interest which may be at any bank or trust company within or without the commonwealth.

(e) The notes or bonds shall be signed by the chairman of the authority or shall bear his facsimile signature and shall bear the official seal of the authority or a facsimile thereof, attested by the manual or facsimile signature of the chief financial officer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case an officer whose signature or a facsimile of whose signature shall appear on any notes, bonds or coupons shall cease to be such officer before the delivery of such notes, bonds or coupons, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

The authority may also establish and maintain a system of registration for any notes or bonds whereby the name of the registered owners, the rights evidenced by the notes or bonds, the transfer of the notes or bonds and such rights and other similar matters shall be recorded in books or other records maintained by or on behalf of the authority and no instrument evidencing such notes or bonds or rights shall be required to be delivered to the registered owner by the authority. A copy of the books or other records of the authority pertaining to any notes or bonds registered under such registration system certified by an authorized officer of the authority or by the agent of the authority maintaining such system shall be admissible in any proceeding without further authentication.

All notes or bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments, including negotiability of investment securities, under the Uniform Commercial Code. The notes or bonds may be issued in coupon or in registered form or both as the authority may determine and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest for the reconversion into coupon bonds of any bonds registered as to both principal and interest and for the interchange of registered and coupon bonds.

The authority may sell such notes or bonds in such manner, either at public or private sale, and for such prices as it may determine to be in the best interest of the authority. The authority may enter into such arrangements as it deems necessary or appropriate in connection with such notes or bonds to obtain insurance or other credit or liquidity support for such notes or bonds.



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(f) The authority shall have power from time to time to issue renewal notes, to issue bonds to pay notes and to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or other payment of the bonds to be refunded. The authority shall, prior to the issuance of notes and bonds pursuant to this clause, notify the house committee on long term debt and capital expenditures and the house committee on ways and means in writing of the authority's intention to issue such notes or bonds and the amounts thereof and a description of the notes or bonds they are replacing.

(g) Notes or bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions or things which are specifically required by this chapter.

(h) Neither the members of the board nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(i) Notes or bonds issued under the provisions of this chapter shall not constitute a debt of the commonwealth or of any political subdivision thereof or a pledge of the faith and credit of the commonwealth or of any such political subdivision but such notes or bonds shall be payable solely from the funds herein provided therefor from turnpike revenues or metropolitan highway system revenues, as applicable. All such notes or bonds shall contain on their face a statement to the effect that neither the commonwealth nor the authority shall pay the same or the interest thereon except from revenues of the turnpike or the metropolitan highway system, as applicable, and that neither the faith and credit nor the taxing power of the commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such notes or bonds.

(j) In connection with or incidental to the acquisition or carrying of any investment or program of investment or carrying of notes or bonds, the authority may enter into such contracts as it may determine to be necessary or appropriate to place the investment or obligation of the authority, as represented by the notes or bonds, investment or program of investment and the contracts, in whole or in part, on such interest rate or cash flow basis as it may desire including, without limitation, interest rate swap agreements, insurance agreements, forward payment conversion agreements, futures contracts, contracts providing for payments based on levels of or changes in interest rates or stock or other indices, contracts to exchange cash flows or a series of payments and contracts to hedge payment, rate, spread or similar exposure including, without limitation, interest rate floors or caps, options, puts and calls. Such contracts shall contain such payment, security, default, remedy and other terms and conditions as the authority may deem appropriate and shall be entered into with such parties as the authority may select after giving due consideration, where applicable, for the creditworthiness of such parties, including any rating by a nationally recognized rating agency or any other criteria as may be appropriate.

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(k) The authority may by resolution delegate to any officer of the authority the power to determine any of the matters set forth in this section.

(l) Notwithstanding any provision in this chapter to the contrary, the authority shall not issue any notes or bonds for any purpose authorized in this chapter without prior approval by law; provided, however, that the authority may, without such prior approval but upon written notification to the house committee on long term debt and capital expenditures and the house committee on ways and means, issue notes and bonds for the purpose of refunding any notes or bonds of the authority outstanding as of March first, nineteen hundred and ninety-seven or for the purpose of making any additional payment to the commonwealth relating to the acquisition by the authority of the central artery, the central artery north area and the Ted Williams tunnel pursuant to section twelve and for the purposes of notes and bonds issued pursuant to subsection (c).

Section 6. In the discretion of the authority, the notes or bonds issued under the provisions of this chapter may be secured by a bond resolution, trust agreement or other agreement in such form and executed in such manner as may be determined by the members, by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth. Such bond resolution, trust agreement or other agreement providing for the issuance of such notes or bonds may pledge or assign the tolls and other revenues to be received but shall not convey or mortgage the turnpike, the metropolitan highway system or any part thereof. Such pledge shall be valid and binding from the time when the pledge is made and the tolls or other revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge shall be valid and binding against all parties having claims of any kind against the authority without regard to whether such parties have notice thereof. None of the bond resolution, trust agreement or other agreement by which a pledge is created shall be required to be filed or recorded except in the records of the authority.

Such bond resolution, trust agreement or other agreement providing for the issuance of notes or bonds may contain such provisions for protecting and enforcing the rights and remedies of the holders of the notes or bonds 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 the individual right of action by bondholders and covenants setting forth the duties of and limitations on the authority in relation to the ownership, acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, use, operation, repair, reconstruction, rehabilitation, policing, administration, insurance and disposition of the turnpike and metropolitan highway system, the custody, safeguarding, investment and application of moneys, the issuance of additional or refunding bonds, the fixing, revision, charging and collection of tolls, the use of any surplus bond proceeds, the establishment of reserves and the making and amending of contracts. It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth which may act



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as depository of the proceeds of notes or bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority.

Section 7. Any holder of notes or bonds issued under the provisions of this chapter or any of the coupons appertaining thereto and the trustee under any bond resolution, trust agreement or other agreement, except to the extent the rights herein given may be restricted by such bond resolution, trust agreement or other agreement, may, in any court by action or other proceeding, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such bond resolution, trust agreement or other agreement authorizing the issuance of such notes or bonds and may enforce and compel the performance of all duties required by this chapter or by such bond resolution, trust agreement or other agreement to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of tolls.

Section 8. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the commonwealth, for the increase of their commerce and prosperity and for the improvement of their health and living conditions and as the operation and maintenance of the turnpike and the metropolitan highway system by the authority shall constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the turnpike, the metropolitan highway system or any property acquired or used by the authority under the provisions of this chapter or upon the income therefrom, except as may be otherwise provided by this chapter and the notes or bonds issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation by and within the commonwealth.

Section 9. Notes or bonds issued by the authority under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies and savings banks, cooperative banks and trust companies in their banking department and within the limits set by section fourteen of chapter one hundred and sixty-seven E banking associations, investment companies, executors, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in notes, bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them, and such notes or bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section fifteen B of chapter one hundred and sixty-seven. Such notes or 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 notes or bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

Section 10. (a) The authority is hereby authorized to charge and collect and from time to time fix and revise tolls for transit over the turnpike and the different parts or sections thereof, subject to such classifications of vehicles and manners of collection as the authority

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determines desirable and subject to provisions of clause (i) of section four. Such tolls shall be so fixed and adjusted as to provide, at a minimum, a fund sufficient with other revenues, if any, to pay (a) costs incurred in furtherance of this chapter related to the turnpike including, but not limited to, the cost of owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the turnpike; and (b) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the turnpike as the same shall become due and payable and to create and maintain reserves established for any of the authority's corporate purposes. Such tolls shall not be subject to supervision, regulation, approval or disapproval by any department, division, commission, board, bureau or agency of the commonwealth or any political subdivision thereof.

(b) The authority is hereby authorized to charge and collect and from time to time fix and revise tolls for transit over or through the metropolitan highway system or any part thereof subject to such classifications of vehicles and manners of collection as the authority determines desirable and subject to provisions of clause (j) of section four. Such tolls shall be so fixed and adjusted as to provide, at a minimum, a fund sufficient with other revenues, if any, to pay (a) costs incurred in furtherance of this chapter related to the metropolitan highway system including, but not limited to, the cost of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the metropolitan highway system; and (b) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the metropolitan highway system as the same shall become due and payable and to create and maintain reserves established for any of the authority's corporate purposes; provided, however, that the authority shall not charge or collect a toll for transit through the Callahan tunnel, the Sumner tunnel or the Ted Williams tunnel by official vehicles of the commonwealth or any municipality, political subdivision or instrumentality thereof, including police, fire and ambulance vehicles, while such vehicles are on official business.

Section 11. All moneys received by the authority, whether as proceeds from the sale of notes or bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the notes or bonds or the trust agreement securing such notes or bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide.

Section 12. (a) For the purposes of this section, the word "facility" shall mean the central artery, the central artery north area and the Ted Williams tunnel, either together or separately, as are defined in section three.

(b) The authority and the highway department are hereby authorized and directed to do all things necessary and convenient to provide for the orderly transfer to the authority of the ownership and control of, including the obligation to operate and maintain, each facility or any part thereof. Said highway department shall transfer each such facility, as one entity or

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in segments, to the authority pursuant to one or more written agreements, such transfer to occur promptly after the chief engineer of the authority and the chief engineer of the highway department, or their designees, jointly determine and certify to the authority and to the highway department that the authority can safely open each such facility or segment thereof to vehicular traffic or that such facility can safely be used for its intended purpose. Such agreements shall include, but not be limited to, provisions for (i) a protocol for the certification of both the highway department and said authority that each such facility or segment thereof may be safely opened to vehicular traffic or safely used for its intended purpose; (ii) the scheduling of the transfer of each such facility as one entity or in segments; (iii) the allocation of all obligations arising from permits, licenses, approvals, mitigation commitments and other agreements entered into by, or legal obligations imposed upon, said highway department in connection with the design, construction, operation and maintenance of each such facility or segment thereof not satisfied or otherwise discharged prior to such transfer by said highway department; (iv) the allocation of warranties, indemnities, liabilities and other rights associated with the design, construction, operation and maintenance of each such facility or segment thereof consistent with the provisions of subsection (c); (v) protocols governing the operation and maintenance of each such facility during final construction and equipment start-up and testing and such continued access to or use of each such facility or segment thereof by said highway department as may be necessary for the public convenience; (vi) the conveyance of the real and personal property interests to be transferred with each such facility; provided, however, that the real property interests transferred to the authority shall consist solely of, and in no event exceed, those interests in real property acquired by said highway department prior to March first, nineteen hundred and ninety-seven as such interests are defined in any order of taking, deed, easement or other instrument recorded or filed at the appropriate registry of deeds or registry district of the land court as of March first, nineteen hundred and ninety-seven or as may be amended by any instrument recorded or filed subsequent thereto and such interests as are necessary, convenient or desirable for the construction, operation or maintenance of each such facility or segment thereof, as may be acquired by said highway department after March first, nineteen hundred and ninety-seven or as may be amended by any instrument recorded or filed subsequent thereto; (vii) the amount and terms of any additional payments that may be made by the authority to the commonwealth for credit to the Capital Expenditure Reserve Fund established pursuant to section two DD of chapter twenty-nine in connection with or related to the acquisition of each such facility or segment thereof; and (viii) such other terms and conditions as the authority and the highway department agree are necessary, convenient or desirable to effectuate the orderly transfer of the ownership, control, operation and maintenance of each such facility or segment thereof.

(c) Upon the transfer of each such facility or segment thereof by the highway department to the authority pursuant to this section, the authority shall be responsible for the operation and maintenance of each such facility or segment thereof and, except as otherwise agreed to by the parties, the highway department shall cease to be responsible for such operation



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and maintenance; provided, however, that except as otherwise agreed to by the parties, the highway department shall continue to require its contractors to complete construction of each such facility or segment thereof pursuant to their contracts and pursuant to chapters thirty and one hundred and forty-nine and the authority shall have no such responsibility. All warranties and all contract and indemnification rights and obligations arising out of the design, construction, operation and maintenance of each such facility or segment thereof shall remain in full force and effect following such transfer. The provisions of this section shall not limit or impair the rights, remedies or defenses of the commonwealth, the highway department or the authority in or to any such action including, without limitation, the provisions of section eighteen of chapter eighty-one and chapter two hundred and fifty-eight.

(d) Upon the request of the authority or the Massachusetts Port Authority, the highway department shall make available to the authority or to said port authority for its review and comment all plans, specifications and other design and construction documents prepared for each such facility and shall permit the authority or said port authority to inspect each such facility, subject to such reasonable safety rules and procedures as may be established by the highway department. Said highway department shall consider the written comments of the authority and said port authority with respect to the design and construction of each such facility and shall respond in writing to the comments within thirty days of receipt thereof; provided, however, that neither the authority nor said port authority shall have any right of approval over the design or construction of each such facility.

(e) Said port authority shall enter into agreements with the authority and, to the extent necessary, with the highway department, with respect to the Tobin memorial bridge and such other roadways as the parties may agree for the purpose of participating in a unified, safe and efficient operating network of related and connected transportation systems within the metropolitan Boston area.

(f) Said port authority's participation in the metropolitan highway system including, without limitation, its acquisition of designated components or segments of the metropolitan highway system shall be effectuated through agreements with the authority and, to the extent necessary, convenient or desirable, the highway department. Such agreements shall include, but not be limited to, provisions related to (i) the acquisition by said port authority of designated components or segments of the metropolitan highway system including, but not limited to, the components described in clause (iv) of paragraph (a) of section thirteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five, as appearing in section one of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-five; (ii) the assumption of operation and maintenance responsibilities by said port authority for designated components or segments of the metropolitan highway system; and (iii) as authorized and directed pursuant to sections eleven and thirteen of said chapter one hundred and two of the acts of nineteen hundred and ninety-five, the amount of any lump sum or installment payments, which shall equal two hundred million dollars, plus any additional payments recommended by the joint asset assessment study, to the commonwealth for credit to the Capital Expenditure Reserve Fund established pursuant to section two DD of chapter twenty-nine by said port authority for any such acquisition and annual contribu-

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tions by said port authority to the authority for the costs of operating and maintaining any portion of the metropolitan highway system either by direct payments to the authority or by equivalent in kind contributions made by said port authority's assumption of the operation and maintenance of designated components or segments of the metropolitan highway system. The acquisition of components or segments of the metropolitan highway system by said port authority shall be accomplished in a manner consistent in all respects to the transfer process set forth in section twelve.

(g) Notwithstanding the provisions of sections forty E to forty I, inclusive, of chapter seven, the highways commission is hereby authorized and directed to execute any and all agreements authorized pursuant to this section, together with all instruments necessary to effectuate such agreements, on behalf of the commonwealth.

(h) Nothing in this chapter shall be construed to impair or nullify the terms and conditions set forth in any and all written agreements between the city of Boston and the highway department concerning the central artery or the Ted Williams tunnel including, specifically, the land disposition agreement dated June tenth, nineteen hundred and ninety-two and the joint traffic management and construction coordination agreement dated June twenty-ninth, nineteen hundred and ninety-four, as amended on October ninth, nineteen hundred and ninety-six.

(i) All contracts, agreements and memoranda of understanding between the authority, the Massachusetts Port Authority, the highway department and any other local, regional, state or federal governmental body which relate to the governance, operation, maintenance, transfer, construction or financing of the metropolitan highway system or any part thereof shall be submitted to the house committee on ways and means and the house clerk.

Section 13. The authority may take by eminent domain in accordance with the provisions of chapter seventy-nine or any alternative method now or hereafter provided by general law, any public land and any fee simple absolute or lesser interest in private property or part thereof or rights therein as it may deem necessary for carrying out the provisions of this chapter.

Whenever a parcel of private property so taken is used in whole or in part for residential purposes, the owner of such parcel may, within thirty days of the date of the authority's notice to vacate such parcel, appeal to the authority for a postponement of the date set for such vacating, whereupon the authority shall grant to the owner a postponement of three months from the date of such appeal; provided, however, that the appeal for such postponement shall be in the form of a written request to the authority sent by registered mail, return receipt requested; and provided, further, that the provisions of section forty of said chapter seventy-nine shall govern the rights of the authority and of any person whose property shall be so taken.

The authority shall have power, in the process of constructing, reconstructing, repairing, rehabilitating, improving, policing, using or administering all or any part of the turnpike or metropolitan highway system to take by eminent domain pursuant to chapter seventy-nine, such land abutting the turnpike or metropolitan highway system as it may deem necessary or desirable for the purposes of removing or relocating all or any part of the facilities of any

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public utility, including rail lines, and may thereafter lease the same or convey an easement or any other interest therein to such utility company upon such terms as it, in its sole discretion, may determine. Notwithstanding the provisions of any general or special law to the contrary, the relocation of the facilities of any public utility, including rail lines, in accordance with the provisions of this section shall be valid upon the filing of the plans thereof with the department of public utilities, if applicable.

Except as otherwise provided by law, any sale of real property shall be awarded, after advertisement for bids, to the bidder who is the highest responsible bidder. The authority shall have the right to reject all bids and to readvertise for bids. Before any real property shall be so sold or conveyed, notice that such real property is for sale shall be publicly advertised in two daily newspapers of general circulation published in the city of Boston, and, if such real property is located in any other city or town, in a newspaper of general circulation published in such other city or town, once a week for three successive weeks. Such advertisements shall state the time and place where all pertinent information relative to the real property to be sold or conveyed may be obtained and the time and place of opening the bids in answer to such advertisements and that the authority reserves the right to reject any or all such bids. All bids in response to advertisements shall be sealed and shall be publicly opened by the authority. Said authority may require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the authority, accompany the proposals. The provisions of this paragraph shall not be applicable to any sale of real property by the authority to the commonwealth or any city, town or public instrumentality nor to a sale of real property which is determined by the authority to have a fair market value of five thousand dollars or less.

The authority may sell the buildings or other structures upon any lands taken by it or may remove the same and shall sell, if a sale be practicable or, if not, shall lease, if a lease be practicable, any lands or rights or interest in lands or other property taken or purchased for the purposes of this chapter, whenever the same shall, in the opinion of the authority, cease to be needed for such purpose.

Notwithstanding the provisions of any general or special law to the contrary, all counties, cities, towns and other political subdivisions and all public agencies, authorities and commissions of the commonwealth are hereby authorized and empowered to lease, lend, grant or convey to the authority at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies, authorities and commissions may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property, improvements or personal property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads, bridges and other real property, improvements or personal property already devoted to public use.

Section 14. Real property of the authority other than property leased pursuant to sections fifteen and sixteen, if leased, used, or occupied in connection with a business conducted for



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profit, shall, at the discretion of the municipality for the privilege of such lease, use or occupancy, be valued, classified, assessed and taxed annually as of January first to the lessee, user or occupant in the same manner and to the extent as if such lessee, user or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate to which it is assessed nor shall any tax be enforced by any sale or taking of such real estate but the interest of any lessee therein may be sold or taken by the collector of the city or town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate.

Section 15. In addition to any other power the authority may have to make leases, the authority may lease at one time or from time to time for terms not to exceed ninety-nine years, upon such terms and conditions as the authority in its discretion deems advisable, air rights over land owned or held by the authority in connection with the turnpike and the Boston extension portion of the metropolitan highway system, including rights for support, access, utilities, light and air, for such purposes as, in the opinion of the authority, shall not impair the construction, full use, safety, maintenance, repair, operation or revenues of the turnpike or the metropolitan highway system; provided, however, that any such lease for a period of forty years or more shall be subject to the approval of the governor. Any lease granted under this section may, with the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

Use of air rights leased under this section respecting land within the territorial limits of the city of Boston and the construction and occupancy of buildings or other things erected or affixed pursuant to any such lease shall be made in accordance with the provisions of the state building code enacted pursuant to chapter one hundred and forty-three and such other requirements as the authority deems necessary or advisable to promote the public health, convenience and safety of persons and property but shall not be subject to any other building, fire, garage, health or zoning law or any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the city of Boston.

The authority shall not lease any air rights in a particular location unless it shall find that the construction and use of buildings or other things to be erected or affixed pursuant to any such lease shall be in no way detrimental to the maintenance, use and operation of the turnpike or the metropolitan highway system and, in the city of Boston, unless the authority shall also find, after consultation with the mayor that the construction and use of such buildings or other things shall preserve and increase the amenities of the community.

The construction or occupancy of any building or other thing erected or affixed under any lease under this section of air rights respecting land outside the territorial limits of the city of Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire, garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or town in which such building or other thing is located.

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A copy of all leases granted by the authority under this section shall be filed by the authority with the governor and with the mayor or chairperson of the board of selectmen of the respective city or town and such leases shall be deemed to be public records within the meaning of chapter sixty-six.

Neither such air rights nor any buildings or other things erected or affixed pursuant to any such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under any general or special law; provided, however, that buildings and other things erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were the owners of the land in fee; provided, further, that no part of the value of the land shall be included in any such assessment; and provided, further, that payment of any such taxes shall not be enforced by a lien upon or sale or taking of such land except that the leasehold estate may be sold or taken by the collector of taxes of the city or town wherein such real estate is situated for the nonpayment of any tax assessed as aforesaid in the manner provided by law for the sale or taking of real estate for nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by the General Laws for the collection of taxes by collectors of cities and towns.

The authority shall include in any lease of such air rights a provision whereby the lessee agrees, in the event that the foregoing tax provision is determined by any court of competent jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for such year.

Section 16. In addition to any other power the authority may have to make leases, the authority may lease at one time or from time to time for terms not to exceed ninety-nine years, upon such terms and conditions as the authority in its discretion deems advisable, land owned by the authority and no longer required for the maintenance, repair, reconstruction, improvement, use, administration or operation of the turnpike or the Boston extension of the metropolitan highway system; provided, however, that any such lease for a period of forty years or more shall be subject to the approval of the governor. A lease granted under this section may, with the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

The construction or occupancy of any building or other thing erected or affixed under any lease of land under this section shall be subject to the building, fire and zoning laws, ordinances or by-laws applicable in the city or town wherein such building or other thing is located.

A copy of all leases granted by the authority under the provisions of this section shall be filed by the authority with the governor and with the mayor or chairman of the board of selectmen of the respective city or town and such leases shall be deemed to be public records within the meaning of chapter sixty-six.

Neither such land nor any buildings or other things erected or affixed pursuant to any such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under any general or special law; provided, however, that such land and buildings and other



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things erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were the owners of the land in fee; provided, further, that payment of any such taxes shall not be enforced by a lien upon or sale or taking of such land except that the leasehold estate may be sold or taken by the collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax assessed as aforesaid in the manner provided by law for the sale or taking of real estate for nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by the General Laws for the collection of taxes by collectors of cities and towns.

The authority shall include in any lease of such land a provision whereby the lessee agrees, in the event that the foregoing tax provision is determined by any court of competent jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is located a sum of money in lieu of taxes which would otherwise be assessed for such year.

Section 17. The secretary of the executive office of transportation and construction and the chairman of the authority shall submit a report to the joint committee on transportation and the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-seven and every six months thereafter, which shall include, but not be limited to, the status and schedule of the construction of the central artery tunnel project; an analysis of the commonwealth's ability to fund the state's share of the central artery tunnel project; the amount of federal funds available for the central artery tunnel project and the statewide program, so-called; the effect of this chapter in meeting the operation, administration and financial needs of such central artery tunnel project and statewide program; the financial status of the turnpike, including all revenues generated and the cost of maintenance and operation and any special legislation, recommendations or resources required to meet the needs of the metropolitan highway system, the turnpike and the statewide program.

Section 18. The authority shall establish and implement for the turnpike a local tourism grant program for the benefit of cities and towns located within the turnpike corridor. Such grant program shall be funded, subject to the rights of the holders of notes or bonds of the authority issued for the turnpike, from turnpike revenues, on an annual basis in an amount of not less than one million dollars; provided, however, that notwithstanding any requirements of this section, for each of the calendar years nineteen hundred and ninety-seven, nineteen hundred and ninety-eight and nineteen hundred and ninety-nine, a sum of not less than two hundred and fifty thousand dollars and not more than three hundred thousand dollars allocable to the tourism grant program shall be directed annually to the Commonwealth Visitor Information Services Travel Alliance established by section nineteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five or to such cities, towns or other public entities that said Travel Alliance may recommend to the authority. Said grant program shall be administered in accordance with procedures promulgated under chapter thirty A.

The authority shall also establish and implement for the metropolitan highway system a local tourism grant program for the benefit of cities and towns through which the metropolitan highway system runs and the municipalities contiguous to such cities and towns. Said grant program shall be funded, subject to the rights of the holders of notes or bonds of the authority issued for the metropolitan highway system, from metropolitan highway system revenues, on an annual basis in an amount not less than two hundred and fifty thousand dollars. Such grant program shall be administered in accordance with procedures promulgated under said chapter thirty A.

Section 19. No motor vehicle, trailer, semi-trailer or semi-trailer unit, hereinafter in this section called a motor vehicle, shall be operated on the turnpike or the metropolitan highway system nor shall the owner or bailee thereof require or permit such operation when the gross weight of such motor vehicle exceeds the weight provided in the rules and regulations adopted by the authority pursuant to paragraph (k) of section four or that specified in a special hauling permit issued by the authority for such motor vehicle pursuant to said rules and regulations, whichever is greater, nor shall any person load or cause to be loaded such motor vehicle in excess of such weights; provided, however, that the authority shall not adopt or enforce any rule or regulation which prohibits a motor vehicle from traveling on the turnpike or the metropolitan highway system without a permit if such motor vehicle may travel on a public way of the commonwealth without a permit under the provisions of section nineteen A of chapter ninety or which prohibits the issuance of a permit by the authority for travel on the turnpike or the metropolitan highway system by a motor vehicle if such motor vehicle may travel on a public way of the commonwealth with a permit under the provisions of section thirty A of chapter eighty-five.

Enforcement of this section shall be by members of the department of state police assigned to the authority who have been appointed as weighers and measurers of motor vehicles and of the loads of such motor vehicles pursuant to section eighty-seven A of chapter forty-one. In any prosecution for a violation of this section, a signed certificate on oath of a member of the department of state police assigned and appointed as a weigher and measurer of motor vehicles in accordance with this paragraph shall be admissible in evidence without further proof and shall constitute prima facie evidence of the weight of the motor vehicle described in such certificate. Such certificate shall be in such form as the registrar of motor vehicles shall prescribe pursuant to section nineteen A of chapter ninety and shall be signed and sworn to by a member of the department of state police assigned and appointed as a weigher and measurer of motor vehicles in accordance with this paragraph and present at the weighing of such motor vehicle and the court shall take judicial notice of the signature of such person and that he is so assigned and appointed.

In any claim for bodily injuries including death or damage to property arising out of such weighing, a member of the department of state police, assigned and appointed as a weigher and measurer of motor vehicles in accordance with the preceding paragraph, to enforce the provisions of this section may file a written request with the authority that it defend him against such claim and the authority shall indemnify such member of the department of state

police from personal expenses or damages incurred and arising out of such claim; provided, however, that the defense or settlement of such claim shall have been made by the general counsel of the authority, by an attorney retained for such purpose by the authority or by an attorney provided by an insurer obligated under the terms of a policy of insurance to defend against such claims.

A person convicted of a violation of the provisions of this section shall be punished by a fine of not less than thirty dollars for each one thousand pounds of weight or fraction thereof by which the gross weight of the motor vehicle as operated exceeds the weight provided in the rules and regulations adopted by the authority pursuant to paragraph (k) of section four or that specified in a special hauling permit issued by the authority for such motor vehicle pursuant to said rules and regulations, whichever is greater; provided, however, that if the total of such excess weight is greater than ten thousand pounds, the fine shall be not less than sixty dollars for each one thousand pounds or fraction thereof over such ten thousand pounds.

Any person convicted of a violation of the provisions of the first sentence of section seventeen of chapter ninety while operating a vehicle which is also in violation of the first paragraph of this section shall be punished by a fine of not more than fifty dollars for a first offense nor less than fifty nor more than seventy-five dollars for a second offense committed in any twelve month period and not less than seventy-five nor more than one hundred and fifty dollars for subsequent offenses committed in any twelve month period and complaints for such violations shall not be placed on file by the court.

Section 20. The authority shall, consistent with the provisions and limitations of section twelve and section twenty-six, be liable to any person sustaining bodily injury or damage to his property by reason of a defect or want of repair therein or thereupon to the same extent as provided in section eighteen of chapter eighty-one and shall be liable for the death of any person caused by such defect or want of repair to the same extent as is provided in chapter two hundred and twenty-nine. Any notice of such injury, damage or death required by law shall be given to the general counsel of the authority.

The turnpike and the metropolitan highway system, although not part of the state highway system, shall each be deemed a way within the meaning and purport of chapters eighty-nine and ninety and its use shall be governed by sections two, four, four A, four B and five of said chapter eighty-nine and sections one B, three, three A, three B, three C, five A, six, seven, seven B, seven D, seven D and one-half, seven P, seven Q, seven AA, eight B, eight C, nine, nine D, ten, eleven, twelve, thirteen, thirteen A, fourteen, fourteen A, fourteen B, sixteen, the first sentence of section seventeen, section twenty, the first sentence of section twenty-one and sections twenty-two A, twenty-two B, twenty-two E, twenty-three, twenty-four, twenty-four G, twenty-four I, twenty-four L, twenty-five, twenty-six, twenty-nine and thirty-four J of chapter ninety and such other laws as the authority may determine by regulation necessary for the safe and efficient operation of the turnpike or the metropolitan highway system.



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An operator of a vehicle using the turnpike or the metropolitan highway system who refuses to pay the toll prescribed by the authority or who evades or attempts to evade payment of the toll prescribed by the authority may be arrested without a warrant. Whoever, for the purpose of soliciting a ride on the turnpike or the metropolitan highway system, displays a sign, signals a moving vehicle, causes the stopping of a vehicle or stands on property of the authority in view of a ramp or roadway of the turnpike may be arrested without a warrant and shall be punished by a fine of not more than fifty dollars. A person damaged in his property by the exercise of any of the powers granted by this chapter may recover his damages from the authority under chapter seventy-nine.

Notwithstanding the provisions of chapters one hundred and thirty-four and one hundred and forty-seven, if money, goods or other property which has been abandoned, mislaid or lost on the premises of the authority comes into the possession of said authority and remains unclaimed for a period of one hundred and twenty days, the authority may sell the same, excepting money so unclaimed, at public auction after notice of such sale has been published for three successive weeks in a newspaper published in the city or town wherein such sale shall occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale, and all money so unclaimed, shall be paid into and become the property of the authority and may be applied by the authority to any of its corporate purposes. If such property is in the possession of the authority and remains unclaimed for a period of one hundred and twenty days and is of the value of three dollars or less, the authority may donate the same to a charitable organization.

On or before April first of each year, the authority shall make an annual report of its activities for the preceding calendar year to the governor and to the general court. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of operation of the turnpike and the metropolitan highway system. Such audits shall be deemed to be public records within the meaning of chapter sixty-six.

Section 21. The authority may contract with an employee to defer a portion of such employee's compensation and may, for the purpose of funding a deferred compensation program for such employee established in accordance with the U.S. Internal Revenue Code, hereinafter referred to as the Code, invest the deferred portion of such employee's compensation in a life insurance or annuity contract, mutual fund or bank investment trust. The authority shall, before making any such investment, solicit bids from insurance companies authorized to conduct business within the commonwealth pursuant to chapter one hundred and seventy-five, mutual fund managers and banks, which bids shall be sealed and opened at a time and place designated by the authority. Any bid submitted by an insurance company, mutual fund or bank investment trust to fund the deferred compensation program, where applicable, shall clearly indicate the interest rate which shall be paid on the deferred funds, any commissions which will be paid, any load imposed for the purpose of administer-

ing the funds, mortality projections, expected payouts, tax implications for participating employees and such other information as the authority may require. Any contract entered into between an employee and the authority pursuant to this section shall include all such information in terms the employee can reasonably be expected to understand.

As used in this section, the word "employee" shall have the same meaning as "employee" as defined in section one of chapter thirty-two and shall also include consultants and independent contractors who are natural persons paid by the authority.

An employee may defer compensation so long as such deferral is the lesser of seven thousand five hundred dollars or thirty-three and one-third percent of his includible compensation for a taxable year; provided, however, that for one or more of the last three taxable years ending before he attains normal retirement age, an employee may defer the lesser of fifteen thousand dollars or the sum of (1) seven thousand five hundred dollars or thirty-three and one-third percent of his includible compensation for such year; plus (2) a sum not more than the total deferrable compensation for prior taxable years that had not in fact been deferred in such years.

Such deferred compensation program shall be in addition to, and not part of, the retirement or pension system as provided under chapter thirty-two and any other benefit program provided by law for such employee. Any compensation deferred under such program shall continue to be included as regular compensation, as defined in section one of said chapter thirty-two, for the purpose of computing the retirement and pension benefits earned by any such employee; provided, however, that any compensation so deferred shall not be included in the computation of any taxes withheld on behalf of any such employee.

Section 22. The authority may contract with an employee to make contributions for and in the name of such employee from amounts otherwise payable to the employee as current compensation to an Individual Retirement Account hereinafter referred to as an IRA, by such employee established in accordance with the Code. The participating employee may invest that portion of his income so contributed to an IRA in an annuity contract, mutual fund, bank investment trust or other investment authorized by the Code. Before making such deduction, the authority shall be required to solicit bids from insurance companies authorized to conduct business within the commonwealth pursuant to chapter one hundred and seventy-five, mutual fund managers and banks which bids shall be sealed and opened at a time and place designated by the authority. Any bid submitted by an insurance company, mutual fund or bank investment trust seeking investment of the IRA contribution shall, where applicable, clearly indicate the interest rate which shall be paid on the invested funds, any commissions which shall be paid, any load imposed for the purpose of administering the funds, expected payouts, tax implications for participating employees and such other information as the authority may require. Upon the authority's determining which provider offers the product most beneficial to the employee in each category for which bids were solicited, the authority may offer such employee the opportunity to establish an IRA with one or more such providers. The employee who wishes to invest his IRA funds with any such provider or combination of providers may authorize the authority to deduct from amounts otherwise payable to the employee, at one time or on a periodic basis, amounts to

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be paid into the employee's IRA. If the employee so elects, the authority shall pay to the providers the amount designated by the employee, in the name of the employee, to the employee's IRA. Amounts so paid to the providers for the employee's IRA account shall belong exclusively to the employee. Except as otherwise provided herein, the authority may restrict an employee's right to contract to have contributions made to an IRA through deductions and payments by the authority, to those providers selected as the result of the competitive bidding process outlined herein; provided, however, that this shall not be construed to restrict or limit the right of an employee to establish one or more IRAs with such banks, insurance companies or similarly authorized institutions as the employee may choose in any manner other than through an authorized deduction by the authority of a portion of the employee's compensation as outlined herein. Any contract entered into between an employee and the authority pursuant to this section shall include all information in terms the employee can reasonably be expected to understand. As used in this section the word "employee" shall have the same meaning as "employee" as defined in section one of chapter thirty-two and shall also include consultants and independent contractors who are natural persons paid by the authority.

An employee may contribute a portion of his compensation to an IRA under the program outlined herein so long as such contribution, for an employee who is single, is the lesser of two thousand dollars or one hundred percent of his compensation for a taxable year and, for an employee who is married, the contribution is the lesser of two thousand two hundred and fifty dollars or one hundred percent of his compensation for a taxable year. If an employee has any compensation deferred under a deferred compensation plan for employees of the authority, if one is established by the authority under section twenty-one, then the aggregate amount of such deferred compensation deductions and amounts contributed to such employee's IRA shall not exceed the limits imposed upon such combined deduction and contribution by Code.

Notwithstanding the provisions of any general or special law to the contrary, the authority shall not be required to solicit bids to invest the contributed portion of an employee's income into the employee's IRA provided (a) the authority is authorized by the employee to pay that portion of the employee's compensation into the employee's IRA in the same investment products as provided through a deferred compensation or IRA plan for employees of the commonwealth administered by the authority or a deferred compensation plan for employees of the authority administered by the authority, provided that such plan resulted from the solicitation of bids in accordance with bidding requirements comparable to those required under this section; or (b) the authority is authorized by the employee to pay that portion of the employee's compensation into the employee's IRA in the investment products offered pursuant to a deferred compensation or IRA plan developed through a competitive selection process; provided that such plan resulted from the solicitation of bids by a group of any combination of three or more city, town, county or public authority treasurers acting as a "Common Group" for purposes of soliciting such proposals in accordance with bidding requirements comparable to those required under this section.



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Such IRA plan shall be in addition to and not a part of the retirement program or pension system as provided under chapter thirty-two and any other benefit program provided by law for such employee. Any compensation contributed by the employee to an IRA under such a plan shall continue to be included as regular compensation, as defined in section one of said chapter thirty-two, for the purpose of computing the retirement and pension benefits earned by any such employee; provided, however, that any compensation so contributed shall not be included in the computation of federal taxes but shall be included in the computation of state taxes withheld on behalf of any such employee.

Section 23. The authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have notes, bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof in accordance with the terms of any applicable bond resolution, trust agreement or other agreement.

Section 24. The authority is hereby authorized and directed to reimburse the commonwealth for the amount of retirement costs incurred by the commonwealth on behalf of employees of the department of public safety for the time such employees are assigned by the commissioner of said department to duty with the authority. Such amount shall be the retirement cost portion of the cost of fringe benefits as determined by the commissioner of administration pursuant to section six B of chapter twenty-nine. Such amount shall be reimbursed annually to the commonwealth for fiscal years beginning after June thirtieth, nineteen hundred and eighty-seven.

Section 25. All contracts, agreements, licenses, leases and other obligations of the authority duly made under the authority of chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two, chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight or chapter one hundred and two of the acts of nineteen hundred and ninety-five shall remain in full force and effect until terminated in accordance with the respective terms and provisions of such contracts, agreements, licenses, leases and other obligations. All regulations and by-laws adopted under the authority of said acts shall remain in full force and effect until amended or otherwise altered by the authority.

Section 26. The turnpike may be transferred to the highway department and shall thereafter be operated and maintained by the highway department free of tolls when (i) all notes and bonds issued by the authority relating to the turnpike and payable from turnpike revenues have been paid or a sufficient amount for the payment of all such notes or bonds and the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the holders of such notes or bonds; and (ii) the turnpike is deemed to be in good condition and repair to the satisfaction of the highway department. The transfer of the turnpike under this section shall be effectuated by one or more agreements between the authority, the executive office of transportation and construction and the highway department; provided, however, that any such agreements shall provide that all nontoll turnpike revenues shall thereafter be dedicated solely to the operation and maintenance of the turnpike.

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Section 27. The authority shall submit to the metropolitan highway system advisory board, pursuant to section twenty-eight, all contracts, plans, agreements and memoranda of understanding relative to land use plans, air rights, zoning restrictions and environmental impacts associated with the development on any land owned by the authority within the metropolitan highway system. The authority shall not proceed with the final execution of such contracts, plans, agreements and memoranda of understanding prior to the review of the advisory board pursuant to said section twenty-eight.

Section 28. (a) There shall be a metropolitan highway system advisory board to the authority to consist of nine persons, one of whom shall be appointed by the governor, one of whom shall be appointed by the commissioner of the division of capital planning and operations, one of whom shall be appointed by the mayor of the city of Boston, one of whom shall be appointed by the artery business committee, two of whom shall be appointed by the metropolitan area planning council, one of whom shall be appointed by the Massachusetts Municipal Association and one of whom shall be appointed by Move Massachusetts Two Thousand. Each member of the metropolitan highway system advisory board shall have one vote. A majority of members shall constitute a quorum and the advisory board may act by such majority vote represented in the quorum.

(b) For the conduct of its business, the metropolitan highway system advisory board shall adopt and may revise and amend by-laws. The advisory board shall convene its first meeting on or before March thirty-first, nineteen hundred and ninety-seven and shall thereafter convene regular meetings in accordance with its by-laws. The advisory board shall annually elect a chairperson and vice chairperson and any other officers that the advisory board shall determine. Each member of the board shall serve for a term of two years and shall be eligible for reappointment. In the event of a vacancy, a successor shall be named by the person or organization who originally appointed the vacated member and any such successor shall serve for the remainder of the unexpired term. Each member of said advisory board shall serve without compensation but may be reimbursed, as an expense of said advisory board, for all reasonable expenses incurred in the performance of its duties as approved by the advisory board.

(c) The purposes of the metropolitan highway system advisory board shall be to review and prepare comments on all documents submitted to it pursuant to section twenty-seven and to make recommendations to the authority within thirty days of receipt of such documents. The advisory board may hold public hearings on all matters before it.

(d) The metropolitan highway system advisory board may incur expenses, not to exceed fifty thousand dollars annually for expenditures authorized under paragraph (b) and for personnel and office expenses. Such expenses shall be paid by the authority in the current fiscal year from its operating budget and, for each year thereafter, shall be provided for in the current expense budgets of the metropolitan highway system.

Section 29. The authority shall submit to the turnpike advisory board, pursuant to section thirty, all contracts, plans, agreements and memoranda of understanding relative to land use plans, air rights, zoning restrictions and environmental impacts associated with the development on any land owned by the authority within the turnpike corridor. The authority

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shall not proceed with the final execution of such contracts, plans, agreements, and memoranda of understanding prior to the review of the advisory board pursuant to said section thirty.

Section 30. (a) There shall be a turnpike advisory board to the authority to consist of nine members, two of whom shall be appointed by the governor and who shall be residents of a municipality in the turnpike corridor, one of whom shall be appointed by the commissioner of the division of capital planning and operations, one of whom shall be appointed by the Massachusetts Audubon Society who shall be a resident of a municipality within the turnpike corridor, one of whom shall be appointed by the Massachusetts Association of Planning Directors who shall be a resident of a municipality within the turnpike corridor, four of whom shall be appointed by the Massachusetts Municipal Association, one of which shall be a resident of a municipality within the turnpike corridor from the New York state border east to the junction of interchange 5, one of which shall be a resident of a municipality within the turnpike corridor from the junction of interchange 5 west to the junction of interchange 11A and one of which shall be a resident of a municipality within the turnpike corridor from the junction of interchange 11A east to the junction of interchange 14. Each member of the turnpike advisory board shall have one vote. A majority of members shall constitute a quorum and the advisory board may act by such majority vote represented in the quorum.

(b) For the conduct of its business, the turnpike advisory board shall adopt and may revise and amend by-laws. The advisory board shall convene its first meeting on or before March thirty-first, nineteen hundred and ninety-seven and shall thereafter convene regular meetings in accordance with its by-laws. The advisory shall annually elect a chairperson and vice chairperson and any other officers that the advisory board shall determine. Each member of the board shall serve for a term of two years and shall be eligible for reappointment. In the event of a vacancy, a successor shall be named by the person or organization who originally appointed the vacated member and such successor shall serve for the remainder of the unexpired term. Each member of said advisory board shall serve without compensation but may be reimbursed, as an expense of said advisory board, for all reasonable expenses incurred in the performance of its duties as approved by the advisory board.

(c) The purposes of the turnpike advisory board shall be to review and prepare comments on all documents submitted to it pursuant to section twenty-nine and to make recommendations to the authority within thirty days of receipt of such documents. The advisory board may hold public hearings on all matters before it.

(d) The turnpike advisory board may incur expenses, not to exceed fifty thousand dollars annually for expenditures authorized under paragraph (b) and for personnel and office expenses. Such expenses shall be paid by the authority in the current fiscal year from its operating budget and, for each year thereafter, shall be provided for in the current expense budgets of the turnpike.



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Section 31. This chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 7.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Turnpike Authority and the city of Boston shall enter into a memorandum of understanding not later than June first, nineteen hundred and ninety-seven relative to land use plans, air rights, zoning restrictions and environmental impacts associated with any development in connection with the Boston extension portion of the metropolitan highway system or respecting land within the territorial limits of said city of Boston; provided, however, that such memorandum shall include, but not be limited to, the following provisions: (1) design review for any project by the Boston Redevelopment Authority; (2) joint process for any project for environmental review pursuant to sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws and procedures adopted by the Boston Redevelopment Authority; (3) establishment of a citizen advisory committee for any project; (4) review by the Boston Redevelopment Authority of any proposed land or air rights uses for compatibility of any project with the neighborhood; and (5) to ensure that any development projects utilizing air rights minimizes, to a reasonable extent, adverse impacts upon the quality of life including, but not limited to, traffic, noise, light, density and air quality in the neighborhood surrounding any such project.

There shall be no development of air rights along the Boston extension portion of the metropolitan highway system or within the territorial limits of the city of Boston until the memorandum of understanding provided for in this section has been executed by the parties.

The memorandum of understanding provided for in this section between the Massachusetts Turnpike Authority and the city of Boston shall be legally binding document having the full force and effect of the law between the parties and shall be enforceable in a court of law by equitable relief.

**SECTION 8.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority shall convene at least two public hearings, to be held in a community contiguous to the Tobin memorial bridge, at least thirty days prior to the effective date of any proposed change in toll structure on said Tobin memorial bridge.

**SECTION 9.** Chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two is hereby repealed.

**SECTION 10.** Chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight is hereby repealed.

**SECTION 11.** The executive office of administration and finance, the office of the state auditor, the division of capital planning and operations, the Massachusetts Turnpike Authority and the Massachusetts Port Authority are hereby authorized and directed to undertake a joint asset assessment study to identify any additional segments of the metropolitan highway system, exclusive of those segments acquired pursuant to subsection (f) of section twelve of chapter eighty-one A of the General Laws, and the value of such segments which may be acquired by said Massachusetts Port Authority in connection with an additional payment to the commonwealth for the metropolitan highway system pursuant to clause (iii) of subsection (f) of section twelve of chapter eighty-one A of the General

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Laws, inserted by this act; provided, however, that any recommended additional payment shall not exceed one hundred million dollars. Such study shall be completed within one year of the effective date of this act and shall be submitted to the clerks of the house and the senate and to the joint committee on transportation.

**SECTION 12.** The Massachusetts Turnpike Authority and the Massachusetts Port Authority are hereby authorized and directed to undertake a joint feasibility study relative to implementing a commuter discount program for frequent users of the turnpike, metropolitan highway system and the Tobin memorial bridge. Such study shall examine the revenue projections for frequent users based on current fares, revenue projections based on a reduction of the regular passenger fare for frequent users of the turnpike, metropolitan highway system and the Tobin memorial bridge; and the alternative ways to implement such a program, including prepaid tickets, tokens, vehicle stickers and electronic toll collections. Such study shall also include a recommended date by which said turnpike authority and said port authority shall implement such program; provided, however, that such program shall not be implemented if it substantially impacts the financing plan for the completion of the Central Artery/Third Harbor Tunnel project, the annual statewide road and bridge program or the bond rating of said turnpike authority or said port authority. Such study shall be completed not later than July first, nineteen hundred and ninety-seven, and shall be submitted to the house and senate committees on ways and means and the joint committee on transportation. No commuter discount program implemented as a result of such study shall affect discount programs in effect pursuant to this act or to sections fourteen and fourteen A of chapter one hundred and two of the acts of nineteen hundred and ninety-five.

Approved March 20, 1997.

## **Chapter 4. AN ACT RELATIVE TO THE POSITION OF TOWN TREASURER IN THE TOWN OF NORTH BROOKFIELD.**

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

**SECTION 1.** The town treasurer in the town of North Brookfield 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 of the powers and duties by law vested in the office of said town treasurer. Any vacancy in such office shall be filled in like manner. Said board of selectmen may remove any person so appointed for cause after a hearing.

**SECTION 2.** Notwithstanding the provisions of section one, the incumbent in the office of town treasurer on the effective date of this act shall continue to hold such office and to perform the duties thereof until the expiration of the term for which he was elected or appointed unless he sooner vacates such office.

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

Approved April 10, 1997.

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## Chapter 5. AN ACT RELATIVE TO CERTAIN STUDY COMMISSIONS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the efficient and timely functioning of certain study commissions, 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 666 of chapter 151 of the acts of 1996 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There is hereby established a special 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 or his designee, the secretary of administration and finance, or his designee; and eight persons 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, one of whom shall be a representative of the Massachusetts Association of Administrators for Special Education, one of whom shall be a teacher, two of whom shall be members of local parent's 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.

**SECTION 2.** Said section 666 of said chapter 151 is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Said 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 June first, nineteen hundred and ninety-seven.

**SECTION 3.** Section 680 of said chapter 151 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Said commission shall report to the house and senate committees on ways and means on or before February third, nineteen hundred and ninety-eight.

**SECTION 4.** Sections one and two of this act shall take effect as of January twentieth, nineteen hundred and ninety-seven.

Approved April 18, 1997.



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**Chapter 6. AN ACT RELATIVE TO THE PUBLIC SCHOOLS OF THE CITY OF CHELSEA.**

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

**SECTION 1.** Section 3 of chapter 133 of the acts of 1989 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The term of any such agreement shall not exceed fifteen years.

**SECTION 2.** Section 4 of said chapter 133 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any agreement entered into pursuant to the provisions of section three shall require the university to make periodic, detailed reports to the school committee, the city manager and the city council of the city with respect to the efforts and undertakings of the university under the provisions of such agreement and of this act.

**SECTION 3.** The last paragraph of section 8 of said chapter 133 is hereby amended by striking out, in lines 8 and 9, the words "by the city board of aldermen and the execution thereof by the mayor of the city" and inserting in place thereof the following words:- in accordance with the provisions of chapter one hundred and three of the acts of nineteen hundred and ninety-four.

**SECTION 4.** Section 11 of said chapter 133 is hereby amended by striking out, in line 6, the words "mayor or the board of aldermen" and inserting in place thereof the following words:- city manager or the city council.

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

Approved April 18, 1997.

**Chapter 7. AN ACT PROVIDING FOR THE APPOINTMENT OF THE DISTRICT TREASURER AND DISTRICT CLERK OF THE FIRE DISTRICT OF THE TOWN OF DALTON.**

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

**SECTION 1.** Section 9 of chapter 137 of the acts of 1884 is hereby amended by adding the following sentence:- The district treasurer and the district clerk of said fire district shall be appointed by said board of water commissioners and shall have all powers and duties vested by law in the offices of the district treasurer and district clerk.

**SECTION 2.** The elected district treasurer and district clerk in office 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 district treasurer and district clerk or unless sooner vacated.

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

Approved April 18, 1997.

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**Chapter 8. AN ACT AUTHORIZING CORNELIUS J. MADIGAN TO CONTINUE EMPLOYMENT WITH THE FIRE DEPARTMENT OF THE TOWN OF NORTHBRIDGE.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, Cornelius J. Madigan, chief of the fire department of the town of Northbridge, is hereby authorized to continue in such position until and including April thirtieth, nineteen hundred and ninety-eight; provided, however, that said Cornelius J. Madigan is mentally and physically capable to perform the duties of his office. Said Cornelius J. Madigan shall be examined at his own expense by an impartial physician designated by said town to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter thirty-two of the General Laws for service subsequent to April twelfth, nineteen hundred and ninety-seven and upon retirement said employee shall receive a superannuation allowance equal to that to which he would have been entitled had he retired on said date.

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

Approved April 18, 1997.

**Chapter 9. AN ACT RELATIVE TO THE ISSUANCE OF A LICENSE TO SELL ALCOHOLIC BEVERAGES IN AMHERST.**

*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 town of Amherst shall have the authority to issue to the Amherst Brewing Company, Incorporated, 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 town in accordance with the provisions of said section twelve of said chapter one hundred and thirty-eight notwithstanding that said Amherst Brewing Company, Incorporated may hold a license pursuant to the provisions of said section nineteen or said section nineteen C of said chapter one hundred and thirty-eight.

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

Approved April 25, 1997.

**Chapter 10. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1997 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

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immediately to make or supplement certain appropriations for the fiscal year ending June 30, 1997 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 appropriation acts for fiscal year 1997 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 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 30, 1997. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**SECTION 2.**

**JUDICIARY.**

*Supreme Judicial Court*

0321-0100 .....\$54,929

**DISTRICT ATTORNEYS.**

*District Attorneys Association*

0340-2100 ..... \$327,910

**TREASURER AND RECEIVER-GENERAL.**

*State Board of Retirement*

0612-1010 .....\$9,176,355

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS**

*Department of Environmental Management*

2100-2030 ..... \$678,982

*Metropolitan District Commission*

2440-0010 ..... \$473,277

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Department of Youth Services*

4202-0003 ..... \$708,000

4238-1000 ..... \$980,000

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*Department of Transitional Assistance*

4406-3000 ..... \$154,579

*Department of Social Services*

4800-0015 ..... \$439,200

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Office of the Secretary*

6005-0015 ..... \$1,565,786

*Department of Highways*

6010-0001 ..... \$52,574

6030-7201 ..... \$1,467,108

6030-7221 ..... \$315,293

**OFFICE OF LABOR, EDUCATION AND ECONOMIC DEVELOPMENT**

*Labor Relations Commission*

7002-0600 ..... \$10,592

*Division of Housing and Community Development*

7004-9005 ..... \$1,014,000

*Department of Education*

7061-0012 ..... \$6,469,713

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Office of the Secretary*

8000-0040 ..... \$4,097,025

*Criminal History Systems Board*

8000-0125 ..... \$209,469

*Criminal Justice Training Council*

8200-0200 ..... \$262,295

**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 appropriation acts for the fiscal year ending June 30, 1997. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for said items.



EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves

- 1599-2201 For a reserve to fund emergency grants to county sheriffs to provide for the continued operation of county jails and houses of correction; provided, that funds shall be distributed by the county government finance review board only upon certification by said board to the house and senate committees on ways and means that the following conditions have been met: (1) that the jail or house of correction would be unable to meet payroll obligations and other operational costs intrinsically linked to the housing of inmates prior to June 30, 1997 unless such jail or house of correction receives a disbursement from this reserve; provided, that said county government finance review board shall grant priority to the distribution of funds for this condition to counties with programs in place for the incarceration and treatment of female inmates whose female inmates, due to overcrowding or lack of bed capacity, are being housed in a state correctional institution and for which the release of funds from this reserve would allow the transfer of such inmates to county facilities; (2) that all discretionary costs as determined by said county government finance review board have been deferred or canceled; and (3) that the jail or house of correction agrees that it shall not seek any further deficiency or supplemental funding in fiscal year 1997; provided further, that \$4,670,000 of the amount appropriated herein shall be obligated for the payment of an order of the labor relations commission (order number MUP-8820); provided further, that payment of said amount shall fully satisfy the commonwealth's obligation in said order .....\$14,670,000
- Local Aid Fund ..... 100.0%
- 1599-3821 For a reserve to fund the payment of back pay and interest to plaintiffs in *Massachusetts Community College Council v. Commonwealth of Massachusetts* and consolidated cases, 420 Mass. 126 (1995) ..... \$11,000,000
- 1599-3822 For a reserve to fund the costs for fiscal years 1993 to 1998, inclusive, of compliance with the decision of the labor relations commission in case number SUP-3966, issued December 31, 1996; provided, that this item shall not expire until June 30, 1998 ..... \$3,991,478

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1599-3912 For a reserve for payments to communities affected by prior year prison expansion at Massachusetts correctional institutions pursuant to grants made under the authority of item 1102-8969 of section 2 of chapter 12 of the acts of 1996; provided, that not less than \$960,000 shall be provided to communities affected by prior year prison expansion at the Massachusetts correctional institution at Norfolk; provided further, that not less than \$1,600,000 shall be provided to communities affected by prior year prison expansion at the Massachusetts correctional institution at Cedar Junction; and provided further, that payments under this item shall be used to satisfy, in whole or in part, grants authorized to such communities under the authority of said item 1102-8969 . . . . . \$2,560,000

Local Aid Fund . . . . . 100.0%

*Division of Human Resources*

1750-0103 For a one-time reserve to reduce or eliminate the backlog of cases pending before the civil service commission; provided, that no state employee shall be compensated from this item; provided further, that all costs charged to this item shall be deemed to be one-time costs and shall cease to be obligations of said civil service commission or the commonwealth once such backlog is eliminated; and provided further, that notwithstanding the provisions of any general or special law to the contrary, this appropriation shall not expire until June 30, 1998 . . . . . \$500,000

*Information Technology Division*

1790-0107 For certain costs associated with the development and implementation of the commonwealth's human resources and compensation management system, so-called . . . . . \$7,640,440

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Department of Public Health*

4590-0907 For primary and preventive health services for uninsured children 13 through 18 years of age pursuant to the provisions of section 24G of chapter 111 of the General Laws . . . . . \$2,710,426

Children's and Seniors' Health Care Assistance Fund . . 100.0%

*Department of Social Services*

4800-1996 For the purchase and installation of a telephone system in the  
department of social services' area and regional offices . . . . . \$3,600,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of Public Safety*

8315-1001 For extraordinary expenses incurred in fiscal year 1997 relative to  
the payment of sick leave buybacks and vacation-in-lieu payments,  
so-called, for six employees of the division of inspections who shall  
retire in fiscal year 1997; provided, that no other costs shall be  
charged to this item . . . . . \$100,356

**SECTION 3.** Section 1 of chapter 29 of the General Laws, as appearing in the 1994  
Official Edition, is hereby amended by inserting after the definition of "Budgetary funds"  
the following definition:-

"Budgeted revenues and other financial resources pertaining to the budgeted funds",  
inflows from tax and nontax sources that are directed by law to be accounted and reported  
to a fund which is subject to annual appropriation.

**SECTION 4.** Section 2H of said chapter 29, as so appearing, is hereby amended by  
striking out the second paragraph and inserting in place thereof the following paragraph:-

In the event that the amount remaining in the fund at the close of a fiscal year exceeds  
five per cent of the budgeted revenues and other financial resources pertaining to the  
budgeted funds, as confirmed by the comptroller in the audited statutory basis financial  
report for the immediately preceding fiscal year, the amounts so in excess shall be  
transferred to the Tax Reduction Fund established by section 2I.

**SECTION 5.** Subsection (1) of section 5 of said chapter 29, as so appearing, is hereby  
amended by striking out paragraph (h) and inserting in place thereof the following  
paragraph:-

(h) The amount in the Commonwealth Stabilization Fund at the close of the preceding  
fiscal year and the amount by which such amount exceeds five per cent of the total amount  
of budgeted revenues and other financial resources pertaining to the budgeted funds, as  
confirmed by the comptroller in the audited statutory basis financial report for the  
immediately preceding fiscal year.

**SECTION 6.** Said chapter 29 is hereby further amended by striking out section 5C, as  
so appearing, and inserting in place thereof the following section:-

Section 5C. The comptroller shall annually, on or before September 15, certify to the  
commissioner of administration the amount of the consolidated net surplus in the operating  
funds at the close of the preceding fiscal year. The amounts so certified shall be disposed as  
follows:

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(a) an amount equal to one-half of one per cent of the total revenue from taxes in the preceding fiscal year, as certified in accordance with section 5, shall be available to be used as revenue for the current fiscal year;

(b) for any fiscal year for which the comptroller determines on or before October 31 of the succeeding fiscal year that there is a negative balance in the funds created pursuant to section 49 as reported in his annual financial report, said comptroller may transfer funds up to 40 per cent of the amount remaining of the consolidated net surplus to an account established pursuant to said comptroller's authority under sections 8 and 9 of chapter 7A for the purposes specified in said section 49; and

(c) sixty per cent of any remaining amount of such consolidated net surplus shall be transferred to the Commonwealth Stabilization Fund from the General Fund and 40 per cent of any remaining amount of such consolidated net surplus shall be transferred to the Commonwealth Stabilization Fund from the Local Aid Fund.

The comptroller shall annually, on or before the following second Wednesday in January, adjust said transferred amounts to reflect the results of the so-called single audit of the commonwealth's financial statements required by the federal government for each fiscal year.

**SECTION 7.** Item 1108-5200 of section 2 of chapter 151 of the acts of 1996, as amended by section 11 of chapter 366 of the acts of 1996, is hereby further amended by striking out the figure "426,574,000" and inserting in place thereof the following figure:- 428,200,000.

**SECTION 8.** Item 1108-5220 of said section 2 of said chapter 151 is hereby amended by striking out the figure "15,843,844" and inserting in place thereof the following figure:- 17,650,000.

**SECTION 9.** Item 1108-5230 of said section 2 of said chapter 151, as amended by section 12 of chapter 366 of the acts of 1996, is hereby further amended by striking out the figure "53,500,000" and inserting in place thereof the following figure:- 50,067,837.

**SECTION 10.** Said section 2 of said chapter 151 is hereby further amended by striking out item 1599-0420 and inserting in place thereof the following item:-

1599-0420 For a reserve for the department of youth services to manage its increase in caseload resulting from factors such as the implementation of chapter 200 of the acts of 1996 and the 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 committees on ways and means detailing the exact caseload increase and impact on 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 committees on ways and means a schedule of the cost per case



per item as needed to supplement its current appropriations 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 a plan which said secretary shall file in advance with the house and senate committees on ways and means . . . . . \$3,000,000

**SECTION 11.** Item 2100-2040 of said section 2 of said chapter 151 is hereby amended by striking out the wording and inserting in place thereof the following wording:- 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 \$50,000 shall be expended for the promotion of tourism in the city of Fall River, including the Fall River Heritage state park; and provided further, that such funds shall be administered by said city of Fall River.

**SECTION 12.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4000-0300 and inserting in place thereof the following item:-

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 1996 shall be retained in fiscal year 1997; 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 30 days prior to making such expenditures; provided further, that the division shall not extend or expand any categories of assistance under said Title XIX or 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 1, 1995; 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 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 such 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 such 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 1, 1996 until July 1, 1997 or until agreement is reached between the division 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; and provided further, that administrative costs incurred as a result of the implementation and operations of programs authorized by chapter 203 of the acts of 1996 may be paid from this item . . . . . \$34,144,407

General Fund . . . . . 98.0%  
Children's and Seniors' Health Care Assistance Fund 2.0%

**SECTION. 13.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4000-0310 and inserting in place thereof the following item:-

4000-0310 For administrative support and related services purchased contractually by the division including, but not limited to, preadmission screening, utilization review, medical consultants, disability determination reviews, health benefit managers and interagency service agreements; provided, that a summary description of the 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; 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; 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; and provided further, that contractual costs incurred as a result of the implementation and operation of programs authorized by chapter 203 of the acts of 1996 may be paid from this item . . . . . 31,981,874

General Fund . . . . . 98.44%

Children's and Seniors' Health Care Assistance Fund1.56%

**SECTION. 14.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4000-0350 and inserting in place thereof the following item:-

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 or the Children's and Seniors' Health Care Assistance Fund in proportion to the reimbursed expenditures from each said fund; provided further, that the division shall, prior to resuming development of said MA21 Project, notify the comptroller, the information technology division 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; provided further, that no funds shall be expended from this item for systems contracts in item 4000-0325; and provided further, that systems costs incurred as a result of the implementation and operation of programs authorized by chapter 203 of the acts of 1996 may be paid from this item ..... \$3,234,114

General Fund ..... 93.82%  
Children's and Seniors' Health Care Assistance Fund6.18%

**SECTION 15.** Item 4000-0500 of said section 2 of said chapter 151 is hereby amended by striking out the figure "1,006,469,462" and inserting in place thereof the following figure:- 997,469,462.

**SECTION 16.** Item 4000-0600 of said section 2 of said chapter 151 is hereby amended by striking out the figure "1,258,900,161" and inserting in place thereof the following figure:- 1,304,900,161.

**SECTION 17.** Item 4000-0800 of said section 2 of said chapter 151, as most recently amended by section 31 of chapter 365 of the acts of 1996, is hereby further amended by striking out the figure "665,000,000" and inserting in place thereof the following figure:- 628,000,000.

**SECTION 18.** Item 4110-0002 of said section 2 of said chapter 151 is hereby amended by striking out the wording and inserting in place thereof the following wording:- 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 \$75,000 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 \$725,000 from said initiative shall be deposited in the General Fund for services rendered in fiscal year 1997, including the revenue accrual period, so-called; 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.

**SECTION. 19.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4512-0103 and inserting in place thereof the following item:-

4512-0103 For acquired immune deficiency syndrome prevention and treatment; provided, that not less than \$679,000 shall be expended on comprehensive family planning providers for



AIDS prevention education; and provided further, that \$2,000,000 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 \$600,000 shall be expended for combination drug therapy services .....		\$43,723,686
General Fund .....	85.54%	
Health Protection Fund .....	14.46%	

**SECTION. 20.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4590-0900 and inserting in place thereof the following item:-

4590-0900 The department is hereby authorized to expend an amount not to exceed \$65,873,419 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 per cent 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 the staffing configurations at said hospital shall be consistent with the 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 accommodating timing 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 therefor 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 2B ..... \$65,873,419

**SECTION 21.** Item 5911-1001 of said section 2 of said chapter 151 is hereby amended by striking out the wording and inserting in place thereof the following wording:- Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation may expend an amount not to exceed \$1,000,000 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 \$6,000,000 from said initiative shall be deposited in the General Fund for services rendered in fiscal year 1997, including the revenue accrual period, so-called; 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 payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

**SECTION 21A.** Item 6005-0015 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; and provided further, that in no event shall the total amount of funds expended from this item for any regional transit authority exceed 75 per cent of the net cost of service of such authority.

**SECTION 22.** Item 7007-0910 of said section 2 of said chapter 151, inserted by section 111 of chapter 204 of the acts of 1996, is hereby amended by striking out the wording and inserting in place thereof the following wording:- 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 50 per cent 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 50 per cent in matching funds; provided further, that an amount shall be expended for a memorial to honor Sojourner Truth, subject to a 50 per cent match from local or private sources; provided further, that not less than \$50,000 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 to honor persons serving the public safety needs of the citizens of the commonwealth, subject to the collection of 50 per cent in matching funds.

**SECTION 23.** Item 4000-0440 of section 2A of chapter 204 of the acts of 1996 is hereby amended by striking out the wording and inserting in place thereof the following wording:- 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 2 of chapter 60 of the acts of 1994; and provided further, that \$53,431 shall be made available for the funding of a head injury treatment program on Cape Cod, being the Cape Head Injured Program, also known as the "C.H.I.P. House", serving the treatment needs of individuals with brain injuries.

**SECTION 24.** Chapter 435 of the acts of 1996 is hereby amended by inserting after section 6 the following section:-

*Section 6A.* Notwithstanding the provisions of any general or special law to the contrary, an amount not to exceed the amounts transferred from the Commonwealth Stabilization Fund to the Tax Reduction Fund as reported in the commonwealth's audited financial report for the fiscal year ending June 30, 1996 and as certified by the secretary of administration and finance, plus interest earned on such amount, shall be appropriated in the fiscal year ending June 30, 1998 for the purpose of implementing a temporary increase in the amounts of the personal exemption allowable on the income tax for the taxable year ending December 31, 1997; provided, that such temporary increase shall be structured so that the tax reduction authorized by this section does not exceed the balance in said Tax Reduction Fund; and provided further, that such commissioner of revenue is hereby authorized and directed to implement said temporary increase.

**SECTION 25.** Notwithstanding the provisions of any general or special law to the contrary, \$150,000 of the amount appropriated in item 2440-0010 of section 2 shall be expended exclusively for the management of aquatic nonnative plants in the Charles River lakes district, including treatment and monitoring. Funds appropriated in said item 2440-0010 shall be in addition to any amounts previously appropriated and made available for said purpose.

**SECTION 26.** Notwithstanding the provisions of any general or special law to the contrary, \$2,439,061 of the amount appropriated in item 8000-0040 of section 2 of this act shall be expended for the costs of the police career incentive program which are attributable to state fiscal year 1996 but which were not reimbursed from item 8000-0040 of section 2 of chapter 38 of the acts of 1995; provided, that funds made available pursuant to the authority of this section shall be deemed to fully satisfy any and all obligations of the commonwealth for fiscal year 1996.

Approved May 12, 1997.

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## **Chapter 11. 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 immediately to 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 2, 2A, 2B and 2C 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.*

6033-9716 For federal aid projects pursuant to the provisions of sections 52 and 53 and for nonparticipating portions of such projects; provided, however that funds authorized in this item may not be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; 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 such projects pursuant to the authority granted in this act based upon a prior or anticipated future 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 sums provided herein may be expended for the costs of such 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; and, provided further, that no more than \$1,300,000 shall be expended for the reconstruction and relocation of an 84" diameter pipe located on state highway route 146 . . . . . \$504,700,000

6035-9716 For federal aid projects pursuant to the provisions of sections 52 and 53 and for nonparticipating portions of such projects; provided, that funds authorized in this item may only be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; 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 such projects pursuant to the authority granted in this act based upon a prior or anticipated future 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 sums provided herein may be expended for the costs of such projects including, but not limited to, the costs of engineering and other services essential to such projects rendered by department employees or by consultants; and, 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 . . . . . \$1,040,300,000

**SECTION 2A.**  
**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**  
*Department of Highways.*

6033-9797 For the purpose of paying any interest due on notes of the commonwealth authorized by section 9; provided, that funds from this item shall not be used for contracting authority . . . . . \$100,000,000

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6036-9716 For federal aid projects pursuant to the provisions of sections 52 and 53 and for nonparticipating portions of such projects; provided, that funds authorized in this item may only be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; 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 such projects pursuant to the authority granted in this act based upon a prior or anticipated future 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 sums provided herein may be expended for the costs of such projects including, but not limited to, the costs of engineering and other services essential to such projects rendered by department employees or by consultants; and, 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 ..... \$1,158,750,000

**SECTION 2B.**  
**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**  
*Department of Highways*

6033-9702 For the engineering, design and construction of on and off-street bicycle and pedestrian routes and paved pathways, to provide secure bicycle locking facilities and to promote bicycle and pedestrian commuting pursuant to section 52; provided, however, that \$200,000 shall be expended for a bicycle and pedestrian trail in the town of Wareham; provided further, that not more than \$100,000 shall be expended for a bicycle pathway-tunnel under the Mystic Wellington bridge at state highway route 28 in the city of Somerville; provided further, that not less than \$266,000

shall be expended for the completion of the Tri-Community Bike Path in the towns of Winchester and Stoneham and the city of Woburn; and, provided further, that not less than \$250,000 shall be expended for the design and construction of the first segment of the Blackstone river bikeway from the Rhode Island border along the SNET trail through the town of Blackstone and Millville to River road in the town of Uxbridge . . . . . \$7,000,000

6033-9703 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 52; provided, that funds authorized in this item shall be expended in accordance with the provisions of chapter 19 of the acts of 1983; provided further, that all projects funded through this item and clause (f) of section 3 of chapter 15 of the acts of 1988 and item 6033-9501 of section 2A of chapter 273 of the acts of 1994 and item 9033-9603 of section 2A of chapter 205 of the acts of 1996 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 . . . . . \$17,000,000

6033-9709 For the design and construction of the Springfield union intermodal station project, so-called, in the city of Springfield; provided, that no funds shall be expended from this item unless a federal commitment to this project of at least \$40,000,000 is obtained in the reauthorization to the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, or subsequent federal act . . . . . \$10,000,000

6033-9717 For the construction of, repair of or improvement to non-federally aided roadway projects and for the nonparticipating portion of federally aided projects pursuant to section 52; provided, that funds authorized in this item may not be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; provided further, that not less than \$250,000 shall be expended for the construction of sidewalks on Lincoln street in the town of

Abington; provided further, that \$2,000,000 shall be expended for the completion of the Middle road/Peckham road widening and reconstruction project in the town of Acushnet; provided further, that \$1,500,000 shall be expended for the reconstruction and improvements to state highway route 150 extending to the downtown area in the town of Amesbury; provided further, that \$3,000,000 shall be expended for improvements to Summer street, otherwise known as state highway route 2A in the town of Arlington; provided further, that \$1,200,000 shall be expended for the engineering and reconstruction of the High street bridge in the town of Ashland; provided further, that \$150,000 shall be expended for the paving and repair of Hardscrabble road and Harrison avenue in the town of Auburn; provided further, that not more than \$3,000,000 shall be expended for the purposes of constructing the Hyannis Intermodal Transportation Center, so-called, in the town of Barnstable; provided further, that said \$3,000,000 shall not be expended unless such funds are required to meet any gap in funding for the project that may result if additional federal funding, in excess of the \$3,250,000 already allocated for the project, is not be received; provided further, that the department of highways shall enter into contracts with the town of Barnstable and the Cape Cod Regional Transportation Authority for the purpose of constructing said Hyannis Intermodal Transportation Center; provided further, that \$5,000,000 shall be expended for the construction of a connector road from Brimbal avenue extending over state highway route 128 and connecting with Dunham road, and for improvements to the intersection of said Brimbal avenue and said route 128 in the city of Beverly; provided further, that \$4,000,000 shall be expended for the purpose of a study and design of the Longfellow bridge, including, but not limited to, the costs associated with its remedial rehabilitation; provided further, that notwithstanding the provisions of any general or special law or the provision of this item to the contrary, \$2,000,000 shall be expended for the design and construction of a truck bypass road in the East Boston section of the city of Boston; provided further, that \$150,000 shall be expended for the reconstruction of and improvements to, Cambridge, Washington and



for the reconstruction and improvements to the intersection of Centre street and the West Roxbury parkway; provided, further that \$500,000 be expended for the Commonwealth avenue construction project in the Allston section of the city of Boston; provided further, that not more than \$150,000 shall be expended for the engineering, design and construction of a parking lot at Pond Meadow park in the towns of Braintree and Weymouth; provided further, that \$1,100,000 shall be expended for the engineering, design and construction of improvements and repairs to Union street in the town of Braintree; provided further, that \$350,000 shall be expended for the design and construction of a pedestrian walkway from Granite street to Forbes road in the town of Braintree; provided further, that \$400,000 shall be expended for the purpose of reimbursing the town of Burlington for the cost of emergency repairs and cleanup that resulted from the rupture of the main sewer line of Wayside road, adjacent to state highway route 3 in the town of Burlington; provided further, that \$70,000 shall be expended for traffic signalization at the intersection of state highway route 58 and West street in the town of Carver; provided further, that \$275,000 shall be expended for improvements to Smith road in the town of Chesterfield; provided further, that \$4,000,000 shall be expended for the reconstruction of that portion of state highway route 141 and Grattan street extending from interstate highway route 391 to Montgomery street in the city of Chicopee; provided further, that \$300,000 shall be expended on the reconstruction and improvements to state highway route 6 at the intersections of said route 6 and Hathaway avenue, Brandt avenue, and Wilbur avenue, in the town of Dartmouth; provided further, that \$385,000 shall be expended for reconstruction and improvement of Dedham street in the town of Dover; provided further, that \$2,000,000 shall be expended for the construction of traffic safety improvements to portions of Lakeview avenue, Nashua road and Hildreth street, in the town of Dracut; provided further, that \$200,000 shall be expended for improved access to certain subsidized elderly housing in the town of East Longmeadow; provided further, that the highway department, in conjunction with the Cape Cod Commission and the towns of Eastham,

Orleans, Wellfleet, Truro and Provincetown, shall expend not more than \$100,000 for the purposes of studying safety improvements and make recommendations on the state highway route 6 corridor; provided further, that \$95,000 shall be expended for the purpose of constructing a sidewalk in the town of Easton to be located on Allen road adjacent to Borderland state park; provided further, that \$75,000 shall be expended for the costs related to the design and study of new intersections for Washington street, Turnpike street, and Purchase street in the town of Easton; provided further, that not more than \$160,000 shall be expended for the Downtown Lighting and Sidewalk Project in the town of Erving; provided further, that \$2,000,000 shall be expended for the rebuilding of Goulart Memorial drive and Causeway road from Sconticut Neck road to Alder street on West Island in the town of Fairhaven; provided further, that \$50,000 shall be expended for traffic signalization at the Belisle school area in the city of Fall River; provided further, that \$50,000 shall be expended for traffic signalization at the Saint Ann's School area in the city of Fall River; provided further, that a study shall be conducted of the storm water runoff system on state highway route 28A in the town of Falmouth to determine its impact on area wetlands and water bodies; provided further, that \$4,000,000 shall be expended for the design and engineering of the intersection of state highway routes 126 and 135 in the town of Framingham; provided further, that \$500,000 shall be expended for the engineering of state highway route 140 in the town of Franklin; provided further, that \$500,000 shall be expended for the reconstruction and improvements to Betty Spring road and Green street in Gardner between state highway routes 140 and 101 and to Elm street in said city of Gardner between route 101 and Pearson boulevard; provided, further, that \$1,200,000 shall be expended for the reconstruction of state highway route 133 from Chestnut street to Carlton drive and state highway route 97 from the Groveland line to Moulton street in the town of Georgetown; provided further, that not less than \$100,000 shall be expended for the purpose of equipping the traffic signals at the intersection of Eastern avenue and state highway route 128 in the city of Gloucester with sensory

devices so as to coordinate the operation of said signals with the passage of emergency vehicles through said intersection and for the similar equipping of emergency vehicles in said city of Gloucester and the town of Rockport; provided further, that not less than \$25,000 shall be expended for the repair and construction of Western avenue in the city of Gloucester from the Blyman bridge to Bond street; provided further, that \$200,000 shall be expended for the repair and repaving of J.B. Little road in the town of Groveland; provided further, that \$100,000 shall be expended for the assistance on improvements to roads known as Glendale and Mill in the town of Hampden; provided further, that \$500,000 shall be expended for the reconstruction and improvements to Center street, extending from state highway route 139 to state highway route 37, in the town of Holbrook; provided further, that \$500,000 shall be expended for the rebuilding of the intersection of state highway routes 126 and 16 in the town of Holliston; provided further, that \$100,000 shall be expended for intersection traffic studies in the town of Hopkinton; provided further, that \$1,500,000 shall be expended for the widening of Marion drive, Eeka lane and Raboth road, in the town of Kingston; provided further, that \$10,000 shall be expended for the purpose of a study to be conducted by an independent arbiter agreed upon by both parties, to resolve the disputes between Lakeville and the Massachusetts department of highways over the mitigation plans for the state highway route 79 relocation project in the town of Lakeville; provided further, that \$1,000,000 shall be expended for the improvements to the Slack Brook Project on Exchange street in the city of Leominster; provided further, that \$100,000 shall be expended for the purpose of land takings associated with the Shawinigan drive project; provided further, that \$2,000,000 shall be expended for site and access improvements to Sportsmen's road in the town of Ludlow; provided further, that \$250,000 shall be expended for signalization and safety improvements at the intersections of Boston street in the city of Lynn and Hamilton street in the town of Saugus; provided further, that \$100,000 shall be expended for sidewalk construction on Chestnut street and Lowell street in the town of Lynnfield; provided fur-

ther, that \$250,000 shall be expended for the installation of appropriate traffic and pedestrian safety signals at the intersections of state highway route 60 and Cross/Lisbon street, the site of the new Roosevelt School in the city of Malden; provided further, that \$50,000 shall be expended for signalization reconfiguration of the entrance to Abbot Public Library in the town Marblehead; provided further, that \$375,000 shall be expended for the design and reconstruction of the Village street bridge in the town of Marblehead; provided further, that \$200,000 shall be expended for signalization reconfiguration of Tent's Corner in the town of Marblehead; provided further, that \$1,700,000 shall be expended for improvements to state highway route 126 in the town of Medway; provided further, that \$200,000 shall be expended for the reconstruction and paving of the access and egress roadways to the new transfer station and recycling headquarters in the town of Middleton; provided further, that \$30,000 shall be expended for traffic signalization at the intersection of state highway route 28 and Reed street in the town of Milton as part of the state highway route 28 project, so-called; provided further, that \$150,000 shall be expended for emergency coastal erosion repairs to Marginal road and Nahant road at East Point in the town of Nahant; provided further, that in addition to the authorization contained in section 2A of chapter 205 of the acts of 1996, \$200,000 shall be expended for the reconstruction and traffic signaling of the intersection of Hunnewell street and Wellesley avenue at the Needham/Wellesley line; provided further, that \$425,000 shall be expended for the milling, rehabilitation, and paving of Park street between state highway routes 28 and 62 and said route 28 and Concord street and for the geometric improvements and signalization of the intersection of Southwick road, Park street and Concord street in the town of North Reading; provided further, that \$150,000 shall be expended for additional engineering costs related to the construction of a sidewalk on Freeman street in the town of Norton; provided further, that \$100,000 shall be expended for traffic studies of state highway route 114 and surrounding streets and areas and



intersections in the city of Peabody; provided further, that \$225,000 shall be expended for repairs to Learning lane in the town of Pembroke; provided further, that not less than \$750,000 shall be provided for the design and construction of the Park Square Historic District gateway project in the city of Pittsfield; provided further, that \$400,000 shall be expended for the purpose of directing the department of highways to conduct a study in order to determine what improvements to state highway route 24 may be necessary for it to be reclassified as an interstate highway; provided further, that \$4,000,000 shall be expended for improvements to state highway route 62 and the Middlesex turnpike, so-called, to provide for additional capacity; provided further, that \$300,000 shall be expended for the construction of sidewalks to be included in the scope of the current state highway route 28 project, so-called, in the town of Randolph extending from Woodlawn street southerly to the Avon town line; provided further, that \$480,000 shall be expended for the reconstruction and paving of Summer avenue between state highway route 28 and Prescott street in the town of Reading; provided further, that \$200,000 shall be expended for improvements to and the resurfacing of a portion of Winthrop avenue from Bennington street to Winthrop parkway in the city of Revere; provided further, that \$4,500,000 shall be expended for the construction of traffic safety improvements to portions of Veterans of Foreign Wars drive, Hingham street and Weymouth street, all located in the town of Rockland; provided further, that \$250,000 shall be expended for signalization and safety improvements at the intersection of state highway routes 1 and 133 in the town of Rowley; provided further, that \$500,000 shall be expended for the construction of a vehicular overpass from the north side to the south side of state highway route 9 in the town of Southborough; provided further, that \$200,000 shall be expended for road repairs to state highway route 5 and Magawiska road at Forest Park in the city of Springfield; provided further, that not more than \$1,200,000 shall be expended for the design and construction of a pedestrian walkway along East Hartford avenue at Rice City pond in the town of Uxbridge; provided further, that \$300,000 shall be expended for the reconstruction and im-

provements to Montrose avenue in the town of Wakefield; provided further, that the department of highways is hereby directed to install a traffic light at the intersection of Winter and Main streets in the town of Walpole; provided further, that not more than \$500,000 shall be expended for the engineering and reconstruction of Wendell road in the town of Warwick; provided further, that not less than \$200,000 shall be expended for traffic improvements on state highway route 12 westbound and state highway route 16 in the town of Webster; provided further, that funding shall be provided for the Great River bridge project in the city of Westfield; provided further, that not less than \$1,000,000 shall be expended for the design, land acquisition and construction of traffic safety improvements to portions of Boston road at Littleton road, Carlisle road, and at the on and off ramps of state highway route 495 in the town of Westford; provided further, that \$300,000 shall be expended for the reconstruction and improvements to a portion of Shirley street from Veterans road to Washington avenue in the town of Winthrop; provided further, that \$1,500,000 shall be expended for necessary improvements, including the construction of a park and ride facility, for the downtown revitalization in the town of Woburn; provided further, 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 such costs shall not be classified as administrative costs; and provided further, that an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein . . . . . \$550,000,000

6033-9769 For the design, reconstruction and improvement, including the testing, removal and encapsulation of lead-based paint, to highway bridges and other bridges, including the Floating bridge located on state highway route 107 in the city of Lynn, pursuant to section 52; provided, that funds authorized in this item may not be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; provided further, that the costs of professional personnel directly and exclusively involved in the construction, planning, engineering and design of the projects funded herein

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	may be charged to this item; provided further, that such costs shall not be classified as administrative costs; and, provided further, that an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein . . . . .	\$200,000,000
6033-9798	For construction and reconstruction of town and county ways pursuant to section 63 . . . . .	\$150,000,000
6033-9799	For the construction of improvements to that portion of interstate highway route 91 between exit 3 and State street in the city of Springfield, as directed by sections 78 and 81 of chapter 205 of the acts of 1996; provided, however, that such construction and improvements shall include such alterations and ramps which may be necessary for the safety and efficiency of the interstate highway system at the juncture of interstate highway routes 291 and 91; provided further, that such construction and improvements shall conform to the safety study for this corridor and shall include any improvements to the local street system which are necessary for the construction of such improvements; provided further, that \$1,200,000 shall be expended for the repair and renovation of the Massachusetts state building, so-called, at the eastern states exposition in the town of West Springfield; and, provided further, that no funds from this item shall be expended on said state building until an application for a grant pursuant to item 6033-9703 is submitted to and reviewed by the secretary of the executive office of transportation and construction . . . . .	\$13,200,000
6034-9701	For improvements to Union station in the city of Worcester, including the reconstruction of the Washington square rotary and associated structures with Union station and necessary mitigation costs and for the redesign of the Shrewsbury street underpass, so-called, at interstate highway route 290 . . . . .	\$10,000,000
6035-9717	For the construction of, repair of or improvement to non-federally aided roadway projects and for the nonparticipating portion of federally aided projects pursuant to section 52; provided, that funds authorized in this item may only be used for contracts associated with the Central Artery/Ted Williams Tunnel Project; provided further, that	

the department shall expend a sum of not less than \$2,400,000 for the central artery job training program, so-called, and that said expenditure shall not be diverted from current job training program operations without 60 days prior notice being given to the house and senate committees on ways and means; provided further, 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 such costs shall not be classified as administrative costs; and, provided further, that an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein . . . \$100,000,000

**SECTION 2C.**

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of State Police.*

8100-9761 For the acquisition costs of three light twin helicopters . . . . . \$8,400,000

**SECTION 3.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2, 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 \$345,000,000 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 1997, and shall be issued for such maximum term of years, not exceeding 20 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 30, 2022. 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 2 O of chapter 29 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



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or credit enhancement agreement entered into pursuant to said section 2 O of said chapter 29.

All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1997, and shall be issued for a maximum term of years, not exceeding 20 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 30, 2022. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O of said chapter 29. 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 2 O of said chapter 29.

**SECTION 4.** 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 2 and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June 30, 2004. 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 2 O of chapter 29 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 2 O.

**SECTION 5.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2A, 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 \$358,750,000 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 1997, and shall be issued for such maximum term of years, not exceeding 20 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 30, 2027. 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, further that any bonds issued by the state treasurer pursuant to this paragraph shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2 O of chapter 29 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 2 O of said chapter 29. All special obligation bonds issued pursuant to this paragraph shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1997, and shall be issued for a maximum term of years, not exceeding 20 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 30, 2027. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O of said chapter 29. Special obligation bonds issued pursuant to this paragraph shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section 2 O.

If notes are issued pursuant to sections 9 and 10 and the grants in anticipation of which such notes are issued are unavailable to repay such notes and the interest thereon, 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 \$900,000,000. All bonds issued pursuant to the provisions of this paragraph shall be designated on their face, Federal Grant Anticipation Loan, Act of 1997, and shall be issued for such maximum term of years, not exceeding 20 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 30, 2027. 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 paragraph shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this paragraph shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2 O of chapter 29 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 2 O of said chapter 29. All special obligation bonds issued pursuant to this paragraph shall be designated on their face, Special Obligation Revenue Federal Grant Anticipation Loan, Act of 1997, and shall be issued for a maximum term of years, not exceeding 20 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

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payable not later than June 30, 2027. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O of said chapter 29. Special obligation bonds issued pursuant to this paragraph shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section 2 O.

**SECTION 6.** 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 2A and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June 30, 2004. 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 2 O of chapter 29 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 2 O.

**SECTION 7.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2B, 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 \$1,057,200,000 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 1997, and shall be issued for such maximum term of years, not exceeding 20 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 30, 2022. 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 2 O of chapter 29 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 2 O.



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All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan, Act of 1997, and shall be issued for a maximum term of years, not exceeding 20 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 30, 2022. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund, established in said section 2 O of said chapter 29. 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 2 O.

**SECTION 8.** 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 2B and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June 30, 2004. 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 2 O of chapter 29 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 2 O.

**SECTION 9.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section 2A of this act and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates, including rates variable from time to time according to an index, banker's loan rate or otherwise, as the state treasurer shall fix or determine; provided, however that such notes shall not exceed, in the aggregate, the sum of \$1,000,000,000; provided further, that not more than \$450,000,000 of such notes may be issued prior to the enactment of federal legislation as a successor to or reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding five years, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of the notes, whether original or renewal, shall not be later than June 30, 2007.

Except as otherwise provided in this paragraph, notes and the 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 2 O of chapter 29 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 2 O of said chapter 29. In addition, if any funds are to be pledged or assigned under a trust agreement described in section 10 to secure payment of any notes issued under the authority of this section, such notes and the interest thereon shall nevertheless be general obligations of the commonwealth; provided, however, that, at the request of the governor, the state treasurer shall issue such notes as special obligations payable solely from the funds pledged or assigned under any such trust agreement. Notwithstanding any provisions of this act to the contrary, in no event shall the principal amount of notes issued under the authority of this section as general obligations of the commonwealth exceed \$900,000,000; provided further, that notes issued in excess of \$900,000,000 but not to exceed \$1,000,000,000 shall not be backed by a general revenue of the commonwealth nor shall special obligation bonds which pledge a revenue which otherwise would be considered a general revenue of the commonwealth be permitted; provided, further, that any such notes issued as general obligations may be renewed one or more times as general obligations of the commonwealth as provided in the first paragraph. All payments on account of principal on the notes allocable to the Highway Capital Projects Fund shall be repaid from said fund; provided, however, that to the extent federal financial participation allocable to the notes authorized herein is received, the state comptroller is hereby authorized and directed to perform adjusting accounting entries from the Federal Highway Construction Program Fund to the Highway Capital Projects Fund in the appropriate amounts.

**SECTION 10.** Notwithstanding any general or special law to the contrary, in connection with the issuance of any notes authorized pursuant to section 9, the state treasurer may, at the request of the governor, enter into a trust agreement, with the concurrence of the secretary for administration and finance and the secretary of transportation and construction, which trust agreement may pledge or assign all or any part of any federal reimbursements or other federal assistance or any other funds from any source received or expected to be received with respect to the projects to be financed by the issuance of such notes, and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The state treasurer is hereby authorized, with the concurrence of the secretary for administration and finance and the secretary of transportation and construction, to purchase or enter into agreements for additional security, insurance or other forms of credit enhancement, which may be secured on a parity with the notes or on a subordinate basis. The provisions of section 2 O of chapter 29 of the General Laws relating to a trust agreement or credit enhancement agreement shall also be applicable to the trust agreement and credit enhancement agreement authorized herein and to the issuance of notes hereunder insofar as such provisions may be appropriate therefor. In deciding whether to request that the state treasurer enter into a trust agreement with respect to any particular notes and, if applicable, to issue such notes as special obligations payable solely from the funds pledged or assigned under such trust agreement, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of such issuance on the overall capital financing plans and needs of the commonwealth; (iii) any

ratings assigned to outstanding bonds and notes of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the notes proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to this section.

**SECTION 11.** Notes issued pursuant to section 9 shall not be included in the computation of outstanding direct bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws, nor included in the computation of general obligation debt for purposes of the limit imposed by section 60B of said chapter 29. Further, the issuance of any notes pursuant to said section 9 shall not be subject to the provisions of section 53 of said chapter 29.

**SECTION 12.** Bonds issued as special obligation bonds pursuant to the provisions of this act shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws nor shall debt service with respect to such bonds be included in any computation of the limit imposed by section 60B of said chapter 29.

**SECTION 13.** The last paragraph of section 2 O of chapter 29 of the General Laws shall not apply to any notes authorized by section 9.

**SECTION 14.** To meet the expenditures necessary in carrying out the provisions of section 2C, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, the sum of \$8,400,000. All bonds, issued by the commonwealth as aforesaid shall be designated on their face, Public Safety Program Loan, Act of 1997, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2012. 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.

**SECTION 15.** 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 in section 2C 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 30, 2004. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

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**SECTION 16.** Section 39A of chapter 7 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "tunnel", in line 34, the following words:- or other structure or building integral to the operation of the Central Artery/Ted Williams Tunnel Project in the city of Boston and the city of Cambridge.

**SECTION 17.** Chapter 29 of the General Laws is hereby amended by striking out section 2DD, inserted by section 1 of chapter 102 of the acts of 1995 as amended, and inserting in place thereof the following section:-

Section 2DD. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Capital Expenditure Reserve Fund. Said fund shall consist of: (i) amounts paid by the Massachusetts Turnpike Authority as payment for the acquisition cost of the Ted Williams tunnel and any other components of the metropolitan highway system, as defined in section 3 of chapter 81A; (ii) federal financial participation related to expenditures from this fund; provided, however, that none of the federal financial contribution to said fund shall be funds that would otherwise be credited to the Federal Highway Construction Program Fund pursuant to section 1 of chapter 15 of the acts of 1988, section 1 of chapter 33 of the acts of 1991, section 2 of chapter 102 of the acts of 1994, section 2 of chapter 273 of the acts of 1994, section 2 of chapter 113 of the acts of 1996 or section 2 of chapter 205 of the acts of 1996; (iii) amounts paid by the Massachusetts Port Authority pursuant to subsection (f) of section 12 of said chapter 81A; and (iv) investment earnings, if any, thereon. Amounts credited to said fund shall be used, without further appropriation, only for the following purposes: (a) the payment of the principal, including sinking fund payments of and premium, if any, and interest on any bonds or notes issued by the commonwealth for the purpose of paying any costs of the Central Artery/Ted Williams Tunnel project or (b) any direct capital expenditures of the commonwealth to pay any cost of the Central Artery/Ted Williams Tunnel project.

**SECTION 18.** Section 49B of said chapter 29 is hereby amended by striking out the last paragraph, as amended by section 9 of chapter 365 of the acts of 1996, 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.

**SECTION 19.** Paragraph (b) of subdivision (4 ) of section 20 of chapter 32 of the General Laws is hereby amended by striking out the second sentence, as appearing in section 4 of chapter 3 of the acts of 1997, and inserting in place thereof the following sentence:- 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 who shall be appointed by the other four members for a term of three years.



**SECTION 20.** Paragraph (b) of subdivision (47 $\frac{1}{2}$ ) of said section 20 of said chapter 32 is hereby amended by striking out the second sentence, as appearing in section 5 of said chapter 3, and inserting in place thereof the following sentence:- 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 and who shall be appointed by the other four members for a term of three years.

**SECTION 21.** Section 3 of chapter 81A of the General Laws, as appearing in section 6 of said chapter 3, is hereby amended by striking out the definition of "Metropolitan highway system" and inserting in place thereof the following definition:-

"Metropolitan highway system", the integrated system of roadways, bridges, tunnels, overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the authority owns, constructs or operates and maintains pursuant to the provisions of this chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the central artery north area, the Sumner tunnel and the Ted Williams tunnel and any additional highway, tunnel and bridge components as the general court may from time to time determine.

**SECTION 22.** Said section 3 of said chapter 81A, as so appearing, is hereby further amended by striking out the definition of "Turnpike" and inserting in place thereof the following definition:-

"Turnpike", the limited access express toll highway, designated as interstate highway route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the authority may own, construct or operate and maintain pursuant to the provisions of this chapter and any additional highway, tunnel and bridge components as the general court may from time to time determine, extending from the town of West Stockbridge on the commonwealth's border with New York state to, but not including, the interchange of interstate highway route 90 and state highway route 128 in the town of Weston.

**SECTION 23.** Section 4 of said chapter 81A, as so appearing, is hereby amended by striking out clauses (i) and (j) and inserting in place thereof the following two clauses:-

(i) to fix and revise from time to time and charge and collect tolls for transit over the turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and place of exit from said turnpike; provided further, that the authority shall convene at least two public hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to the effective date of any proposed change in toll structure on the turn-



pike and shall allow for a one week comment period, after each such hearing, during which written testimony and comments shall be accepted;

(j) to fix and revise from time to time and charge and collect tolls for transit over the metropolitan highway system; provided, however, that it shall furnish upon request to a user of the metropolitan highway system a toll receipt showing the amount of toll paid, the classification of the vehicle and the date of payment; provided further, that the authority shall convene at least two public hearings to be held within the metropolitan Boston area at least 30 days prior to the effective date of any proposed change in toll structure within the metropolitan highway system and shall allow for a one week comment period after each such hearing during which written testimony and comments shall be accepted;.

**SECTION 24.** Said section 4 of said chapter 81A, as so appearing, is hereby further amended by striking out clause (o) and inserting in place thereof the following clause:-

(o) To designate the locations and establish, limit and control such points of ingress to and egress from the turnpike or metropolitan highway system as may be necessary, convenient or desirable in the judgment of the authority to insure the proper operation and maintenance of the turnpike or metropolitan highway system to prohibit entrance to the turnpike or metropolitan highway system from any point or points not so designated;.

**SECTION 25.** Subsection (b) of section 5 of said chapter 81A, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) to refund or otherwise pay any or all other debt or obligations of the authority relating to the turnpike, as defined in chapter 354 of the acts of 1952 in effect prior to the effective date of this section and to allocate such debt or obligations between the turnpike and the metropolitan highway system based upon the actual expenditure on the respective turnpike and the metropolitan highway system of the proceeds of the debt or other obligations to be refunded;.

**SECTION 26.** Subsection (a) of section 28 of said chapter 81A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be a metropolitan highway system advisory board to the authority to consist of nine persons, one of whom shall be appointed by the governor, one of whom shall be appointed by the commissioner of capital planning and operations, one of whom shall be appointed by the mayor of the city of Boston, one of whom shall be appointed by the artery business committee, two of whom shall be appointed by the metropolitan area planning council, one of whom shall be appointed by the Massachusetts Municipal Association, one of whom shall be appointed by Move Massachusetts 2000 and one of whom shall be appointed by the Massachusetts Sierra Club.

**SECTION 27.** Chapter 128 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after section 38A the following section:-

Section 38B. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts State Exposition Building Maintenance Fund, the funds of which shall be expended solely for the purposes of upkeep, maintenance and repairs of the Massachusetts State Exposition Building and the land thereon, described

more fully as the Massachusetts Building at the Eastern States Exposition in the town of West Springfield.

(b) The Massachusetts State Exposition Building Maintenance Fund shall receive monies from (1) gifts, grants and donations from public or private sources; (2) federal reimbursements, grants-in-aid or other money credited or transferred from any other fund or source; (3) rental fees and expenses received from tenants of the Massachusetts Building; and (4) any interest earned from the Massachusetts State Exposition Building Maintenance Fund. Such funds shall be impressed with a trust and held for the Board of Massachusetts Trustees of the Eastern States Exposition for certain expenditures for upkeep, maintenance and repairs, as needed. The state treasurer may receive, deposit and invest funds held for said Board of Massachusetts Trustees of the Eastern State Exposition in such a manner that will ensure the highest interest rate available consistent with the safety of the fund.

(c) The books and records of the Massachusetts State Exposition Building Maintenance Fund shall be subject to an annual audit by the state auditor.

(d) The division of capital planning and operations is hereby authorized to expend such funds as may be necessary to facilitate the upkeep, maintenance and repairs of the Massachusetts State Exposition Building and the land thereon as more fully described herein. All such upkeep, maintenance and repairs shall be made in a manner consistent with the provisions of chapter 579 of the acts of 1980 and all other applicable laws.

**SECTION 28.** (a) Notwithstanding the provisions of any other general or special law to the contrary, the department of highways shall make every effort to distribute funds, not to exceed \$250,000, to transportation management associations and other similar regional transportation organizations to reduce vehicle congestion and improve air quality through a grant program to institute and enhance transportation demand management activities which shall include, but not be limited to, the following: (1) market and promote the use of existing and new park-and-ride and existing and new carpooling and van pooling alternatives (2) provide, operate and coordinate bus and shuttle services between existing transportation facilities and major employment centers and shopping centers and (3) underwrite active marketing and outreach programs to support such services; provided, however, that the department's efforts in such areas shall be coordinated with and secure the expressed approval of other implementing agencies including, but not limited to, transportation management associations, regional planning authorities and specific local governments.

(b) The department of highways shall make such grants available as a pilot intermodal services program to the local communities in the three subregions located between routes 128 and I-495: SWAP (South West Advisory Planning Committee), MGMCM (Metro West Growth Management Committee) and MAGIC (Minuteman Area Group For Interlocal Cooperation) and coalitions of local governments which are formed to address shared transportation problems and/or transportation management agencies. Activities eligible to receive grants created by this program shall include all activities enumerated in the above paragraph as well as administration costs necessary to implement these transportation demand management activities.

**SECTION 29.** (a) Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall make every effort to distribute any funds, not to exceed \$250,000, to transportation management associations and other similar regional transportation organizations to reduce vehicle congestion and improve air quality through a grant program to institute and enhance transportation demand management activities which shall, among other purposes, be used to develop alternative traffic patterns to the use of state highway route 60 in the city of Malden, to maintain the asphalt surface of state highway route 60 while and until alternative traffic patterns can be developed, and to construct traffic control signals to protect pedestrian traffic on state highway route 60.

(b) The department of highways shall make such grants available as a pilot intermodal service program dispersed to the city of Malden to accomplish the purposes of the above paragraph.

**SECTION 30.** Section 2 of chapter 466 of the acts of 1984 is hereby amended by adding the following paragraph:-

Notwithstanding any other provisions of this act to the contrary, amounts authorized by this section may also be expended by the Massachusetts Technology Park Corporation in support of the reactivation and modernization of the Quincy shipyard including, without limitation, by establishing and maintaining an advanced materials processing center to be operated by said corporation in conjunction with the Massachusetts Institute of Technology or other research institution through a technology partnership or by satisfying 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 shipyard; provided, however that federal funds granted and federal loan guaranties made in support of the reactivation and modernization of said shipyard shall be deemed to be received in satisfaction of the matching fund requirements in respect of such center under applicable law; and provided further, that the provisions of section 6 of chapter 40J of the General Laws shall not apply to any funds expended pursuant to this paragraph. Amounts authorized by this act are hereby made available for expenditure until June 30, 2002.

**SECTION 31.** The first sentence of the second paragraph of section 3 of said chapter 466 is hereby amended by striking out the words "two thousand and nine" and inserting in place thereof the following figure:- 2022.

**SECTION 32.** The second sentence of the first paragraph of section 4 of said chapter 466 is hereby amended by striking out the words "nineteen hundred and ninety-five" and inserting in place thereof the following figure:- 2007.

**SECTION 33.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority shall, prior to proceeding with any expansion or development which does not specifically relate to the purposes of furthering the aviation capacity of Hanscom field, submit to the boards of selectmen in those communities abutting said Hanscom field a master plan for such development or expansion. Said boards of selectmen shall have not less than 30 days to submit comments to said port authority before any action is taken by said authority to implement said master plan.



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**SECTION 34.** Item 6033-9592 of section 2A of chapter 102 of the acts of 1994, as amended by section 35 of chapter 205 of the acts of 1996, is hereby further amended by striking out the words "Conway, East Longmeadow, Greenfield, Haverhill, Leverett, Montague, Mount Washington" and inserting in place thereof the following words:- Conway, Dalton, East Longmeadow, Greenfield, Haverhill, Lanesborough, Montague, Mount Washington, New Ashford.

**SECTION 35.** Item 6033-9500 of section 2A of chapter 273 of the acts of 1994 is hereby amended by inserting after the words "safety and general welfare" the following words:- which may include costs to study sewer needs of impacted communities.

**SECTION 36.** Item 6005-9580 of section 2H of said chapter 273 is hereby amended by adding the following words:- ; provided, priority shall be given to such residences which also abut the right-of-way of any commuter rail line operated by the Massachusetts Bay Transportation Authority.

**SECTION 37.** Said item 6005-9580 of said section 2H of said chapter 273 is hereby further amended by striking out the figure "12,000,000" and inserting in place thereof the following figure:- 22,000,000.

**SECTION 38.** Section 23 of said chapter 273 is hereby amended by striking out the words "one billion sixty-two" and inserting in place thereof the following words:- one billion seventy-two.

**SECTION 39.** Section 24 of said chapter 273 is hereby amended by striking out the words "nine hundred fifty-six" and inserting in place thereof the following words:- nine hundred sixty-five.

**SECTION 40.** Section 22 of chapter 102 of the acts of 1995 is hereby amended by inserting after the words "local public works", each time it appears, the following words:- ; public safety.

**SECTION 41.** Item 6034-9610 of section 2A of chapter 205 of the acts of 1996 is hereby amended by striking out the figure "15,000,000" and inserting in place thereof the following figure:- 25,000,000.

**SECTION 42.** Item 6001-9610 of section 2H of said chapter 205 is hereby amended by adding the following words:- ; provided, that \$100,000 shall be expended for clearing the railroad right-of-way extending from the Otis Spur, so-called, in the town of Falmouth to the Falmouth train depot, so-called, in said town of Falmouth.

**SECTION 43.** Item 6006-9680 of section 2I of said chapter 205 is hereby amended by inserting after the words "matching fund requirements, so-called" the following words:- ; provided further, that funds may be expended from this item for the Worcester Regional Airport; provided further, that not less than \$280,000 shall be expended for the purchase and installation of fencing around the Pittsfield Municipal Airport.

**SECTION 44.** Item 6005-1963 of section 2J of said chapter 205 is hereby amended by striking out the words, "purchase one self-powered, diesel rail car" and inserting in place thereof the following words:- secure the use of diesel multiple unit rail cars.



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**SECTION 45.** Item 6005-9680 of said section 2J of said chapter 205 is hereby amended by adding the following words:- and provided further, that \$400,000 shall be expended for the improvement and repair of the Winchester station bridge in the town of Winchester, including handicap access, refurbishment of concrete expansion joints and the removal or encapsulation of lead paint.

**SECTION 46.** The first paragraph of section 4 of said chapter 205 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- To meet a portion of the expenditures necessary in carrying out the provisions of section 2A, 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 \$771,726,250, 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.

**SECTION 47.** Section 119 of said chapter 205 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

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 2,500 red windshield stickers shall be issued by said department and 2,500 blue windshield stickers shall be issued by said department; provided further, that said department shall not charge a fee to commuters for the application, production or distribution of such windshield stickers; and provided further, that such windshield stickers shall not be transferable and shall be valid for a period of two years.

**SECTION 48.** The last paragraph of said section 119 of said chapter 205 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said secretary and said commissioner shall monitor the results of the plan herein authorized and submit an interim report detailing the results of such 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, however, that said secretary and said commissioner shall file a final report detailing the results of said plan.

**SECTION 49.** Chapter 428 of the acts of 1996 is hereby amended by striking out sections 2 and 3.

**SECTION 50.** Chapter 3 of the acts of 1997 is hereby amended by striking out section 8 and inserting in place thereof the following section:-

*Section 8.* Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority shall convene at least two public hearings, one of which shall be held in a community contiguous to the Tobin memorial bridge and one of which shall be held in a community in a central and accessible location in Essex county at least 30 days prior to the effective date of any proposed change in toll structure on said Tobin memorial bridge; provided, however, that said Massachusetts Port Authority shall allow for

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a one week comment period, after each such hearing, during which written testimony and comments shall be accepted by said Massachusetts Port Authority.

**SECTION 51.** Said chapter 3 is hereby further amended by inserting after section 10 the following section:-

*Section 10A.* Any reference to chapter 354 of the acts of 1952 or chapter 598 of the acts of 1958 in any general or special law shall be deemed to refer to chapter 81A of the General Laws.

**SECTION 52.** In carrying out any or all aspects of projects pursuant to the provisions of sections 2, 2A and 2B, the department of highways may enter into such contracts or agreements as are necessary with other state, local or regional public agencies or authorities. Such agreements may relate to such matters as said department shall determine, including without limitation, the design, layout, construction, reconstruction or management of construction of all or any portion of such projects. 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 53.** The department of highways, hereinafter called the department, is hereby authorized and directed to expend the sums authorized in sections 2 and 2A 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 and off-street bicycle projects, 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 34 of chapter 90 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 2 of chapter 85 of the General Laws, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding the provisions of any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety and for the relocation of persons or businesses, or replacement of dwellings or structures including, but not limited to, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary

to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-646, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month after such removal. In planning projects funded by sections 2 and 2A, consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing herein shall be construed as giving rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein.

Funds authorized by sections 2 and 2A shall, except as otherwise specifically provided in this act, be subject to the provisions of the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of 1956 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 38C, 40A and 40B of chapter 7 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/Ted Williams Tunnel Project, and shall construct, control, supervise or contract said structures; provided, however, that no such 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 79 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 effects of projects undertaken pursuant to this act and to undertake additional transportation measures within the 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; 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 paragraph.

**SECTION 54.** 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 145 of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, and any successor acts or reauthorizations of said act, 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 sections 2 and 2A of this act, and such federal funds when received shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by said sections 2 and 2A of this act, there is hereby appropriated to the Federal Highway Construction Program Fund a sum of \$2,100,000,000 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 1 of chapter 15 of the acts of 1988, section 1 of chapter 33 of the acts of 1991, section 2 of chapter 102 of the acts of 1994, section 2 of chapter 273 of the acts of 1994, section 2 of chapter 113 of the acts of 1996 and section 2 of chapter 205 of the acts of 1996.

**SECTION 55.** The department of highways 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 7 of the General Laws including sections 40F and 40F½, requiring authorization of the general court prior to disposition of



real property, including either land or facilities thereon, or both, which will 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 7.

Whenever the department determines it is necessary that any utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facilities shall be relocated by the department or by the owner thereof in accordance with 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 27 of chapter 149 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 aboveground during the construction of said project.

**SECTION 56.** Notwithstanding the provisions of any general or special law to the contrary, the provisions of section 61 and sections 62A to 62H, inclusive, of chapter 30 of the General Laws and chapter 91 of the General Laws and section 40 of chapter 131 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, however, that notwithstanding the foregoing, the provisions of said section 61 and said sections 62A to 62H, inclusive, of said chapter 30, said chapter 91 and said section 40 of said chapter 131 shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles River for the Central Artery/Ted Williams 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, 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; and 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 6033-9769 of section 2B, 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 57.** The fixed bridge on Northern avenue, duly authorized and heretofore known as the new Northern avenue bridge, spanning the Fort Point channel in the city of Boston shall be designated and hereafter known as the Evelyn F. Moakley bridge, in honor of Evelyn F. Moakley for her dedication and service to her community. The department of highways shall erect suitable markers bearing such dedication in compliance with its established standards.

**SECTION 58.** 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 59.** For the purposes of this act the following words shall have the following meanings:-

"Minority", a person with permanent residence in the United States who is Black, Portuguese, Western Hemisphere Hispanic, Asian, Native American or Cape Verdean.

"Minority business enterprise", any individual, business organization or nonprofit corporation which is certified as a minority business enterprise as defined in section 40 of chapter 23A of the General Laws by the state office of minority and women business assistance established pursuant to section 41 of said chapter 23A.

"Women business enterprise", any individual, business organization or nonprofit corporation which is certified as a women business enterprise by the state office of minority and women business assistance established pursuant to section 41 of chapter 23A of the General Laws.

Each agency, commission, authority and political subdivision authorized to make expenditures pursuant to the provisions of this act, shall establish an affirmative action program for minority and women business enterprises designed to ensure that qualified minority and women owned businesses willing and able to perform services funded and procured pursuant to this act are actually engaged to perform such services consistent with their availability. Affirmative market programs established pursuant to this act may include race conscious contracting goals 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 insure that the best efforts of each agency, commission and authority are utilized in the implementation of this section. Each agency, commission or authority authorized to make expenditures under the provisions of this act shall provide written quarterly reports to its respective secretary and, in the case of a political subdivision, said quarterly reports shall be filed with the office granting or otherwise providing funds authorized in this act, detailing the number of contracts entered into, the dollar value of each contract, 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 certification 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 contract with the business, shall be sent to said state office, which shall approve or disapprove said business within 25 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.

**SECTION 60.** Any amounts made available by this act or heretofore made available by chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of the acts of 1994, chapter 273 of the acts of 1994, chapter 113 of the acts of 1996 and chapter 205 of the acts of 1996 shall be made available for expenditure until June 30, 2002.

**SECTION 61.** (a) Notwithstanding any general or special law to the contrary, the Massachusetts Turnpike Authority may make any additional payment, as required by law, toward the acquisition cost of the Ted Williams tunnel or any other component of the metropolitan highway system, each as defined in chapter 81A of the General Laws, by (i) paying cash to the commonwealth for credit to the Capital Expenditure Reserve Fund, established under section 2DD of chapter 29 of the General Laws; (ii) directly paying on behalf of the commonwealth any amounts owed by the commonwealth to third parties in connection with the acquisition, construction or equipping of any portion of the Central Artery/Ted Williams Tunnel Project; (iii) entering into contracts with third parties with respect to the acquisition, construction or equipping of any portion of the Central Artery/Ted Williams Tunnel Project; or (iv) any combination of the foregoing.

(b) In addition to expenditures authorized by sections 2 and 2A of this act, the Massachusetts Turnpike Authority is hereby authorized and directed to pay, not later than December 31, 1998, to the commonwealth for credit to the Capital Expenditure Reserve Fund, established under section 2DD of chapter 29 of the General Laws a sum of \$700,000,000 toward the acquisition cost of the Ted Williams tunnel or any other component of the metropolitan highway system as defined by chapter 81A of the General Laws. Such sum is to be in addition to any amount paid into said Capital Expenditure Reserve Fund prior to the effective date of this act as required by chapter 102 of the acts of 1995, as amended by chapter 273 of the acts of 1995; provided, that said \$700,000,000 shall not be used to refund, repay or otherwise redeem or be issued in lieu of the general obligation bonds authorized in section 15 of said chapter 102.

**SECTION 62.** Notwithstanding any general or special law to the contrary the Massachusetts Port Authority may make any payment as required by clause (iii) of subsec-



tion (f) of section 12 of chapter 81A of the General Laws, toward the acquisition cost of components or segments of the metropolitan highway system, as defined in said chapter 81A of the General Laws, by any of the following means:- (i) paying cash to the commonwealth for credit to the Capital Expenditure Reserve Fund, established under section 2DD of chapter 29 of the General Laws; (ii) directly paying on behalf of the commonwealth any amounts owed by the commonwealth to third parties in connection with the acquisition, construction or equipping of any portion of the Central Artery/Ted Williams Tunnel Project; (iii) entering into contracts with third parties with respect to the acquisition, construction or equipping of any portion of the components or segments of the metropolitan highway system to be acquired by the Massachusetts Port Authority; or (iv) any combination of the foregoing.

**SECTION 63.** The funds appropriated in item 6033-9798 of section 2B are hereby made available and shall be in addition to those funds appropriated in paragraph (c) of section 3 of chapter 15 of the acts of 1988, paragraph (c) of section 3 of chapter 33 of the acts of 1991, item 6010-3950 of section 2A of chapter 85 of the acts of 1994, and item 6036-9698 of section 2A of chapter 113 of the acts of 1996, as amended by section 66 of chapter 205 of the acts of 1996, 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 34 of chapter 90 of the General Laws; provided, however, that a city or town shall comply with procedures established by the department of highways; provided further, that any such city or town is hereby authorized to appropriate for such projects amounts not in excess of the amounts provided to such city or town under this section; provided further, that said appropriation shall be considered as an available fund upon the approval of the commissioner of revenue pursuant to section 23 of chapter 59 of the General Laws; provided further, that the commonwealth shall reimburse said city or town under this section within 30 days of receipt by the department of a request for reimbursement from such city or town, such request to include certification by such city or town that actual expenses have been incurred on projects eligible for reimbursement under this section, and the work has been completed to the satisfaction of such city or town according to the specifications of said project and in compliance with applicable law; provided further, that the department of highways may enter into agreements with cities and towns to provide engineering and other services essential to the development of projects and if the department agrees to provide services, amounts charged for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided further, that funds provided herein may be expended for the entire cost of any project eligible under the provisions of said chapter 90; and provided further, that the funds provided herein may be expended for the transportation enhancement project as described in the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, and for the repair, replacement or removal of underground municipal public works fuel tanks.

**SECTION 64.** The Massachusetts Turnpike Authority and the department of highways are hereby authorized and directed to conduct a feasibility study relative to the establishment of tolls on various roadways within the commonwealth in anticipation of provisions being incorporated in the reauthorization to the Intermodal Surface Transportation Efficiency Act



of 1991, PL 102-240, increasing the states' ability to erect tolls on interstate highways. Said study shall be limited to an examination of the establishment and collection of tolls at the following border locations within the commonwealth: on interstate highway route 91 at the commonwealth's border with the state of Vermont and at the commonwealth's border with the state of Connecticut; on interstate highway route 93 at the commonwealth's border with the state of New Hampshire; on interstate highway route 95 at the commonwealth's border with the state of New Hampshire and at the commonwealth's border with the state of Rhode Island; and on interstate highway route 195 at the commonwealth's border with the state of Rhode Island. Said study shall also include, but not be limited to, an examination of the following: the cost to construct the toll facilities at each said location, including any costs associated with right-of-way takings or acquisitions; the cost to operate and collect tolls at said toll facilities; the revenue projections for each said toll facility; the traffic impact said facilities may have on alternate routes abutting each said interstate highway; the impact said facilities may have on travel times; the environmental impacts of said facilities, including air quality and traffic congestion; and the impact the establishment of any such toll facilities may have on federal funding for transportation infrastructure in the commonwealth. Said study shall be completed by June 1, 1998 and a report of the results of said study shall be submitted to the senate and house clerks and to the joint committee on transportation.

**SECTION 65.** Notwithstanding restrictions contained in chapter 79 and chapter 81 of the General Laws, the department of highways is hereby authorized and directed to take by eminent domain for highway purposes the land and structures thereon located near a portion of Merrill road which lies between Junction road and New York avenue in the city of Pittsfield. Said takings shall be subject to receipt by the department of highways of written requests signed by the owners of record of such land.

The land is described in a plan entitled "Plan and Profile of Merrill road in the city of Pittsfield, Right-of-Way prepared by Fay, Spofford and Thorndike, Inc.", which is on file with the right-of-way division of the department of highways and more particularly described as follows:

(1) The land and structures, if any, now or formerly of Giacomo Dalo and Theresa Dalo as described in a deed recorded in Book 556, Page 376 at the Berkshire Middle District Registry of Deeds also known as 281 Merrill Road, Pittsfield, containing approximately 13,045 square feet of land.

(2) The land and structures, if any, now or formerly of Russell W. Blake and Mary N. Blake as described in a deed recorded in Book 874, Page 320 at the Berkshire Middle District Registry of Deeds also known as 286 Merrill road, Pittsfield, containing approximately 3,310 square feet of land.

(3) The land and structures, if any, now or formerly of Cecilia Lazzari and Mary M. Lazzari as described in a deed recorded in Book 587, Page 53 at the Berkshire Middle District Registry of Deeds also known as 288 Merrill Road, Pittsfield, containing approximately 7,565 square feet of land.

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## Chap. 11

Any person whose property has been taken or injured by the exercise of the power to take by eminent domain under the authority of this section may recover from the commonwealth under chapter 79 of the General Laws such damages therefore as he may be entitled.

The department of highways shall take all steps necessary to secure any federal assistance which may be available for the purposes of this section.

**SECTION 66.** Notwithstanding restrictions contained in chapter 79 and chapter 81 of the General Laws, the department of highways is hereby authorized and directed to take by eminent domain for highway purposes the land, and structures thereon, located on a portion of North street which is designated as Lot No. 1 on plan entitled "Plan of Subdivision of Property of Pontoosuc Woolen Manufacturing Co., Pittsfield Mass." Said parcel, also known as 1269 North Street, Pittsfield, is described in a deed recorded in Book 795, Page 128 at the Berkshire middle district registry of deeds as follows:-

Said parcel is bounded easterly by the west line on North street, eighty-nine and twenty-nine one-hundredths (89.29) feet; northerly by the south line of Clifford Street shown on said plan, one hundred fifty-five and thirty-eight one-hundredths (155.38) feet; westerly by Parcel B. shown on said plan, eighty-eight and twenty one-hundredths (88.20) feet; and southerly by said Parcel B. one hundred sixty-nine and twenty one-hundredths (169.20) feet.

This taking shall be subject to receipt by the department of a written request signed by the owner of record of such land.

**SECTION 67.** The department of highways is hereby authorized and directed to undertake a study, and to complete the preliminary design, of necessary improvements to the Washington street corridor, so-called, from Elm street to Pearl street in the town of Braintree. Said study and preliminary design shall be completed not later than May 1, 1998.

**SECTION 68.** Notwithstanding any general or special law, rule or regulation to the contrary, if the United States Department of Transportation, Federal Highway Administration Notice, Certificates of Apportionment, so-called, should fall below the sum of \$550,000,000 in any given federal fiscal year, the rates for each individual source of contribution to the commonwealth's Highway Fund shall be set no lower than the rates in place as of January 1, 1996, and the duration for any registration, license or permit, the proceeds of which are deposited in the commonwealth's Highway Fund, shall not differ from the duration in place for said registration, license or permit as of January 1, 1996. The secretary of the executive office of transportation and construction and the commissioner of the department of highways shall submit copies of said Certificates of Apportionment to the clerks of the house and the senate and to the joint committee on transportation within one week of receipt of the last of said certificates for a given federal fiscal year. This section shall remain in effect until construction of the Central Artery/Ted Williams Tunnel Project is complete or until all notes issued pursuant to section 9 are paid in full, whichever is later.

**SECTION 69.** Notwithstanding any general or special law to the contrary, the comptroller is hereby authorized and directed to perform retroactive accounting adjustments to the accounting records of the commonwealth to reflect reimbursements to the Massachusetts Turnpike Authority related to the C17A1 contract, so-called, on the Central Artery/Ted Williams Tunnel Project, pursuant to any agreement between the commonwealth

and the Massachusetts Turnpike Authority, and such adjustments shall be completed not later than the close of fiscal year 1997.

**SECTION 70.** The department of highways is hereby authorized and directed to expend, by the end of fiscal year 1998, no less than \$750,000 of the total funding made available in section 2A of chapter 205 of the acts of 1996 for an access road from interstate highway route 95 onto state highway route 133 in the town of Georgetown.

**SECTION 71.** The department of highways is hereby authorized and directed to undertake the design and construction of the safety improvements it deems necessary pursuant to the state highway route 2 safety improvement study as directed by section 77 of chapter 205 of the acts of 1996. Within 90 days of the effective date of this act, the department shall submit to the joint committee on transportation and the house and senate committees on ways and means the design and construction implementation plan mandated by said section 77.

**SECTION 72.** The department of highways is hereby authorized and directed to undertake a feasibility study examining the use of certain land, which is currently owned by the commonwealth and runs along the Housatonic river in the city of North Adams to the town of Sheffield, for a bikeway/walkway. Said study shall include the cost of constructing said bikeway/walkway on said parcel.

**SECTION 73.** The department of highways and the Massachusetts Bay Transportation Authority are hereby authorized and directed to undertake a study examining public access along the route 9 corridor, so-called, between Elliot street and Parker road, including access to the Newton Highlands station, so-called, in the city of Newton. Said study shall recommend improvements to be undertaken to provide pedestrian access and the cost of such improvements. Said study shall be completed not later than May 1, 1998.

**SECTION 74.** 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, however, that it shall not exceed the total amount authorized by the item; 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 75.** The department of highways is hereby authorized and directed to undertake a study to determine the structural impact of traffic from interstate highway route 290 on the Mount Carmel Church in the city of Worcester. Said study shall be completed not later than May 1, 1998.

**SECTION 76.** No payment in excess of \$175,000 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 \$175,000 or in excess of the amount recommended by the real estate review board established by section 6 of chapter 718 of the acts of 1956 shall be made out of court for damages recoverable under chapter 79 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 recommend-



ation.

No settlement, by reason of taking under this act in excess of \$175,000 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 77.** The portion of state highway route 6 in the town of Fairhaven extending from Adams street easterly to the junction of Washington street shall be designated and known as the Fairhaven Firefighters memorial highway. The department of highways shall erect suitable markers bearing said designation in compliance the standards of said department.

**SECTION 78.** Notwithstanding any general or special law, rule, regulation or directive to the contrary, the department of highways shall hold a preliminary public hearing, prior to 25 per cent design approval, if the department determines that it will not be feasible to accommodate bicycles and pedestrians on any construction, reconstruction or repaving project of said department, as required by chapter 87 of the acts of 1996.

**SECTION 79.** Notwithstanding the provisions of any general or special law to the contrary, operating expenditures for the fiscal year ending June 30, 1997 of a regional transit authority not operating for a full year during fiscal year 1996 may exceed 103 per cent of its operating expenditure for the fiscal year ending June 30, 1996.

**SECTION 80. (a)** The county commissioners of the county of Dukes County are hereby authorized to raise and expend a sum not exceeding \$1,200,000 for said county's share of the cost of construction of a new terminal building, related site work and pollution abatement at the Martha's Vineyard Airport.

**(b)** For the purposes authorized in paragraph (a), the treasurer of said county, with the approval of the county commissioners, may borrow upon the credit of said county such sums as may be necessary, not exceeding in the aggregate \$500,000, and may issue bonds or notes of the county thereof, which shall be designated on their face Martha's Vineyard Airport Loan, Act of 1997. Each authorized issue shall constitute a separate loan and such loans shall be issued for not more than ten years. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell such bonds or notes 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 35 of the General Laws.

**SECTION 81.** The department of highways is hereby authorized and directed to undertake a feasibility study to determine the cost impact on utility relocations if the term "cost of relocation" is defined as follows: the entire amount paid by the public utility that is reasonably attributable to the relocation or removal, after deducting the value of any improvement to the capacity of the new facility and any salvage value derived from the old facility. Said study shall be submitted by July 1, 1998.



**SECTION 82.** The department of highways is hereby authorized and directed to require the installation of curb cuts, so-called, for the purpose of compliance with the Americans with Disabilities Act, so-called, for any highway project involving substantial resurfacing, lane realignment, widening, construction or reconstruction that uses funds of the commonwealth. Said curb cuts shall be required at any intersection or crosswalk directly located within the scope of work of any such project, or that abuts or is reasonably adjacent to the scope of such work. The requirements of this section shall apply to any highway projects undertaken by said department or a political subdivision of the commonwealth using said funds, but shall not apply to routine maintenance.

**SECTION 83.** The department of highways is hereby authorized and directed to expend \$250,000 of the total funding made available in item 6033-9717 in section 2B of this act for a feasibility study examining intersection improvements on state highway route 18 between state highway route 3 and the Naval Air Station in the town of Weymouth in conjunction with any reuse plan for said Air Station adopted by the communities of Weymouth, Rockland and Abington.

**SECTION 84.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to relocate the bus stop on the inbound bus route number 73, one-half block west to the front of 102 Belmont street in the city known as the town of Watertown.

**SECTION 85.** No railroad corporation including any locomotive engine operated by or on behalf of the Massachusetts Bay Transportation Authority or Guilford Industries, shall permit a locomotive engine passing on its railroad in the town of Tewksbury to sound whistles at any crossing which has the following safety features: flashing lights in each direction which are automatically activated by the approaching train; two gates, one on each side of the crossing, both of which are automatically lowered by the approaching train and both extended across approximately half the width of the lanes of traffic so that the entire width of the lanes of traffic is blocked when the gates are lowered; a bell that is automatically activated by the approaching train; signs posted before the grade crossing in each direction warning motorists and pedestrians of the crossing ahead; not more than two lanes of vehicular traffic in each direction at the grade crossing. Notwithstanding the provisions of this paragraph, a train shall be required to sound its whistle in the event of an emergency.

The department of public utilities shall require that whistle markers on the railroad right-of-way on the approach to each crossing shall be replaced with bell markers within 90 days of the effective date of this act.

The department of public utilities shall notify the Massachusetts Bay Transportation Authority, Guilford Industries and all other railroad corporations operating locomotive engines in the town of Tewksbury of the provisions of this act within 30 days of its effective date.

**SECTION 86.** The department of highways is hereby authorized and directed to conduct a comprehensive study and comparative analysis of the costs of paying salary and salary related expenses of department employees from funds made available by transportation bond

authorizations, as compared to paying such salary and salary related expenses from operating funds of the commonwealth, and to provide such study and analysis to the house committee on long term debt and capital expenditures no later than October 1, 1997.

**SECTION 87.** The Massachusetts Turnpike Authority is hereby authorized and directed to conduct a comprehensive study and comparative analysis of the costs of paying salary and salary related expenses of metropolitan highway system employees from funds made available by transportation bond authorizations, as compared to paying such salary and salary related expenses from operating funds of the Massachusetts Turnpike Authority, and to provide such study and analysis to the house committee on long term debt and capital expenditures not later than October 1, 1997.

**SECTION 88.** The town of Franklin shall be reimbursed \$250,000 for costs associated with the design and construction of the state highway route 140 project, specifically the portion of the project from the Pond street intersection to the town line of Bellingham.

**SECTION 89.** The department of highways is hereby authorized and directed to conduct a study of mitigation measures that will reduce the damage caused by excessive truck traffic on major thoroughfares in communities bordering on and directly impacted by the Central Artery/Ted Williams Tunnel Project including, but not limited to, Cambridge street from Monsignor O'Brien highway to Inman square in the city of Cambridge and Washington street from Union square in the city of Somerville to Sullivan square in the city of Boston; provided, that said department shall submit said study to the joint committee on transportation, with such mitigation recommendations, on or before September 30, 1997.

**SECTION 90.** Notwithstanding the provisions of any general or special law to the contrary, no new monies for improvement of the railroad lines owned by Housatonic Track, a subsidiary of the Housatonic Railroad Company, shall be released by the executive office of transportation and construction until said railroad company has entered into a master plan with said executive office to make certain improvements to the rail line in Berkshire county and said improvements have been completed and subsequently approved and inspected by the Berkshire Regional Transit Authority or said authority's designee.

**SECTION 91.** For the purpose of furthering the extension of commuter rail to New Bedford and Fall River, the Massachusetts Bay Transportation Authority is hereby directed, as authorized in section 2J of chapter 205 of the acts of 1996, to begin, in calendar year 1997, the design and permitting of those portions of track which extend from the city of New Bedford to Myricks junction, so-called, in the town of Berkley, and from the city of Fall River to said Myricks junction in said town of Berkley.

**SECTION 92.** The department of highways is hereby authorized and directed to erect sound barriers in the towns of Dedham and Westwood along state highway route 128 in those residential neighborhoods which are adjacent to said route.

**SECTION 93.** The metropolitan district commission, in consultation with the department of state police and the Boston transportation department, is hereby authorized and directed to study safety and traffic improvements to the Father Hart bridge and adjacent roadways in the Readville section of the city of Boston.

**SECTION 94.** Section 23 of chapter 465 of the acts of 1956, as most recently amended by section 2 of chapter 301 of the acts of 1993, is hereby further amended by adding the following paragraph:-

The Massachusetts Port Authority shall be expressly prohibited from making any expenditure, entering into any lease, sale, or transfer agreement or undertaking any development in connection with any project which is to be used, in whole or in part, for the purpose of a professional sports and entertainment venue or gaming facility.

**SECTION 95.** An area on the west side heading east, and an area on the east side heading west of the New Bedford/Fairhaven bridge on state highway route 6 over Pope's island in the city of New Bedford shall be designated with signs stating "In Memory of All Living & Deceased Merchant Mariners". A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

**SECTION 96.** The metropolitan district commission is hereby authorized and directed to study the drainage problems within the Stony Brook reservation and Bellevue hill area in the West Roxbury and Hyde Park sections of the city of Boston, including but not limited to the Turtle Pond parkway from River street to Enneking parkway, Enneking parkway from Gordon avenue to Washington street and West Roxbury parkway from Washington street to Center street. The commission shall file a report of its findings to the joint committee on transportation and to the house and senate committees on ways and means. The commission is hereby authorized and directed to expend not more than \$50,000 on said study.

**SECTION 97.** The bridge on Main street, also known as state highway route 27, spanning the Massachusetts Bay Transportation Authority railroad tracks in the town of Acton shall be designated and known as the Norman D. Lake Memorial bridge, in honor of Norman D. Lake, in recognition of his service to his country as a veteran and for his service to his community. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

**SECTION 98.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to complete a study of necessary mitigation measures relative to the state highway route 128 commuter rail station project. Said study shall be completed not later than June 1, 1998. Such measures as are deemed necessary by said study or any previously directed study shall be completed not later than October 1, 1999; provided, however, that if such measures shall not be completed by October 1, 1999 then the Massachusetts Bay Transportation Authority shall submit a report to the joint committee on transportation detailing the reasons why such measures shall not be completed.

**SECTION 99.** Notwithstanding the provisions of any general or special law to the contrary, the department of public utilities shall study the cost and benefits associated with the creation of utility corridors along railroad rights-of-way. Said study shall include a review of locating pipeline networks for natural gas, petroleum products, the product of desalinization processes, protective conduits for fiber optic cable, and other telecommunications systems, electric distribution and transmission systems. Said study shall also review the potential risk to public health and safety of locating such systems along



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## Chap. 11

railroad rights-of-way. Said study shall be filed with the joint committee on transportation and the house and senate committees on ways and means within 90 days of the effective date of this act.

**SECTION 100.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority is hereby authorized and directed to expend funds authorized in item 6005-9698 of section 2H of chapter 273 of the acts of 1994 for a feasibility study for the purpose of examining access options to the 1,000 car commuter parking lot at the Old Colony commuter station in the town of Kingston at state highway route 3.

**SECTION 101.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall cooperate fully with the office of travel and tourism to ensure the posting of signs signifying the "Massachusetts Wine Country Trail" in appropriate locations in and around the town of Dudley.

**SECTION 102.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall allocate funds for the purpose of expanding access to a certain industrial park site in the town of Southbridge.

**SECTION 103.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall study the possible redesign of the intersection of state highway route 16 and Northeast Main street in the town of Douglas.

**SECTION 104.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall undertake a study of improvements to state highway route 140 near the boundaries of the towns of Franklin and Bellingham.

**SECTION 105.** Notwithstanding any general or special law or rule or regulation to the contrary, if the United States Department of Transportation, Federal Highway Administration Notice, Certificates of Apportionment, so-called, shall fall below the sum of \$550,000,000 in any given federal fiscal year, the secretary of transportation and construction shall file a report with the joint committee on transportation and the house and senate committees on ways and means delineating all possible options to generate revenues sufficient to continue the financing of the projects authorized in sections 2, 2A, and 2B of this act; provided, that in the event that said Certificates of Apportionment fall below the sum of \$550,000,000 in federal fiscal year 1999, not more than \$450,000,000 in notes authorized by section 9 of this act shall be issued until the executive office of transportation and construction files the report herein mandated.

**SECTION 106.** The Massachusetts aeronautics commission is hereby authorized and directed to allocate the \$5,000,000 authorization for Worcester Regional Airport in item 6006-9500 of section 2G of chapter 273 of the acts of 1994 pursuant to section 108 of said chapter 273 and to submit a report thereof to the joint committee on transportation not later than December 31, 1997 concerning the status of said project.

**SECTION 107.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to develop a framework for implementation of the Washington Street Transit Replacement Service Project in the city of Boston. Such framework shall include a timetable to begin the reconstruction of Washington street between Dudley square and downtown



Boston immediately; provided, however, that such timetable shall include the development of a design plan for said project. Said plan shall include: (i) the confirmation of the availability of previously authorized state funds for the project; (ii) the integration of street improvements and stations related to the new service with the surrounding residential areas and businesses; (iii) the development of an implementation strategy for a potential underground connection of the new service to the existing rapid transit system with identified alternative options and identified sources of existing or potential funding and implementation schedule; (iv) the development of a design to accommodate all transit vehicle modes on Washington street; and (v) the designation of such new service as a new color on the rapid transit map of said authority. Such framework for implementation shall be developed in coordination with the Transportation Department, Public Works Department and the Mayor's Office of Neighborhood Services of the city of Boston and all appropriate state agencies. Said authority shall submit the framework for implementation to the joint committee on transportation within 30 days of the effective date of this section.

**SECTION 108.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to conduct a study of mitigation measures to reduce the adverse impact of the Old Colony commuter rail upon the communities impacted by such rail restoration; provided, however, that such study shall include an examination of measures to address both noise levels and air quality impact; provided further, that said authority shall submit the results of such study to the joint committee on transportation, together with such mitigation recommendations, not later than March 1, 1998.

**SECTION 109.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to undertake a study examining the operation of buses that have been wrapped, so-called. Said study shall include, but not be limited to, an examination of the safety of passengers on such wrapped buses, including the passengers' ability to see out the windows, the safety of passengers boarding such wrapped buses, including the passengers' ability to see in the windows, and the ability of passengers to identify the vehicle as a bus. Said study shall be completed not later than January 1, 1998 and shall be submitted to the joint committee on transportation and the joint committee on public safety.

**SECTION 110.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of capital planning and operations may transfer lots of land, which the commonwealth acquired by eminent domain, to any person or entity who were the owners of said lots at the time of the taking of the property; provided, that the commonwealth no longer needs the property for public use. The consideration for the sale of such real property shall be the full and fair market value established by said commissioner based on an independent professional appraisal. The buyer of such real property shall pay all costs associated with the transaction including, without limitation, the costs of the procuring appraisal, of conducting a survey, and of preparing the deed.

**SECTION 111.** The highway department, in conjunction with the metropolitan district commission, is hereby authorized and directed to install a signalized crossing on Concord avenue between the Sozio and Ground Round rotaries, so-called, in the city of Cambridge.

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## Chap. 11

**SECTION 112.** Notwithstanding any general or special law to the contrary, the Massachusetts Water Resources Authority is hereby authorized and directed to share, with the local municipality where the facility is located, 50 per cent of any rents, leases or licenses from any property rented, leased or licensed to a private entity for telecommunications purposes.

**SECTION 113.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the Massachusetts Turnpike Authority is hereby authorized and directed to undertake a pilot program during which the authority shall suspend all tolls on the turnpike and Boston extension from 12 o'clock noon on Wednesday, November 26, 1997, until 12 o'clock midnight on Thursday, November 27, 1997. Said authority shall review the impact of such toll suspension on revenue and traffic flow and shall report such information to the house and senate committees on ways and means and the joint committee on transportation not later than February 1, 1998. Said report shall also contain a comparison of lost revenue from said toll suspension, broken down by interchange, with the revenues collected over the same holiday period over the previous five years; and a comparison of traffic flow during said toll suspension with the traffic flow over the same holiday period over the previous five years. The department of state police is hereby authorized and directed to monitor the effect that said toll suspension has on the safety of the traveling public and the impact said toll suspension has on easing the flow of traffic. Said state police shall file a report containing such information with the house and senate committees on ways and means and the joint committee on transportation not later than February 1, 1998.

**SECTION 114.** The executive office of environmental affairs is hereby authorized and directed to expend at least \$500,000 for the renovation and reconstruction of the Lawrence veterans memorial stadium in the city of Lawrence not later than December 31, 1997.

**SECTION 115.** Pursuant to the provisions of sections 2, 2A and 2B, the department of highways is hereby authorized and directed to expend a sum of not less than \$400,000,000 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 \$75,000,000 in the counties of Berkshire, Hampden, Hampshire and Franklin, not less than \$75,000,000 in the counties of Norfolk and Worcester, not less than \$75,000,000 in the counties of Essex and Middlesex and not less than \$75,000,000 in the counties of Barnstable, Bristol, Dukes, Nantucket and Plymouth.

*Sections disapproved:* **SECTIONS 64, 68, 78 and 84.**

*The remainder of the bill was approved by the Governor May 16, 1997.*

## **Chapter 12. AN ACT RELATIVE TO A CERTAIN PARCEL OF LAND IN THE TOWN OF WILMINGTON.**

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

The town of Wilmington is hereby authorized to transfer the care, custody, management and control of a certain parcel of land owned by the town from the conservation commission

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## Chap. 12

to the board of selectmen of the town, being a certain parcel of vacant land, shown as Map 11, parcel 34 on the town assessors maps, for the express and exclusive purpose of releasing a sewer easement to Sixth Realty Trust of Wilmington, Massachusetts, to construct, operate and maintain a sewer main and fixtures appurtenant thereto, upon, over, under and across a certain way known as Third Avenue as now laid out or may be laid out in the future in the town of Wilmington, a copy of which plan entitled "Proposed Sewer Extension Plan and Profile, Third Avenue in Wilmington, MA.", prepared by Marchionda & Associates, Inc., dated January 1991, Revised April 29, 1991, is on file with the conservation commission and the water and sewer department of said town, subject to the approval of the conservation commission, said way as now laid out and shown on a plan entitled "Shawsheen Pines", Billerica-Wilmington, Massachusetts, Engineer, Harry F. Bryant & Son, Date: April, 1927, and recorded at the Middlesex northern registry of deeds in Plan Book 50, Plan 61 and is contiguous to and abutting town owned land shown as Block 15, Lots 20-29, inclusive, on said plan; provided however, that the care, custody, management and control of said parcel shall otherwise remain with the conservation commission and also to authorize the selectmen to release the sewer easement area, in accordance with chapter thirty B of the General Laws and any other applicable law relating thereto; provided, further, that all approvals, including the approval of the secretary of environmental affairs, shall be obtained before the transfer of said sewer easement all in accordance with town by-laws; and, provided, further, that said town of Wilmington shall require Sixth Realty Trust to reimburse said town for all costs and expenses of said town relative to the aforesaid easement, recording, legislation and approvals.

Approved May 22, 1997.

## **Chapter 13. AN ACT RELATIVE TO THE GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the Greater New Bedford Regional Refuse Management District shall be exempt from the provisions of sections 20A and 20B of chapter 59 of the General Laws. Except as hereafter provided, said district shall not assess costs, charges and fees on its member cities and towns in any year in an amount that is more than the sum of (a) 102½% of the maximum amount assessable during the previous year, including any increases authorized under this or earlier laws, whether or not actually assessed in such previous year, and (b) any increase in costs, charges or fees for services customarily provided locally, or for services subscribed to at local option. The foregoing limit may be increased above the limitation set forth above with the approval of a two-thirds vote of the regional refuse disposal district committee of said district and, thereafter, approval of the appropriating bodies of its member municipalities.

**SECTION 2.** Chapter 436 of the acts of 1985 is hereby repealed.

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## Chap. 13

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

Approved May 27, 1997.

## **Chapter 14. AN ACT RELATIVE TO THE BONDING CAPACITY OF THE MASSACHUSETTS WATER RESOURCES AUTHORITY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to increase the bonding capacity of the Massachusetts Water Resources Authority to facilitate continued operation of said 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.** Paragraph (a) of section 12 of chapter 372 of the acts of 1984 is hereby amended by striking out the fifth sentence, as most recently amended by section 513 of chapter 151 of the acts of 1996, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed the sum of \$3,600,000,000 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 2.** Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as most recently amended by section 514 of said chapter 151, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed the sum of \$3,600,000,000 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.

Approved May 29, 1997.

## **Chapter 15. AN ACT RELATIVE TO HORSE RACING AT FAIRS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately encourage economic development at state and county fairs, 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 seventh paragraph of section 5 of chapter 114 of the acts of 1991, as appearing in chapter 104 of the acts of 1994, is hereby amended by striking out the words "seven percent of each wager" and inserting in place thereof the following words:- eight percent of each wager.



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## Chap. 15

**SECTION 2.** Said seventh paragraph of said section 5 of said chapter 114, as so appearing, is hereby further amended by striking out the words "said seven percent" and inserting in place thereof the following words:- said eight percent.

**SECTION 3.** The eighth paragraph of said section 5 of said chapter 114, as so appearing, is hereby amended by striking out the words "seven percent" and inserting in place thereof the following words:- three-quarters of one percent.

**SECTION 4.** Said section 5 of said chapter 114 is hereby further amended by adding the following paragraph:-

Any agricultural fair operating a running horse meet shall pay a sum equal to one percent of the total handle at the end of its racing schedule to the Massachusetts Thoroughbred Breeders Association, Inc.; provided, however, that said Massachusetts Thoroughbred Breeders Association, Inc. shall develop a program to support horse racing at agricultural fairs, including, but not limited to, owners' and breeders' awards for Massachusetts bred thoroughbreds and provisions to supplement the purses of races or to provide the entire purse for the Massachusetts bred thoroughbred races.

Approved May 30, 1997.

## Chapter 16. AN ACT RELATIVE TO CERTAIN SCHOOL CONSTRUCTION PROJECTS IN THE CITY OF MALDEN.

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, in order to implement its school building program, the city of Malden may, in addition to the prequalification requirements pursuant to section 44D of chapter 149 of the General Laws, establish and impose a requirement that only contractors and subcontractors with a workers' compensation experience modification factor, as promulgated by the workers' compensation rating bureau, of 125% or less shall be eligible to submit a bid or offer; provided, however, that any contractor or subcontractor with a modification factor of up to 135% shall be eligible to submit a bid or offer, if that modification factor was caused by a single loss. The school building program of the city of Malden shall not be subject to the provisions of section 44F of chapter 149 of the General Laws. For the purposes of this act, the words "school building program" shall mean the design, construction and equipping of five new schools within the city of Malden to accommodate students in grades kindergarten through grade eight and the renovation or demolition of any structures at any of the existing sites at said schools.

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

Approved June 4, 1997.

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## Chapter 17. AN ACT RELATIVE TO THE ANNUAL COST OF LIVING ADJUSTMENTS FOR RETIREES.

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

**SECTION 1.** Subdivision (3) of section 21 of chapter 32 of the General Laws, as amended by section 34 of chapter 306 of the acts of 1996, is hereby further amended by inserting after paragraph (c) the following paragraph:-

(f) the preparation and filing with the general court, of a report, annually, in the month of January, on the computation of any increase in the United States Consumer Price Index and the percentage thereof in the previous year by the Commissioner of Social Security, including a statement that such increase in said Consumer Price Index during the last previous year requires a cost of living increase in the retirement allowances, pensions or annuities of eligible members, as defined in sections 102 and 103, equal to the percentage increase in the Consumer Price Index or 3 per cent, whichever is less.

**SECTION 2.** The first paragraph of subdivision (1) of section 22D of said chapter 32, as so appearing, is hereby amended by striking out the third, fourth and fifth sentences and inserting in place thereof the following three sentences:- The funding schedule shall be reviewed from time to time by the actuary after reviewing periodic actuarial valuation reports required by section 21 and such other reports as may be prepared pursuant to section 35H of chapter 10 and other provisions of law. Said funding schedule, and any future updates thereto, shall be designed to reduce the unfunded actuarial liability of each system accepting the provisions of this section as of January 1, 1983 to zero as of June 30, 2028; provided, however, that in the event that a system has accepted the provisions of section 102, the funding schedule, and any updates thereto, shall be designed to reduce the unfunded actuarial liability of said system to zero as of such year as the commission shall approve. Updates of the funding schedule required by changes in the projected unfunded actuarial liability as determined by any periodic actuarial valuation report pursuant to section 21 or resulting from the acceptance by a system of the provisions of section 103, may reflect the further amortization time periods authorized by said section 21 and said section 103 but shall not contravene the provisions of this section which relate to the establishment of total annual payments and the reduction in value of the pension reserve fund.

**SECTION 3.** Section 102 of said chapter 32 is hereby amended by striking out paragraph (a), as amended by section 53 of chapter 306 of the acts of 1996, and inserting in place thereof the following paragraph:-

(a) The actuary in the commission shall annually in the month of January file with the clerk of the house of representatives the report prepared in accordance with paragraph (f) of subdivision (3) of section 21. If the general court thereafter determines by law that a cost of living increase is required and establishes the percentage thereof, the retirement allowance, pension or annuity of every member of the state employees' system and the teachers' retirement system who has received a retirement allowance, pension or annuity on June 30 of the preceding fiscal year, or of a spouse or other beneficiary of such member who has received a retirement allowance, pension or annuity on June 30 of the prior fiscal year, shall

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## Chap. 17

be increased by the percentage as determined by such law. Said cost of living increase shall be funded from the investment income account of the state employees' and state teachers' systems. The sum of the dollar amount of each cost of living increase, together with the amount of retirement allowance, pension or annuity to which the cost of living per cent factor is applied, shall become the fixed retirement allowance, pension or annuity for all future purposes, including the application of subsequent cost of living adjustments in future years.

**SECTION 4.** Paragraph (b) of said section 102 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 57, the words "or deducted from".

**SECTION 5.** Said section 102 of said chapter 32, as so appearing, is hereby further amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) In any case where such former employee, spouse, or other beneficiary is receiving an annual retirement allowance, pension or annuity which is \$12,000 or more exclusive of additional annuity obtained by special purchase under paragraph (g) of subdivision (1) of section 22 or any similar law, the cost of living adjustment shall be in an amount determined by applying the percentum of change determined pursuant to paragraph (a) to the sum of \$12,000. Whenever a cost of living adjustment is granted pursuant to said paragraph (a), the dollar amount of such increase as determined in said paragraph (a) shall be added to each retirement allowance, pension or annuity which is in excess of said maximum base amount. The sum of the dollar amount of such cost of living adjustments, together with the amount of retirement allowance, pension or annuity to which the cost of living percentum factor is applied and any amounts in excess of \$12,000 shall become the fixed retirement allowance, pension or annuity for all future purposes including the application of subsequent cost of living adjustments in future years; provided, however, that the limitations of this paragraph shall continue to apply.

**SECTION 6.** Paragraph (d) of said section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in line 89, the words "or deducted from".

**SECTION 7.** Paragraph (e) of said section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in line 100, the word "life".

**SECTION 8.** Said chapter 32 is hereby further amended by adding the following section:-

Section 103. (a) Any system other than the state employees' retirement system and the teachers' retirement system may, by accepting the provisions of this section as hereinafter provided, elect to establish a cost of living adjustment calculation pursuant to this section; provided, however, that such system shall have established a funding schedule pursuant to the provisions of subdivision (6A) of section 22 or section 22D. Such election shall be made by majority vote of the board of such system, subject to the approval of the legislative body. For the purposes of this section, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of



a county the county retirement board advisory council, in the case of a district the district members, and in the case of an authority the governing body. The base amount upon which such cost of living adjustment shall be calculated shall be \$12,000. Acceptance of this section shall be deemed to have occurred upon the filing of certification of such votes with the commission. A decision to accept the provisions of this section may not be revoked.

(b) For each system that has accepted the provisions of this section, the board, in consultation with the commission, shall prepare a funding schedule which shall reflect the costs and the actuarial liabilities attributable to the cost of living allowance that may be paid in accordance with the provisions of this section and said schedule shall be designed to reduce the applicable retirement system's additional pension liability to zero by such year as approved by the commission. The board shall file revised funding schedules triennially with the joint committee on public service until such costs and liabilities are reduced to zero.

(c) On April 1 of each year, the commission shall send to every system that has accepted the provisions of this section the report prepared in accordance with paragraph (f) of subdivision (3) of section 21. Such report shall be subject to the review of the retirement board of such system after said April 1. In the event that the board determines that the cost of living adjustment recommended by said report shall substantially impair the funding schedule of said system, the board may elect not to pay a cost of living increase for said fiscal year and shall file notice of its election not to pay and analysis of the impact on the funding schedule with the commission within 30 days of its action. In the event that the board votes to adopt the cost of living increase recommended by said report, it shall file notice of its election to pay with the commission within 30 days of its action and the retirement allowance, pension or annuity of every member of the system who has received a retirement allowance, pension or annuity on June 30 of the prior fiscal year, or of a spouse or other beneficiary of such member who has received a retirement allowance, pension or annuity on June 30 of the prior fiscal year, shall be increased by the percentage as recommended by said report. Said cost of living increase shall be funded from the investment income account of the system. The sum of the dollar amount of each cost of living increase, together with the amount of retirement allowance, pension or annuity to which the cost of living per cent factor is applied, shall become the fixed retirement allowance, pension or annuity for all future purposes, including the application of subsequent cost of living adjustments in future years.

(d) Whenever the amount of any retirement allowance, pension or annuity is revised in accordance with the provisions of this section, the monthly payment provided for in section 13 shall be recomputed on the basis of such revised retirement allowance, pension or annuity, and one-twelfth of such new figure shall be due and payable each month. In any case where such revised retirement allowance, pension or annuity cannot be administratively determined in time for adjusting the monthly payment for July pursuant to said section 13, such cost of living adjustment shall be added to the monthly retirement allowance, pension or annuity in August or September, as the case may be.



(e) In any case where such former employee, spouse, or other beneficiary is receiving an annual retirement allowance, pension or annuity which is equal to or in excess of the maximum base amount set by the board and approved by the legislative authority pursuant to clause (i) of paragraph (a) exclusive of an additional annuity obtained by special purchase under paragraph (g) of subdivision (1) of section 22 or any similar law, the cost of living adjustment shall be in an amount determined by applying the percentum of change set by the board pursuant to said paragraph (c) to said maximum base amount. When a cost of living adjustment is granted pursuant to paragraph (c), the dollar amount of such increase as determined in said paragraph (c) shall be added to each retirement allowance, pension or annuity which is in excess of said maximum base amount. The sum of the dollar amount of such cost of living adjustments, together with the amount of retirement allowance, pension or annuity to which the cost of living percentum factor is applied and any amounts in excess of said maximum base amount shall become the fixed retirement allowance, pension or annuity for all future purposes including the application of subsequent cost of living adjustments in future years; provided, however, that the limitations of this paragraph shall continue to apply.

(f) Whenever the amount of any retirement allowance, pension or annuity is revised in accordance with the provisions of subsection (c), the monthly payment provided for in section 13 shall be recomputed on the basis of such revised retirement allowance, pension or annuity and one-twelfth of such new figure shall be due and payable each month. In any case where such revised retirement allowance, pension or annuity cannot be administratively determined in time for adjusting the monthly payment for July pursuant to said section 13, such cost of living adjustment shall be added to the monthly retirement allowance, pension or annuity in August or September, as the case may be.

(g) Notwithstanding any provision of this section to the contrary, the supplemental payments due and payable to a spouse receiving the minimum allowance under the provisions of option (d) of subdivision (2) of section 12, or under section 101, or under the provisions of chapter 526 of the acts of 1963 to any spouse, child or children under the provisions of section 12B, shall be, at all times, in an amount equal to the cumulative percentum of change in the cost of living resulting from the determination by the life actuary, with the average of the cost of living for the year 1972 serving as the basis of the comparison to be made by the actuary as set forth in paragraph (a) of section 102.

**SECTION 9.** Chapter 427 of the acts of 1996 is hereby amended by striking out section 14 and inserting in place thereof the following section:-

*Section 14.* The public employee retirement administration commission, in consultation with the Massachusetts Municipal Association, the Massachusetts Association of Contributory Retirement Systems, the state board of retirement and the teachers' retirement board, shall study and evaluate the early intervention program established by section 5B of chapter 32 of the General Laws. Said early intervention program shall be effective and shall be implemented on January 1, 1998. On or before October 1, 1997, said commission shall file the results of its study together with any recommendations with the clerk of the house of representatives who shall forward the same to the house and senate committees on ways

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and means and the joint committee on public service.

**SECTION 10.** The public employee retirement administration commission shall analyze and valuate the costs and the actuarial liabilities attributable to the cost of living benefits payable in accordance with the provisions of section 9 of this act for each retirement system that has adopted a funding schedule pursuant to subdivision (6A) of section 22 of chapter 32 of the General Laws or pursuant to section 22D of said chapter 32. On or before December 31, 1997, the commission shall file a report in writing of its findings with the joint committee on public service and with the board of each such system and with each legislative body as defined in subsection (1) of section 22D of said chapter 32 of each such system.

Approved June 6, 1997.

## Chapter 18. **AN ACT AUTHORIZING THE CITY OF HOLYOKE TO ISSUE BONDS OR NOTES FOR THE PURPOSE OF ACQUIRING OR DEMOLISHING BLIGHTED BUILDINGS IN THE CITY.**

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

**SECTION 1.** The city of Holyoke is hereby authorized to issue bonds or notes for the purpose of acquiring or demolishing condemned properties within the city, or both, in order to promote the public health, safety and welfare of residents of said city. Bonds or notes issued pursuant to the authority hereof shall be within the limit of indebtedness prescribed in section ten of chapter forty-four of the General Laws, shall be issued for terms not to exceed twenty years from the date of issue and shall otherwise be subject to the provisions of said chapter forty-four. No property shall be acquired hereunder unless and until the mayor makes a finding that such property constitutes a threat to the health, safety and welfare of the citizens of said Holyoke.

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

Approved June 6, 1997.

## Chapter 19. **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 immediately to 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.** Chapter 6 of the General Laws is hereby amended by striking out sections 205 to 208, inclusive, inserted by section 20A of chapter 60 of the acts of 1994, and inserting

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in place thereof the following four sections:-

Section 209. There is hereby established a Massachusetts office of volunteerism, in this section and in sections 210 to 213, inclusive, called the office, consisting of an executive director, in this section and in said sections 210 to 213, inclusive, called the director, and an advisory council, as hereinafter described. The director shall be appointed by the governor after consultation with the advisory council, and shall serve at the pleasure of the governor. The director shall, at the time of appointment, have substantial professional experience in the field of volunteer administration, to all aspects of, including but not limited to, human resource management, communications, fund raising, training and education. The position of director shall be classified in accordance with section 45 of chapter 30, and the salary shall be determined in accordance with section 46C of said chapter 30. The director shall, with the advice of the advisory council, have sole charge of the supervision and administration of the office. The director may, subject to appropriation, employ and remove such assistant directors and other employees and consultants as may be deemed necessary to enable the performance of duties. The provisions of chapter 31 and section 9A of chapter 30 shall not apply to the director or to such assistant directors and consultants as may be appointed. In making such appointments, the director shall make every reasonable effort to ensure that volunteers are actively involved and that persons having experience with volunteer efforts are employed.

Section 210. Subject to the approval of the secretary of administration, the director may apply for and accept on behalf of the commonwealth any federal, local or private grants of money or property, whether real or personal, from any source, whether public or private, bequests, gifts or contributions to aid the financing of any of the programs or policies of the office. Such funds shall be received by the state treasurer on behalf of the commonwealth and deposited in a separate account and shall be expended under the direction of the director, with the approval of the secretary of administration.

The office may make agreements with other departments and agencies of the commonwealth and may contract with other individuals, organizations, corporations, associations and other legal entities including private agencies, or any department or agencies of the federal government or the commonwealth or any political subdivisions thereof, to carry out any of the functions and purposes of the office. The director shall establish standards and procedures governing such agreements and contracts subject to the approval of the secretary of administration.

Section 211. The office, in order to plan, initiate, promote and evaluate a statewide program of services on behalf of the volunteer community shall have the following powers and duties:

- (a) identify, coordinate and share information on resources on volunteerism and to encourage the participation of all segments of the community in volunteerism;
- (b) to provide the volunteer community with technical information and access to the skills and knowledge necessary to make current programs more effective, and to encourage their growth and experimentation with new ideas;



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(c) to be an advocate for volunteerism to help build within the commonwealth a positive climate for volunteerism that addresses issues of leadership, recognition, legislation, and change;

(d) to encourage the corporate community of the commonwealth to become an active partner in the support of volunteer services in the commonwealth, in the public and not-for-profit sectors, in the areas of youth development and education, on policy-making boards, and with the encouragement of employees' participation in volunteer efforts;

(e) to serve as a clearinghouse, to facilitate the sharing of ideas, materials and experiences; to recognize and promote successful learning models and service opportunities in a statewide network, identifying projects with the most valuable learning potential and thereby reducing duplication of efforts and costs;

(f) to assist and support public sector volunteer programs;

(g) (1) to prepare and submit to the governor an annual report which shall be a public document which shall include the description and evaluation of activities of the office in implementing the aforementioned duties and functions, (2) to prepare and submit a description, evaluation and analysis of public policies, programs, services and regulations that affect or may affect volunteer efforts and services, (3) prepare and submit recommendations for the development, coordination and improved responsiveness of such policies, programs, services and regulations.

Section 212. In order to fulfill the functions of the office such information as the director may require shall be made available upon request by any department, division, board, bureau, commission, or agency of the commonwealth.

**SECTION 2.** Said chapter 6 is hereby further amended by striking out section 209, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 213. The governor initially shall appoint an advisory council of volunteerism which shall consist of no fewer than 12 and no more than 20 members. Persons shall be eligible for appointment if their positions, knowledge or experience enables them to represent the concerns, needs and recommendations of volunteerism and if they have been recommended by the director. The council shall at all times be persons actively engaged in activities concerning volunteerism. Each member shall serve for a term of four years as governed by council by-laws.

The director initially shall nominate persons whose service will ensure representations of the interests of the volunteer community at large from all areas of the commonwealth. Council membership shall include at least three current volunteer administrators; a minimum of one representative from the corporate sector, a minimum of one representative from community service programming in education, and one volunteer. The director's nominations shall be named from a list provided by consumer groups, health and human services agencies or individuals representing such volunteers.

Once established, the advisory council shall elect a chairperson and establish by-laws which will govern all aspects of its operation. These by-laws shall be subject to the approval of the governor. The advisory council shall meet at least eight times a year, and shall serve



without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

Said advisory council shall advise the director on policy, planning, and the need of the commonwealth for programs and services encouraging and strengthening the volunteer system in the commonwealth; assist the director in establishing priorities for office activities; and annually review the programs, budgets, and policies of the office.

**SECTION 3.** Paragraph (b) 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 first sentence and inserting in place thereof the following sentence:- The human resources division shall be headed by a personnel administrator who shall also serve as assistant secretary for human resources.

**SECTION 4.** Section 23 of said chapter 7, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 2, the words "the preceding section, and inserting in place thereof the following words:- section 22.

**SECTION 5.** Section 50 of said chapter 7, as most recently amended by section 3 of chapter 306 of the acts of 1996, is hereby further amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

The public employee retirement administration commission, established under section 4A, shall have general responsibility for the efficient administration of the public employee retirement system, under chapter 32. The public employee retirement administration commission's powers and duties shall include, but not be limited to:-

**SECTION 6.** Chapter 19A of the General Laws is hereby amended by striking out section 37, added by chapter 306 of the acts of 1993, and inserting in place thereof the following section:-

Section 38. No person trained and designated by the department of elder affairs as a counselor or coordinator in the serving health information needs of elders program, whether acting on a compensated or volunteer basis shall be liable in any civil or criminal action by reason of the good faith performance of his official duties. The department shall make publicly available a description of the function and the responsibilities of such counselor.

**SECTION 7.** Section 7 of chapter 21 of the General Laws, as amended by section 3 of chapter 453 of the acts of 1996, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Five board members shall be appointed from one of each of the five fish and game districts, at least one of whom shall have been actively engaged in farming on land owned by him for a period of not less than five years.

**SECTION 8.** Chapter 29 of the General Laws is hereby amended by striking out section 2GG, inserted by section 1 of chapter 413 of the acts of 1996, and inserting in place thereof the following section:-

Section 2JJ. 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 2E of chapter 90. Amounts credited to said fund

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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 9.** Chapter 32 of the General Laws is hereby further amended by striking out section 100A, as amended by section 4 of chapter 220 of the acts of 1995, and inserting in place thereof the following section:-

Section 100A. (a) Notwithstanding any other provision of this chapter or any other general or special law to the contrary, there shall be paid a killed in the line of duty benefit, to be administered and paid for, subject to appropriation, by the state board of retirement.

(b) The state board of retirement shall adopt regulations to administer said benefit.

(c) The killed in the line of duty benefit shall be a one-time award in the amount of \$100,000, payable to the family of a firefighter, public prosecutor, police officer or corrections officer who while in the performance of his duties and as a result of incident, accident or violence, is killed or sustains injuries which are the direct and proximate cause of his death.

(d) The \$100,000 killed in the line of duty benefit shall be in addition to amounts payable under section 100 and shall be payable to the family of the deceased public safety employee in a manner determined by the state board of retirement. As used in this section, the word "family" shall mean the surviving spouse of such firefighter, public prosecutor, police officer or corrections officer, or, if there is no surviving spouse, the child or children of such firefighter, public prosecutor, police officer or corrections officer, or, if there is no surviving child, the parent of such firefighter, public prosecutor, police officer or corrections officer. The board, at its discretion, may purchase life insurance for the purpose of paying said benefit.

(e) The presumptions created by section 94, 94A and 94B shall not apply to eligibility for the \$100,000 killed in the line of duty benefit.

(f) The \$100,000 killed in the line of duty benefit shall not be taxable by the commonwealth.

(g) This section shall apply in the case of the death of a public prosecutor occurring on or after January 1, 1995.

**SECTION 10.** The General Laws are hereby amended by striking out chapter 40 O, inserted by section 1 of chapter 368 of the acts of 1994, and inserting in place thereof the following chapter:-

### **CHAPTER 40P.**

#### **The Massachusetts Rent Control Prohibition Act.**

Section 1. This chapter shall be known as The Massachusetts Rent Control Prohibition Act.

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Section 2. The purpose of this chapter is to establish a uniform statewide policy that broadly prohibits any regulatory scheme based upon or implementing rent control, except where, following an initial six month period, compliance with such a scheme is voluntary and uncoerced on the part of property owners. Even when voluntary, rent control should be severely restricted in scope. This policy is based on the belief that the public is best served by free market rental rates for residential properties and by unrestricted home ownership. The terms of this chapter shall be liberally construed to effect this purpose.

Section 3. For purposes of this chapter, the words "rent control" shall mean:

(a) any regulation that in any way requires below-market rents for residential properties; and  
(b) any regulation that is part of a regulatory scheme of rent control as defined in clause (a), including the regulation of occupancy, services, evictions, condominium conversion and the removal of properties from such rent control scheme; except that

(c) this definition does not include the regulation of, or agreements affecting, publicly owned housing, publicly subsidized housing, federally assisted housing, or mobile homes.

Section 4. No city or town may enact, maintain or enforce rent control of any kind, except that any city or town that accepts this chapter may adopt rent control regulation that provides:

(a) after six months from the date of the initial adoption of rent control regulation by a particular city or town, compliance on the part of property owners as to the rent control regulation or any subsequently adopted rent control regulation shall be entirely voluntary and uncoerced, and the property of a person or entity declining to have his or its property subjected to such regulation shall be wholly unaffected by any aspect of the rent control regulation or any subsequently adopted rent control regulation;

(b) such regulation may not include the regulation of occupancy, services, evictions, condominium conversion or the removal of properties from such regulation, nor may such regulation apply to any rental unit that is owned by a person or entity owning less than ten rental units or that has a fair market rent exceeding \$400; and

(c) a municipality adopting such regulation shall compensate owners of rent controlled units for each unit in the amount of the difference between the unit's fair market rent and the unit's below market, rent controlled rent, with such compensation coming from the municipality's general funds, so that the cost of any rent control shall be borne by all taxpayers of a municipality and not by the owners of regulated units only.

Section 5. Because rent control is a matter of statewide concern, this chapter shall preempt, supersede or nullify any inconsistent, contrary or conflicting state or local law.

**SECTION 11.** Section 42A of chapter 54 of the General Laws, as amended by section 1 of chapter 389 of the acts of 1996, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The state secretary and the city or town clerks shall cause each question appearing upon ballots prepared by them to be designated as follows: Questions submitted to the people under Article XLVIII of the Amendments to the Constitution of the Commonwealth shall appear first in order upon the ballot numbered consecutively, and the first such question so appearing shall be designated



by the numeral 1; additional questions shall follow numbered so that all questions appearing upon such ballot shall be numbered consecutively; 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 statement describing the effect of a yes or no vote, prepared as required in section 53.

**SECTION 12.** Section 7A of chapter 89 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 34, the word "lines" and inserting in place thereof the following word:- lanes.

**SECTION 13.** Section 2D of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Sero-positive" and inserting in place thereof the following definition:-

"Seropositive", the status of having tested positive for HIV antibodies.

**SECTION 14.** Section 4K of said chapter 111, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "such provider's compliance with state and federal standards."

**SECTION 15.** Section 5J of said chapter 111, as so appearing, is hereby amended by striking out, in line 6, the word "answers" and inserting in place thereof the following word:- answer.

**SECTION 16.** Section 25C of said chapter 111 is hereby amended by striking out, in line 33, as so appearing, the word "of" and inserting in place thereof the following word:- or.

**SECTION 17.** Section 25D of said chapter 111, as so appearing, is hereby amended by striking out, in line 15, the first time it appears, the word "of" and inserting in place thereof the following word:- or.

**SECTION 18.** Section 27B of said chapter 111, as so appearing, is hereby amended by striking out, in line 87, the words "vice chairman" and inserting in place thereof the following word:- vice-chairman.

**SECTION 19.** Section 31C of said chapter 111, as so appearing, is hereby amended by striking out, in line 38, the word "of fence" and inserting in place thereof the following word:- offense.

**SECTION 20.** Section 150A of said chapter 111, as so appearing, is hereby amended by striking out, in line 86, the first time it appears, the word "the".

**SECTION 21.** Section 150A½ of said chapter 111, as so appearing, is hereby amended by striking out, in line 33, the word "a".

**SECTION 22.** Section 170 of said chapter 111, as so appearing, is hereby amended by striking out, in line 1, the word "wilfully" and inserting in place thereof the following word:- willfully.

**SECTION 23.** Section 189A of said chapter 111, as so appearing, is hereby amended by striking out, in line 20, the word "title," and inserting in place thereof the following word:- title;



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**SECTION 24.** Section 192A of said chapter 111, as so appearing, is hereby amended by striking out, in line 1, the word ", approve" and inserting in place thereof the following word:- approve.

**SECTION 25.** Section 197 of said chapter 111, as so appearing, is hereby amended by striking out, in line 5, the word "subsections" and inserting in place thereof the following word:- subsection.

**SECTION 26.** Section 197B of said chapter 111, as so appearing, is hereby amended by striking out, in line 44, the word "a" and inserting in place thereof the following word:- an.

**SECTION 27.** Section 197C of said chapter 111, as so appearing, is hereby amended by striking out, in line 19, the word "a" and inserting in place thereof the following word:- an.

**SECTION 28.** Said section 197C of said chapter 111, as so appearing, is hereby further amended by inserting after the word "blood", in line 21, the following word:- lead.

**SECTION 29.** Section 198 of said chapter 111, as so appearing, is hereby amended by striking out, in line 12, the word "is" and inserting in place thereof the following word:- be.

**SECTION 30.** Section 8 of chapter 111D of the General Laws, as so appearing, is hereby amended by striking out, in line 64, the word "provided." and inserting in place thereof the following word:- provided;.

**SECTION 31.** Section 18 of chapter 111E of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the word "the" and inserting in place thereof the following word:- and.

**SECTION 32.** Section 3 of chapter 111F of the General Laws, as so appearing, is hereby amended by inserting after the word "that", in line 22, the following word:- a.

**SECTION 33.** Section 11 of chapter 111H of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "twelve" and inserting in place thereof the following word:- twelve,.

**SECTION 34.** Said section 11 of said chapter 111H, as so appearing, is hereby further amended by striking out, in line 19, the word "section" and inserting in place thereof the following word:- sections.

**SECTION 35.** Section 5F of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the word "its" and inserting in place thereof the following word:- it.

**SECTION 36.** Section 12R of said chapter 112, as so appearing, is hereby amended by striking out, in line 15, the words "section Within" and inserting in place thereof the following words:- section. Within.

**SECTION 37.** Section 23E of said chapter 112 is hereby amended by striking out, in line 1, as so appearing, the word "prevention" and inserting in place thereof the following word:- preventing.

**SECTION 38.** Said section 23E of said chapter 112, as so appearing, is hereby further amended by striking out, in line 3, the word "Commonwealth" and inserting in place thereof the following word:- commonwealth.

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**SECTION 39.** Section 24B of said chapter 112, as so appearing, is hereby amended by striking out, in line 12, the word "nonresidents" and inserting in place thereof the following word:- non-residents.

**SECTION 40.** Section 43A of said chapter 112, as so appearing, is hereby amended by striking out the definition of "Dental hygienists" and inserting in place thereof the following definition:-

"Dental hygienist", a person registered and licensed by the board, pursuant to the provisions of section 51.

**SECTION 41.** Section 53 of said chapter 112, as so appearing, is hereby amended by striking out, in line 12, the words "or her".

**SECTION 42.** Section 60N of said chapter 112, as so appearing, is hereby amended by inserting after the word "provisions", in line 2, the following words:- of sections.

**SECTION 43.** Section 81J of said chapter 112, as so appearing, is hereby amended by inserting after the word "of", in line 141, the following word:- a.

**SECTION 44.** Section 81P of said chapter 112, as so appearing, is hereby amended by striking out, in line 28, the word "subpoenas" and inserting in place thereof the following word:- subpoena.

**SECTION 45.** Section 87C½ of said chapter 112, as so appearing, is hereby amended by striking out, in line 68, the word "eighty-seven D" and inserting in place thereof the following word:- 87D½.

**SECTION 46.** Section 87D of said chapter 112, as so appearing, is hereby amended by inserting after the word "eighty-seven B½", in line 57, the following word:- shall.

**SECTION 47.** Section 87DD of said chapter 112, as so appearing, is hereby amended by inserting after the word "is", in line 11, the following word:- in.

**SECTION 48.** Section 87EE of said chapter 112, as so appearing, is hereby amended by striking out, in line 12, the word "at".

**SECTION 49.** Section 87QQ of said chapter 112, as so appearing, is hereby amended by striking out, in line 27, the word "such: a" and inserting in place thereof the following word:- such; a.

**SECTION 50.** Section 87GGG of said chapter 112, as so appearing, is hereby amended by inserting after the word "fee", in line 4, the following word:- as.

**SECTION 51.** Section 45 of chapter 114 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the first time it appears, the word "a".

**SECTION 52.** Section 28 of chapter 119 of the General Laws is hereby amended by striking out subsection (b), as amended by section 55 of chapter 5 of the acts of 1995, and inserting in place thereof the following subsection:-

(b) Actions under this section to establish support of a child may be commenced by a parent, whether a minor or not; by the child; by the child's guardian, next of kin, or other person standing in a parental relation to the child; by the authorized agent of the department of social services or any agency licensed under chapter 28A, provided that the child is in their custody; or if the child is or was a recipient of any type of public assistance, by the de-

partment of transitional assistance. In the event that someone other than the department of transitional assistance commences the action, if the parent or child is or was a recipient of any type of public assistance, the court shall notify said department of the pendency of the action and the department shall be permitted to intervene in the action.

**SECTION 53.** Section 2 of chapter 119A of the General Laws is hereby amended by striking out, in line 21, as appearing in the 1994 Official Edition, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

**SECTION 54.** Section 4 of said chapter 119A is hereby amended by striking out, in line 12, as so appearing, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

**SECTION 55.** Section 5 of said chapter 119A is hereby amended by striking out, in line 31, as so appearing, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

**SECTION 56.** Section 34B of chapter 121B of the General Laws, as so appearing, is hereby amended by striking out, in line 61, the first time it appears, the word "of" and inserting in place thereof the following word:- or.

**SECTION 57.** Section 2 of chapter 123A of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "and judicated" and inserting place thereof the following word:- adjudicated.

**SECTION 58.** The fifth paragraph of section 2 of chapter 128C of the General Laws, as amended by section 4 of chapter 268 of the acts of 1995, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following sentence:- With respect to horse racing, the greyhound racing meeting licensee located in Bristol county may simulcast with the permission of the commission every live running horse racing card of the running horse racing meeting licensee located in Suffolk county.

**SECTION 59.** Section 21 of chapter 131 of the General Laws, as amended by section 2 of said chapter 453 of the acts of 1996, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Except as provided in sections 21A, 70, 81 and 82, nothing in this chapter shall be construed to prohibit the training of hunting dogs, so-called, or conducting or engaging in a field trial with such dogs; provided, however, that except during other open seasons promulgated by the director, no firearms may be carried by any person so training or conducting or engaging in such field trials.

**SECTION 60.** Said chapter 131 is hereby further amended by striking out section 21A, inserted by section 2 of chapter 453 of the acts of 1996, and inserting in place thereof the following section:-

Section 21A. It shall be unlawful to pursue or hunt bear or bobcat with the aid of a dog.

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 prohibition on the use of a dog or baiting 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 the provisions of this section, or any rule or regulation made under the authority thereof, shall be punished by a fine of not less than \$300 nor more than \$1,000, 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 and shall be barred forever from obtaining any such licenses and permits.

**SECTION 61.** Said chapter 131 is hereby further amended by striking out section 80A, as amended by section 1 of chapter 453 of the acts of 1996, and inserting in place thereof the following section:-

Section 80A. 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 furbearing 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 trap for beavers. Other than nets and common type mouse or rat traps, traps designed to capture and hold a furbearing mammal by gripping the mammal's body, or body part are prohibited, including steel jaw leghold traps, padded leghold 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 30A. 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 be reasonably abated by the use of traps other than those prohibited by this section, and that the applicant has attempted to abate the problem using traps permitted under this section. If the director determines that the applicant has complied with sections 37 and 80, 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, nonlethal management techniques or 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 30 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.



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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 \$300 nor more than \$1,000, 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 problem animal control permit issued to such person and shall be barred forever from obtaining a trapping license and a problem animal control permit.

**SECTION 62.** Section 19B of chapter 138 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 127, the word "follow" and inserting in place thereof the following word:- follows.

**SECTION 63.** Section 21A of chapter 147 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word ", who" and inserting in place thereof the following word:- who.

**SECTION 64.** Section 8 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "shall".

**SECTION 65.** Section 20C of said chapter 149, as so appearing, is hereby amended by striking out, in line 37, the word "of", the first time it appears, and inserting in place thereof the following word:- or.

**SECTION 66.** Said section 20C of said chapter 149, as so appearing, is hereby further amended by striking out, in line 38, the word "of", the second time it appears, and inserting in place thereof the following word:- or.

**SECTION 67.** Section 29A of said chapter 149, as so appearing, is hereby amended by inserting after the word "bond", in line 8, the following word:- in.

**SECTION 68.** Section 34B of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the word "of" and inserting in place thereof the following word:- or.

**SECTION 69.** Section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 143, the words "and hundred" and inserting in place thereof the following words:- hundred and.

**SECTION 70.** Section 44E of said chapter 149 is hereby amended by striking out, in line 8, as so appearing, the first time it appears, the word "or" and inserting in place thereof the following word:- of.

**SECTION 71.** Section 44F of said chapter 149 is hereby amended by striking out, in line 6, as so appearing, the word "dollars;" and inserting in place thereof the following word:- dollars:.

**SECTION 72.** Section 44J of said chapter 149 is hereby amended by striking out, in line 20, as so appearing, the word "specification" and inserting in place thereof the following word:- specifications.

**SECTION 73.** Section 50A of said chapter 149, as so appearing, is hereby amended by inserting after the word "or", in line 8, the following words:- the term "watchman" as used.

**SECTION 74.** Section 54 of said chapter 149 is hereby amended by striking out, in line 7, as so appearing, the word "or" and inserting in place thereof the following word:- of.

**SECTION 75.** Section 56 of said chapter 149 is hereby amended by striking out, in line 52, as so appearing, the word "that".

**SECTION 76.** Section 60 of said chapter 149 is hereby amended by striking out, in lines 32 and 35, as so appearing, the word "meridiem" and inserting in place thereof, in each instance, the following word:- meridian.

**SECTION 77.** Section 72 of said chapter 149, as so appearing, is hereby amended by striking out, in line 2, the word "the".

**SECTION 78.** Section 76 of said chapter 149, as so appearing, is hereby amended by striking out, in line 6, the word "inclusive" and inserting in place thereof the following word:- , inclusive.

**SECTION 79.** Section 79 of said chapter 149, as so appearing, is hereby amended by striking out, in line 9, the word ", this" and inserting in place thereof the following word:- this.

**SECTION 80.** Section 87 of said chapter 149, as so appearing, is hereby amended by striking out, in line 29, the word "own".

**SECTION 81.** Said section 87 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 52, the words "one of the aforesaid proofs of age is objectionable" and inserting in place thereof the following words:- none of the aforesaid proofs of age are obtainable.

**SECTION 82.** Section 90 of said chapter 149, as so appearing, is hereby amended by striking out, in line 13, the first time it appears, the word "of" and inserting in place thereof the following word:- or.

**SECTION 83.** Section 132 of said chapter 149, as so appearing, is hereby amended by striking out, in line 2, the word "used" and inserting in place thereof the following word:- use.

**SECTION 84.** Section 142F of said chapter 149, as so appearing, is hereby amended by inserting after the word "hundred", in line 2, the first time it appears, the following word:- and.

**SECTION 85.** Section 145 of said chapter 149, as so appearing, is hereby amended by striking out, in line 13, the words "home workers" and inserting in place thereof the following word:- homeworkers.

**SECTION 86.** Section 162 of said chapter 149, as so appearing, is hereby amended by striking out, in line 5, the word "purpose" and inserting in place thereof the following word:- purposes.

**SECTION 87.** Section 184 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 40, the word "section" and inserting in place thereof the following word:- sections.

**SECTION 88.** Said section 184 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 68, the word "the", the first time it appears, and inserting in place thereof the following word:- The.

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**SECTION 89.** Said section 184 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 73, the word "transaction" and inserting in place thereof the following word:- transactions.

**SECTION 90.** Section 185 of said chapter 149 is hereby amended by striking out, in line 102, as so appearing, the second time it appears, the word "person" and inserting in place thereof the following word:- persons.

**SECTION 91.** Section 3 of chapter 150 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the word ", may" and inserting in place thereof the following word:- may.

**SECTION 92.** Section 1 of chapter 150A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 46, the word ", and" and inserting in place thereof the following word:- ; and.

**SECTION 93.** Section 16 of chapter 150C of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word "(a) An" and inserting in place thereof the following word:- An.

**SECTION 94.** Section 3 of chapter 150E of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the second time it appears, the word "of" and inserting in place thereof the following word:- or.

**SECTION 95.** Section 17 of chapter 151 of the General Laws, as amended by section 447 of chapter 151 of the acts of 1996, is hereby further amended by striking out the words "other than place of employment" and inserting in place thereof the following words:- other than places of employment.

**SECTION 96.** Section 8 of chapter 151A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 17, the word "or," and inserting in place thereof the following word:- or.

**SECTION 97.** Said section 8 of said chapter 151A, as so appearing, is hereby further amended by striking out, in line 40, the word "chapter." and inserting in place thereof the following word:- chapter; or.

**SECTION 98.** Section 14A of said chapter 151A is hereby amended by striking out, in line 64, as so appearing, the word "paragraphs" and inserting in place thereof the following word:- paragraph.

**SECTION 99.** Section 29D of said chapter 151A is hereby amended by striking out, in line 164, as so appearing, the word "director" and inserting in place thereof the following word:- commissioner.

**SECTION 100.** Section 41 of said chapter 151A, as so appearing, is hereby amended by striking out, in line 3, the word "act" and inserting in place thereof the following word:- fact.

**SECTION 101.** Section 58 of said chapter 151A, as so appearing, is hereby amended by striking out, in line 21, the word "directory" and inserting in place thereof the following word:- director.

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## Chap. 19

**SECTION 102.** Said section 58 of said chapter 151A, as so appearing, is hereby further amended by striking out, in line 57, the word "section" and inserting in place thereof the following word:- sections.

**SECTION 103.** Section 66 of said chapter 151A, as so appearing, is hereby amended by striking out, in line 39, the word "therefore" and inserting in place thereof the following word:- therefor.

**SECTION 104.** Section 71C of said chapter 151A, as so appearing, is hereby amended by striking out, in line 12, the word "sections" and inserting in place thereof the following word:- section.

**SECTION 105.** Section 4 of chapter 151B of the General Laws, as so appearing, is hereby amended by striking out, in line 392, the word "renting" and inserting in place thereof the following word:- rental.

**SECTION 106.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by striking out, in line 396, the word "rent" and inserting in place thereof the following word:- rental.

**SECTION 107.** Section 3 of chapter 151D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 13, the word "for", the first time it appears, and inserting in place thereof the following word:- or.

**SECTION 108.** Said section 3 of said chapter 151D, as so appearing, is hereby further amended by striking out, in line 110, the second time it appears, the word "of" and inserting in place thereof the following word:- or.

**SECTION 109.** Section 13 of said chapter 151D, as so appearing, is hereby amended by striking out, in line 27, the word "then" and inserting in place thereof the following word:- the.

**SECTION 110.** Chapter 156C of the General Laws is hereby amended by striking out section 66, as appearing in section 18 of chapter 281 of the acts of 1995, and inserting in place thereof the following section:-

Section 66. Any recordable instrument purporting to affect an interest in real property, including without limitation, any deed, lease, notice of lease, mortgage, discharge or release of mortgage, assignment of mortgage, easement and certificate of fact, executed in the name of a limited liability company by any person who is identified on the certificate of organization, as amended, of a domestic limited liability company, or on the application for registration, as amended, of a foreign limited liability company, as a manager or as a person authorized to execute, acknowledge, deliver and record recordable instruments affecting interests in real property, shall be binding on the limited liability company in favor of a seller, purchaser, grantor, grantee, lessor, lessee, mortgagor, mortgagee, and any other person relying in good faith on such instrument, notwithstanding any inconsistent provisions of the operating agreement, side agreements among the members or managers, by-laws or rules, resolutions or votes of the limited liability company.

**SECTION 111.** Section 5 of chapter 168 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 33, the word "government" and inserting in place thereof the following word:- governing.



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## Chap. 19

**SECTION 112.** Section 39 of said chapter 168, as so appearing, is hereby amended by striking out, in line 30, the word "shall".

**SECTION 113.** Section 11A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word ", shall" and inserting in place thereof the following word:- shall.

**SECTION 114.** Section 5C of chapter 175A of the General Laws, as so appearing, is hereby amended by striking out, in line 565, the word "person" and inserting in place thereof the following word:- reports.

**SECTION 115.** The definition of "Health plan" in section 1 of chapter 176M of the General Laws, as amended by section 9 of chapter 467 of the acts of 1996, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- 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 175 which provide a benefit not to exceed \$250 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 152, 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, 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 176K.

**SECTION 116.** Section 13 of chapter 211D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 20, the word "counsel" and inserting in place thereof the following word:- defender.

**SECTION 117.** Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 42, the word "section" and inserting in place thereof the following word:- , section.

**SECTION 118.** Section 108 of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the word "know" and inserting in place thereof the following word:- known.

**SECTION 119.** Section 5A of chapter 252 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "mosquito and greenhead fly control fund" and inserting in place thereof the following words:- Mosquito and Greenhead Fly Control Fund.

**SECTION 120.** Section 23A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the word "prosection" and inserting in place thereof the following word:- prosecution.

**SECTION 121.** Section 6A of chapter 279 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 12, the word "meridiem" and inserting in place thereof, in each instance, the word:- meridian.

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## Chap. 19

**SECTION 122.** Section 71 of said chapter 279, as so appearing, is hereby amended by striking out, in line 12, the word "outweigh" and inserting in place thereof the following word:- outweigh.

**SECTION 123.** Section 34 of chapter 438 of the acts of 1896, as amended by section 33 of 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 8C of chapter 40 of the General Laws.

**SECTION 124.** Section 192 of chapter 151 of the acts of 1996 is hereby repealed.

**SECTION 125.** Section 247 of chapter 151 of the acts of 1996 is hereby repealed.

**SECTION 126.** Chapter 494 of the acts of 1996 is hereby repealed.

**SECTION 127.** Sections 7, 59, 60 and 61 shall take effect as of December 5, 1996. Section 10 shall take effect as of January 1, 1995.

Approved June 6, 1997.

## **Chapter 20. AN ACT RELATIVE TO THE ISSUE OF CERTAIN BONDS AND BOND ANTICIPATION NOTES BY THE CITY OF NORTH ADAMS.**

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

**SECTION 1.** Notwithstanding the provisions of section 17 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of North Adams may issue notes in an aggregate principal amount not to exceed \$9,679,570 to refund an equal amount of bond anticipation notes of the city currently outstanding and payable on July 1, 1997; provided, however, that at the time of the issue of any notes hereunder the mayor and city treasurer certify that the city is taking all reasonable action necessary to obtain federal or state aid for the water treatment facility project financed with the proceeds of such bond anticipation notes and in their opinion the potential receipt of any such federal or state aid by the city would be jeopardized by the issue of bonds to pay such bond anticipation notes. Any bonds issued by the city to refund the currently outstanding bond anticipation notes or any notes issued pursuant to this act may be issued in the full amount of such notes, and shall have their maturities arranged so that the annual combined payments of principal and interest payable in each year shall be as nearly equal as practicable in the opinion of the mayor and city treasurer or in accordance with a schedule providing for a more rapid amortization of principal. Except as otherwise provided in this act, indebtedness incurred by the city for the water treatment facility project shall be subject to the applicable provisions of said chapter 44.

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

Approved June 12, 1997.

**Chapter 21. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DEBORA A. CROTEAU, AN EMPLOYEE OF THE DEPARTMENT OF REVENUE.**

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

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

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department of revenue is hereby authorized and directed to establish a sick leave bank for Debora A. Croteau, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Debora A. Croteau.

*The foregoing was laid before the Governor on the fifth day of June, 1997 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 22. AN ACT AUTHORIZING THE TOWN OF BRIDGEWATER TO ESTABLISH AND MAINTAIN A CAPITAL PROJECT FUND.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Bridgewater is hereby authorized to establish and maintain a fund to be known as a Capital Projects Fund, which shall be kept separate and apart from all other accounts of the town. The town treasurer shall be the custodian of the Capital Projects Fund and may deposit the proceeds or invest the same in accordance with the provisions of section 54 or 55 of chapter 44 of the General Laws. Any interest earned thereon shall be credited to and become a part of said fund.

**SECTION 2.** The town of Bridgewater may appropriate money in any year into the Capital Projects Fund from any available source, including funds received from the commonwealth for mitigation of prison expansion in the town, by a majority vote at any special or annual town meeting. The aggregate amount of the Capital Projects Fund at any time shall not exceed 10 per cent of the equalized valuation of the town of Bridgewater as defined in section 1 of chapter 44 of the General Laws.

**SECTION 3.** The town of Bridgewater may appropriate monies from the Capital Pro-

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## Chap. 22

jects Fund at any special or annual town meeting for any purpose for which the town would be authorized to borrow money under section 7 or 8 of chapter 44 of the General Laws; provided, however, that the appropriation of accumulated interest shall require a two-thirds vote whereas the appropriation of principal shall require a four-fifths vote; provided, further, that the aggregate appropriations from such fund in any fiscal year shall not exceed 25 per cent of the balance of such fund at the beginning of said fiscal year.

*Emergency Letter: 1/20/97 @ 4:20 P.M.*

Approved June 20, 1997.

### **Chapter 23. AN ACT RELATIVE TO THE MASSACHUSETTS GOVERNMENT LAND BANK AND THE DEVENS COMMERCE CENTER.**

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

**SECTION 1.** Section 8A of chapter 212 of the acts of 1975 is hereby amended by striking out the first paragraph, as most recently amended by section 26 of chapter 19 of the acts of 1993, and inserting in place thereof the following paragraph:-

To provide for the acquisition, holding, protection, maintenance or use of lands as provided by this act, to provide for making loans, loan guarantees and grants provided by this act, to provide for personnel and administrative costs of the bank, to provide for costs related to the Devens project, so-called, created by chapter 498 of the acts of 1993 and to refinance notes issued as provided in this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount not to exceed, in the aggregate, the sum of \$170,000,000; provided, however, that \$120,000,000 thereof shall be expended exclusively for costs related to said Devens project; and provided further, that not more than \$15,000,000 may be expended for renovations to existing facilities within the Devens reserve force training area and at Westover Air Force Base for the use of marine and naval reserve units formerly assigned to South Weymouth naval air station.

**SECTION 2.** The first sentence of the first paragraph of section 8B of said chapter 212, as amended by section 6 of chapter 493 of the acts of 1993, is hereby further amended by adding the following words:- ; provided, however, that notwithstanding the foregoing, such agreement shall also provide that the commonwealth shall provide contract assistance necessary to defray debt service costs associated with up to \$80,000,000 in principal amount of debt obligations of the bank issued pursuant to section 8F for the purposes of the Devens project, so-called, created by chapter 498 of the acts of 1993.

*Emergency Letter: 8/4/97 @ 4:58 P.M.*

Approved June 20, 1997.

### **Chapter 24 AN ACT VALIDATING A CERTAIN AGREEMENT RELATIVE TO THE CONNECTION OF CERTAIN PROPERTIES TO THE SEWER SYSTEM IN THE TOWN OF HOPEDALE.**

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



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## Chap. 24

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the agreement dated December 12, 1988 involving the Rosatis family of the town of Hopedale and the board of water and sewer commissioners of said town of Hopedale allowing for the connection of 17 properties in the New Homes at Eight Rod road in a subdivision in the town of Mendon to the sewer system of said town of Hopedale is hereby validated, ratified and confirmed. Said town of Hopedale is hereby authorized to assess and collect fees from and place liens on such properties in relation to such connections.

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

Approved June 20, 1997.

### **Chapter 25. AN ACT AUTHORIZING THE CITY OF REVERE TO PAY A CERTAIN SUM OF MONEY TO NANCY CIARLONE.**

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

For the purpose of promoting the public good, the city of Revere is hereby authorized to appropriate from available funds and pay an amount not to exceed \$5,000 to Nancy Ciarlone, widow of former school committee member Louis H. Ciarlone, who died while serving as a member of said school committee, which amount represents the salary to which he would have been entitled had he lived and served until the end of his term of office.

Approved June 20, 1997.

### **Chapter 26. AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PARK LAND IN THE TOWN OF WESTMINSTER.**

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

**SECTION 1.** The city of Fitchburg is hereby authorized to convey a certain parcel of watershed land, owned by said city of Fitchburg and located in the town of Westminster, to said town for park purposes. Said parcel is known as the city's "Smith Reservoir" property, as more particularly described by three deeds to the city of Fitchburg, namely; deed of William H. Parks, dated April 23, 1892 and recorded in the northern district registry of deeds for Worcester county in Book 54, Page 430; deed of Martha D. Woodetals, dated December 21, 1903 and recorded in the northern district registry of deeds for Worcester county in Book 178, Page 520; and deed of Lee R. Parker, Administrator, dated October 3, 1921 and recorded in the northern district registry of deeds for Worcester county in Book 376, Page 473; excluding therefrom land previously taken by the commonwealth for improvements to state highway route 140.

**SECTION 2.** The town of Westminster is hereby authorized to convey a certain parcel of park land, located in said town and owned by said town to the city of Fitchburg for the construction and operation of a water treatment plant and appurtenant facilities. Said parcel is shown as Parcel #A on Plan of Land in Westminster MA drawn for the City of Fitchburg

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## Chap. 26

- Regional Water Treatment Plant.

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

Approved June 20, 1997.

## Chapter 27. 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 immediately 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 sections 3 and 7 of chapter 11 of the acts of 1997 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2022, as recommended by the governor in a message to the general court dated May 16, 1997, 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 sections 4 and 15 of chapter 11 of the acts of 1997 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 30, 2004, as recommended by the governor in a message to the general court dated May 16, 1997, 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 5 of chapter 11 of the acts of 1997 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2027, as recommended by the governor in a message to the general court dated May 16, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 4.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under sections 6 and 8 of chapter 11 of the acts of 1997 shall be issued and may be renewed one or more times for a term not to exceed one year and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2004, as recommended by the governor in a message to the general court dated May 16, 1997, 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 9 of chapter 11 of the acts of 1997 shall

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## Chap. 27

be issued and may be renewed one or more times for a term not to exceed five years and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2007, as recommended by the governor in a message to the general court dated May 16, 1997, 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 14 of chapter 11 of the acts of 1997 shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June 30, 2012, as recommended by the governor in a message to the general court dated May 16, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved June 24, 1997.

## **Chapter 28. AN ACT RELATIVE TO THE APPOINTMENT OF DONALD B. POWELL TO THE POLICE DEPARTMENT OF THE CITY OF BOSTON.**

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

**SECTION 1.** Notwithstanding the provisions of section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, Donald B. Powell, so long as he passes the required written and physical examinations for entrance to the police service, shall have his name certified for original appointment to the police department of the city of Boston before all others in the eligible list for such appointment.

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

Approved June 24, 1997.

## **Chapter 29. AN ACT DESIGNATING ROUTE 143 IN THE TOWNS OF CHESTERFIELD, WORTHINGTON, WILLIAMSBURG, PERU AND HINSDALE AS THE GENERAL LAFAYETTE TRAIL.**

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

That portion of state highway Route 143 beginning in the town of Williamsburg and extending westerly through the towns of Chesterfield, Worthington, Peru and Hinsdale shall be designated and known as the General LaFayette Trail. The department of highways shall erect and maintain suitable markers bearing said designation.

Approved June 26, 1997.

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**Chapter 30. AN ACT EXEMPTING THE OFFICE OF CHIEF OF THE FIRE DEPARTMENT OF THE TOWN OF STOUGHTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The office of chief of the fire department of the town of Stoughton shall be exempt from the provisions of chapter 31 of the General Laws; provided, however, that said chief may be removed from office by the town manager at any time upon a finding made by said manager after a hearing, that public interest so requires. At the written request of said chief made prior to the commencement of such removal hearing, such hearing shall be made public.

**SECTION 2.** All future appointees to the office of chief of the fire department in the town of Stoughton shall, at the time of appointment, have served for a period of not fewer than seven years in a federal, state, county or local fire agency in the United States and shall, at the time of appointment, have held, for at least two years prior to such appointment, the permanent rank of lieutenant or above. The town manager shall prescribe the duties, authority and compensation of said chief.

**SECTION 3.** The provisions of section 1 shall not impair the civil service status of any person holding the office of chief of the fire department of the town of Stoughton on the effective date of this act.

Approved June 26, 1997.

**Chapter 31. AN ACT ESTABLISHING THE SHERWOOD GREENS ROAD IMPROVEMENT AND MAINTENANCE DISTRICT IN THE TOWN OF BECKET.**

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

**SECTION 1.** There is hereby established a district within the town of Becket, the Sherwood Greens Road Improvement and Maintenance District, hereinafter referred to as the district, bounded and described as follows:

The land situated on the south side of Route 20, a state highway, in the town of Becket and bounded on the north by said Route 20, on the east by Johnson Road, so-called, on the south by the Massachusetts Turnpike, Interstate 90 and on the west by land now or formerly of Arturo Maceri, Mystic Isle Lake, so-called, other land now or formerly of said Maceri and one Palmer (and generally shown of Assessors' Map Nos. 213 and 214, plus lots 20 through 45 on Assessors' Map No. 407) and shown on plans recorded in the Berkshire Middle District Registry of Deeds, as follows:

1. A portion of Sherwood Greens, a subdivision in Becket, Mass., dated Feb. 6, 1970, Sheet 2 of 7 sheets and recorded in Book 417-F, Page 158;

2. A portion of Sherwood Greens, a subdivision in Becket, Mass., dated Feb. 6, 1970, Sheet 3 of 7 sheets and recorded in Book 417-F, Page 158-A;



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## Chap. 31

3. A portion of Sherwood Greens, a subdivision in Becket, Mass., dated Feb. 6, 1970, Sheet 4 of 7 sheets and recorded in Book 417-F, Page 159;

4. A portion of Sherwood Greens, a subdivision in Becket, Mass., dated Feb. 6, 1970, Sheet 5 of 7 sheets and recorded in Book 417-F, Page 159-A, but excluding therefrom Block 43, Lots 1 through 12, inclusive, Block 46, Lots 1 through 19, inclusive, and Block 47, Lots 1 through 13, inclusive; and

5. Plot Recording Minor Changes in Blocks 1, 15, 27, 48 & 52 of Sherwood Greens, a subdivision in Becket, Mass., dated November, 1974 and recorded in Book 417-I, Page 13.

Long Bow Lane West, Long Bow Lane East, Long Bow South, Old Abbey Lane West, Surrey Lane, Squire's Road West, Red Knight Lane, Guinevere's Path, Red Lion Road, Deer Trail North, Deer Trail South, Deer Trail West, Robinwood West, Meadow Lake Drive, Meadow Brook Drive, Greenwood Drive, Mountain Meadow Road North, Mountain Meadow Road South, Fairway Drive, Green Lancer Drive, Silver Leaf Drive, Silver Leaf Way, Lancer's Walk, Silver Shield Drive, Shuttle Cock Drive, and Robins Walk and any other streets or ways as shown on the plans and maps described above.

**SECTION 2.** The district, upon establishment in the manner hereafter set forth, shall have the following powers:

(a) to upgrade, repair and maintain, including snow and ice removal, the streets or ways within the district, or such portions thereof, as the district shall determine in accordance with this act;

(b) to adopt an annual budget and to raise and appropriate money by taxation in an amount necessary to carry out the purposes for which the district is formed;

(c) to sue and be sued in its own name, and to implead and be impleaded; provided, however, that neither the district nor any officer or employee thereof shall be liable in tort except pursuant to the provisions of chapter 258 of the General Laws;

(d) to adopt by-laws for the regulation of its affairs in the conduct of its business, which by-laws shall be consistent with the powers conferred by this act;

(e) to appoint a superintendent of streets who, unless the district by-laws provide otherwise, shall be a resident of the commonwealth and have the same powers and duties with respect to the streets and ways of the district as a superintendent of streets now has with respect to town ways under the provisions of section 68 of chapter 41 of the General Laws and who shall be a public employee for the purposes of said chapter 258;

(f) to make and enter into all contracts and agreements necessary or incidental to the accomplishment of its purposes subject to appropriation by the district;

(g) to employ such experts as may be deemed necessary in its judgment and to fix their compensation;

(h) to receive and accept from any federal agency, the commonwealth, any municipality, or from a charitable foundation, a private corporation or an individual, grants, gifts, loans and advances for, or in aid of the purposes of, the district, including, but not limited to, revenue sharing funds and community development block grant funds;

(i) from time to time, to borrow money in order to carry out the purposes of this act to the extent permitted for districts under the provisions of chapter 44 of the General Laws;

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## Chap. 31

(j) to invest any funds not required for the immediate use of the district in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of a town;

(k) to procure insurance against any loss or liability which may be sustained or incurred in the carrying out of the purposes of this act in such amount and from such insurers as it deems desirable;

(l) to enter upon the streets and ways within the district in order to carry out the purposes of the district;

(m) to purchase and lease equipment, materials and services necessary or appropriate for carrying out the purposes for which the district is created to the same extent subject to the same limitations as shall apply to towns;

(n) to acquire, dispose of and encumber real and personal property for the purposes of the district, including the power to acquire real estate or a limited interest in real estate by eminent domain under the provisions of chapter 79 of the General Laws; provided, however, that the power of the district to so acquire real estate by eminent domain proceedings shall be subject, in each instance, to a prior vote of the town in which the affected parcels lie to see if the voters of the town will approve, by majority vote at a regular or special town meeting, the exercise by the district of its eminent domain power for the purposes set forth and with respect to the real estate in said town to be so acquired;

(o) to reimburse the town of Becket for any monies expended on behalf of the district, as agreed between the town and the district; and

(p) to do all acts necessary or convenient to carry out the powers expressly or by necessary implication conferred upon the district by this act.

**SECTION 3.** The district shall consist of all of the owners from time to time of one or more assessed parcels of land lying within the district and each such owner shall be known as a proprietor. For the purposes of this act, a proprietor shall be deemed to include not only natural persons, but also other entities empowered to own real estate in the commonwealth, including corporations, partnerships and trusts but not including entities which are otherwise exempt from taxation such as federal, state and local governments and the district itself. Also, any mortgage of record in possession of any one or more separately assessed parcels shall be deemed a proprietor under this act. Persons or entities who shall jointly own one or more separately assessed parcels within the district shall collectively constitute a proprietor for all purposes hereunder.

**SECTION 4.** Within 45 days of the effective date of this act, the selectmen of the town of Becket shall call the initial meeting of the proprietors of the district. The board of assessors shall furnish the selectmen with its then current listing of all proprietors within the district, which shall be updated, by a proprietor, according to the records at the registry of deeds. Upon receiving such list, the selectmen shall prepare and mail, by certified mail, a notice to each proprietor, signed by the selectmen, and setting forth a time and place of a meeting to occur within said 45 day period but not less than 14 days from the date of mailing of said notice. The notice shall be in the form of a warrant specifying the matters upon which

action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the district. The selectmen shall, not later than 14 days prior to the date of such meeting, cause a copy of the notice to be posted in one or more public access locations within the town. At the initial meeting of the district, a selectman shall preside and shall call the meeting to order. The selectman shall determine whether or not proprietors constituting a quorum are present or represented by proxy. A quorum for purposes of the initial meeting shall be two-thirds of the proprietors who were mailed notice and are present or represented by proxy; provided, however, that the number of proprietors is not less than 20. Lacking such a quorum, the meeting shall have no power to act, but the selectmen may in the manner above provided call additional meetings for the same purpose within a further 45 day period.

**SECTION 5.** Provided that the number of proprietors, present or represented by proxy, constitute a quorum, the initial meeting of the district shall then proceed to the following order of business:

- (a) election of a moderator and a temporary clerk;
- (b) certification by the moderator that such quorum is in attendance;
- (c) the taking of a vote to determine whether or not the district established by this act shall be organized, which shall require an affirmative vote of two-thirds of proprietors present or represented by proxy. If such vote shall be in the negative, the meeting shall thereupon terminate and adjourn. If such vote shall be in the affirmative, the meeting shall then proceed to consider the order of business set forth in clauses (d) to (g), inclusive;
- (d) the adoption of district by-laws and a form of district seal;
- (e) the election of a clerk, treasurer and a prudential committee. If the district shall so elect, one person may serve as both clerk and treasurer. Neither the clerk nor the treasurer shall be a member of the prudential committee;
- (f) the adoption of an initial budget including compensation for officers of the district for the remainder of the fiscal year and the appropriation of monies to be raised by taxation in support thereof;
- (g) the consideration of such other business as shall be consistent with the power and authority conferred by this act.

The clerk shall prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general of the commonwealth within 30 days following the adjournment of the meeting.

**SECTION 6.** At the initial district meeting and at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section. Each proprietor shall be entitled to cast one vote on any matter or issue to be voted upon at any such meeting notwithstanding the total number of parcels owned by such person, persons or entities. Entity proprietors and tenants in common shall designate in writing to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf



of the proprietor at such meeting and such person shall be presumed as qualified and authorized to represent the proprietor if such person shall be listed as a record owner of such parcel or parcels or if such person shall, as evidenced by any public record maintained under the laws of this commonwealth be listed as a partner or trustee of a proprietor. A person owning one or more parcels together with his spouse or another person, jointly, shall not be required to furnish a written designation from his spouse or joint owner and either shall be presumed to be qualified to vote.

The authority of a person to cast a proxy vote on behalf of a proprietor shall be determined by the by-laws. All proxies shall be tendered in writing prior to the commencement of any district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the notarized signature of the proprietor granting same and the date of execution. The district may, if it so elects, adopt in its by-laws an approved form of proxy to satisfy the requirements of this section. The duration of a proxy shall be as established by district by-law.

All actions permitted to be taken at annual or special meetings of the district shall require a majority vote of those proprietors present or by proxy at said meeting and entitled to vote thereat, in person or by proxy, who shall constitute a quorum in accordance with this act or the by-laws of the district. Notwithstanding the foregoing, the following actions shall require a two-thirds vote of proprietors present or represented by proxy and constituting a quorum: (a) a vote to organize the district; (b) a vote to petition for dissolution of the district; (c) a vote to purchase or otherwise acquire real property; (d) a vote to finance any undertaking which is to be financed in whole or in part by the issuance by the district of long term notes or bonds; and (e) to vote to adopt or change the budget.

**SECTION 7.** The number of proprietors necessary to constitute a quorum for annual meetings and special meetings of the district shall be ten proprietors present or represented by proxy.

**SECTION 8.** Annual meetings of the district shall be held on the first Saturday in June or at such other time as the district shall establish from time to time in its by-laws and shall be held at a public place. Annual and other special meetings of the district shall be called by a warrant of the prudential committee, notice of which shall be given at least 14 days before such meeting. The warrant shall be mailed first class, postage prepaid to each proprietor of record in the district and a copy of the same shall be directed to a constable of the town or to some other person who shall cause a copy of said notice to be posted in one or more public places within the town or advertised in a newspaper published at least weekly within Berkshire county and having a general circulation in the town. The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon thereat. The prudential committee shall insert in the warrant for the annual meeting all subjects, the insertion of which shall be requested of them in writing by ten or more proprietors of the district and in the warrant for every special district meeting all subjects, the insertion of which shall be requested of them in writing by 12 or more proprietors. The



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prudential committee shall call a special district meeting at its own request or upon the request in writing of at least 12 proprietors. Special meetings shall be held not later than 30 days after the receipt of such request. No action shall be valid unless the subject matter thereof is contained in the warrant for such meeting. Two or more district meetings for distinct purposes may be called by the same warrant. At every district meeting a moderator shall be chosen by ballot, and shall have the powers of the moderator of a town meeting.

District meetings shall be governed by chapter 39 of the General Laws except as otherwise provided in this act.

Each January, the town assessor shall forward a list, with addresses, of the then current proprietors in the district. The assessor's list shall be updated by the clerk of the district according to the records at the registry of deeds. The proprietors entitled to vote at annual and special meetings shall be those proprietors on the assessor's list and constituting a record owner of property in the district as shown at the registry of deeds as of 60 days prior to such meeting. The prudential committee or district clerk shall make the list available at all reasonable times, including the annual meeting and all special meetings of the district, to proprietors and the general public. The board of assessors shall likewise maintain a list of proprietors by separate list or special designation on their list.

At each annual meeting, the district shall elect in the manner provided for in its by-laws the members of its prudential committee as herein set forth and a clerk and treasurer of the district. Upon their election, the prudential committee, clerk and treasurer shall serve in accordance with the by-laws and until their successors shall be elected and qualified.

At each annual meeting, the district shall approve a budget for the next fiscal year, which shall be deemed to constitute an appropriation for the expenses enumerated therein, the clerk shall certify to the assessors of the town all the votes of the district relative thereto and all sums of money voted to be raised and provide the town assessor with the budget and minutes of the meeting.

The district shall include in its initial and in all subsequent annual appropriations, compensation for the town assessors and tax collector and, as necessary the town treasurer, pursuant to the provisions of section 108B of chapter 41 of the General Laws, with respect to their duties and expenses hereunder.

**SECTION 9.** The prudential committee shall consist of not less than five nor more than seven persons, to be elected by the proprietors and shall serve from the date of the initial meeting until their successors are elected and qualified. Each member of the prudential committee shall serve for a different term so that their terms are staggered three year terms.

Immediately upon its election at the initial meeting of the district, and thereafter immediately following each annual meeting of the district, the prudential committee shall meet and shall take the following actions:

(a) the election of a chairman and vice-chairman, who shall preside at all meetings of the prudential committee in the absence of the chairman or in the event of his inability to act or because of a conflict of interest;

(b) the adoption of rules for the general conduct of its business;

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(c) the appointment of a superintendent of streets who shall serve at the discretion of the prudential committee;

(d) to conduct such other business as shall be authorized by this act or by the by-laws of the district adopted pursuant hereto.

The prudential committee shall otherwise meet as necessary, but in no event less frequently than every six months. A quorum of the prudential committee shall be required at all meetings for the conduct of any business thereat and shall consist of a majority of the members elected.

All actions permitted to be taken by the prudential committee shall require a majority vote of its members present at said meeting who shall constitute a quorum in accordance with this act or the by-laws of the district.

Meetings of the prudential committee shall be governed by chapter 39 of the General Laws except as otherwise provided in this act.

**SECTION 10.** The prudential committee shall have and shall exercise the following powers and duties:

(a) to expend money raised and borrowed by the district, for the purposes permitted to the district;

(b) to prepare, annually, a budget for the management and operation of the district and for submission to the annual district meeting for approval;

(c) to apply, in the name of the district, for grants, loans and other assistance from both governmental and nongovernmental entities;

(d) subject to prior appropriation therefor, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act;

(e) subject to prior appropriation therefor, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent; and

(f) to take such other actions as they deem reasonably necessary or appropriate to effectuate the intent of this act.

Without limiting its powers as set forth above, the prudential committee shall have charge of expenditures on account of the district, duly budgeted and appropriated, pursuant to the powers granted to the district and shall exercise such other authority conferred upon it by district by-law, except as otherwise expressly provided in this act. Such expenditures shall include, but not be limited to, compensation and benefits for the superintendent, officers of the district and officers of the town of Becket.

The prudential committee shall, in addition to the other duties specified herein supervise and advise the superintendent of streets and the clerk; decide by majority vote on all contracts, expenditures, investments or any other actions necessary for carrying out the purposes of the district. No monies shall be drawn from the district treasury except upon signature of the district treasurer and upon prior authorization by the prudential committee. In addition, the prudential committee shall appoint an auditor who shall have the powers and duties set forth in section 51 of chapter 41 of the General Laws.

**SECTION 11.** The district treasurer shall take charge of all money belonging to the district, and pay over and account for the same according to the order of the district or of its prudential committee. No other person shall pay any district bill; provided, however, that this provision shall not prohibit the treasurer from paying such bill by the use of a bank treasurer's or cashier's check. The treasurer shall annually render a true account of all receipts and disbursements and a report of the district treasurer's official acts to the district. The treasurer shall give bond annually for the performance of the treasurer's duties in a form approved by the commissioner of revenue and in such sum, not less than the amount established by said commissioner, as shall be fixed by the prudential committee and, if the treasurer fails to give such bond within ten days after election or appointment, or if within ten days after the expiration of said bond or any renewal of said bond, the treasurer fails to file a renewal thereof, the prudential committee shall declare the office vacant and the vacancy shall be filled in the manner set forth in this act.

**SECTION 12.** Unless otherwise provided by district by-law, the clerk shall, in addition to the other duties specified herein, take all minutes at district meetings and at meetings of the prudential committee and maintain a record of such minutes in the manner provided for the maintenance of records of minutes of town meetings and of meetings of the boards of selectmen in the commonwealth. The clerk shall further be the official responsible for certifying copies of any and all votes taken at a district meeting or a meeting of the prudential committee.

**SECTION 13.** Vacancies occurring in the office of clerk, treasurer or member of the prudential committee shall be filled by the district for the remainder of the unexpired term at a special meeting called for that purpose. In the case of a vacancy in the office of the clerk or treasurer or disability affecting either of said officers, the prudential committee may appoint a person to fill said vacancy until an election can be held or the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office during the appointee's tenure thereof. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

In the event that no member of the prudential committee shall remain in office due to resignation or otherwise, the treasurer and clerk shall issue a warrant for a special meeting of the district to elect new members of the prudential committee and shall, in the interim, appoint others to act on behalf of the prudential committee until the successors shall be elected at such special meeting. At the special meeting, if there are not proprietors willing to form a prudential committee, the district shall be dissolved in accordance with section 21.

**SECTION 14.** At its initial meeting, and at the annual meeting each and every year thereafter, the district shall adopt, by two-thirds vote, a budget and each separately assessed lot within the district shall be taxed based on the total assessed value of land for such separately assessed lot in order to finance the budget.

Following the adjournment of the initial district meeting and each annual or special district meeting, the clerk of the district shall certify to the assessors of the town of Becket the minutes and budget voted upon at such meeting which shall be used to determine the amount to be paid by each proprietor to finance the annual budget. The assessors of the town



of Becket shall without further vote, assess such amounts upon the land of the proprietors in the district and commit to the collector of taxes of the town wherein the property is situated, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as the collector has and exercises relative to the collection of town taxes. The collector shall remit weekly to the district treasurer all sums collected on account of such assessments. An assessment made hereunder shall be a lien upon the property assessed therefore, in the same manner as a lien for real estate taxes assessed by the town under the provisions of section 37 of chapter 60 of the General Laws and other related provisions of the General Laws, as from time to time amended.

The town treasurer shall perform such duties as necessary regarding tax title in the district. Reference elsewhere in this legislation to treasurer shall mean district treasurer.

**SECTION 15.** The district may agree upon appropriate compensation for its officers and employees, including the prudential committee members.

**SECTION 16.** The fiscal year of the district shall be the same fiscal year established by General Law or otherwise for the town of Becket.

**SECTION 17.** The town of Becket shall not be obligated for any debts of the district nor shall it by virtue of this act, be required to pay for any repairs and maintenance of streets or ways within the district including, but not limited to, snow and ice removal; provided, however, that nothing in this act shall preclude the layout and acceptance of any street or way within the district by the town or by the county as provided by law or the expenditure of monies by towns for private ways open to public use, if the town shall so vote pursuant to section 6N of chapter 40 of the General Laws.

**SECTION 18.** Neither the town of Becket nor any agency or department of the commonwealth shall be obligated for any debts or liability of the district. If a person sustains bodily injury or damage to his property by reason of defect or want of repair in or upon a listed street or way within the district, claims for such injury or damage shall be governed by the applicable provisions of chapter 84 of the General Laws relating to damages for defects in ways.

**SECTION 19.** The district, at a meeting called therefore, may annex adjacent territory and its real property owners, if a majority of the real property owners of said territory petition the district, through its prudential committee, and define the limits thereof, or may, on the petition of any person, to the prudential committee, exclude that person's estate from the district; provided, however, that such exclusion shall not be granted by the district if the estate of the petitioner is so situated as to be able to benefit from any listed street or way which is improved or maintained by the district; provided, further, that no estate shall be subject to any tax assessed on account of the repair and maintenance of roads under this act if, in the judgment of the prudential committee, after a hearing, due notice of which shall be given, such estate is so situated that it can receive no benefit from the repair and maintenance provided in the district. The petition for such exclusion from taxation shall be in writing and filed with the prudential committee of the district not later than the date set for the filing of petitions for the insertion of articles in the warrant of the district meeting and shall state the petitioner's reason for seeking exclusion from taxation. The prudential committee shall cause



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an appropriate article to be inserted in the warrant for said meeting, shall examine the reasons stated, shall conduct such investigation as it deems necessary and shall report its findings, with recommendations to said meeting. Any such petitioner, aggrieved by the action of the district on the petition, may appeal to the superior court sitting in equity within the county in which the district is located within 20 days for a remedy. Upon such appeal, said court shall, if the reason set forth by the petition is found to lie within the intent of this section, grant such exclusion. The grant of exclusion from taxation shall exempt the person and his estate from any tax levied by reason of any appropriation made by the district after the filing of the petition as provided herein.

**SECTION 20.** The district may establish in its annual budget a reserve fund under the provisions of section 5C of chapter 40 of the General Laws. The district is further authorized to establish and maintain a stabilization fund under the provisions of section 5B of said chapter 40 of the General Laws. The district shall further be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.

**SECTION 21.** Once established, the district shall not be dissolved without specific authorization of law and satisfaction of all outstanding obligations. If there shall exist in the district treasury surplus funds remaining after the payment of all outstanding obligations as aforesaid, said funds shall be distributed by the prudential committee to the proprietors based upon the percentage that the most recent assessed valuation of the land and improvements for each proprietor shall bear to the total or aggregate assessed valuation of all the proprietors within the district. No such distribution of surplus shall be made by the prudential committee until it shall have first published in each week for three successive weeks in a newspaper of at least weekly publication within the county of Berkshire a notice of intent to disband the district which shall afford reasonable notice to all creditors and possible claimants against the district of the intended action. Within ten days of an affirmative vote to dissolve, the district clerk shall file with the Becket town clerk, with the secretary of the commonwealth, the commissioner of revenue and the attorney general's office an attested copy of said petition and a certified copy of the district vote. Upon completion of the aforesaid actions and subsequent passage of an act authorizing the same, the Sherwood Greens Road District shall cease to exist.

**SECTION 22.** This act shall take effect upon its passage.

Approved June 26, 1997.

## **Chapter 32. AN ACT AUTHORIZING THE TOWN OF SHIRLEY TO ASSUME PAYMENT FOR THE COSTS OF HEALTH INSURANCE PREMIUMS FOR JAMES C. MICKEL.**

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

Notwithstanding the provisions of sections 9A, 9D, 9D½, 9D¾, and 9E of chapter 32B of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Shirley is hereby authorized, by majority vote, to assume payment

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of up to 90 per cent of the premium costs paid by James C. Mickel to continue his group health insurance until he attains the age of 65 years pursuant to section 9 of said chapter 32B.

Approved June 26, 1997.

## Chapter 33. AN ACT ELIMINATING THE WIRE DEPARTMENT OF THE TOWN OF COHASSET.

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

**SECTION 1.** Chapter 184 of the acts of 1950 is hereby repealed.

**SECTION 2.** This act shall take effect on July 1, 1998.

Approved June 26, 1997.

## Chapter 34. AN ACT PROVIDING FOR A TOWN MANAGER IN THE TOWN OF COHASSET.

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

**SECTION 1.** Upon the effective date of this act, the town of Cohasset shall be governed by the provisions of this act.

**SECTION 2.** Upon the effective date of this act, the registered voters of the town of Cohasset shall, in accordance with any applicable laws, bylaws, votes of the town, or interlocal agreement continue to elect the following:

- (a) selectmen
- (b) town moderator
- (c) town clerk
- (d) school committee
- (e) trustees of the Paul Pratt Memorial Library
- (f) assessors
- (g) board of health
- (h) Cohasset Housing Authority
- (i) planning board
- (j) recreation commission
- (k) sewer commissioners
- (l) water commissioners

The powers, duties and responsibilities of elected and appointed officials shall be as now or hereafter provided by applicable provisions of General Laws, special acts, bylaws and votes of the town, except as otherwise expressly provided herein.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town manager for consultation, conference and

discussion on matters relating to their respective offices. The town manager may require all such officials, except the selectmen, to prepare reports for the town manager necessary for the administration of any of his responsibilities.

**SECTION 3.** (A) The board of selectmen of the town of Cohasset shall consist of five persons elected by the voters of the town. The term of each member of said board of selectmen shall not exceed three years. Said board of selectmen will be required to annually elect a chairperson from among its members. The executive powers of the town shall be vested in the board of selectmen, who shall have all the powers given to boards of selectmen by the General Laws. Said board of selectmen shall serve as the chief goal setting, and policy-making body of the town and as such shall not normally administer the day-to-day affairs of the town. Said board of selectmen shall act through the adoption of policy directives and guidelines which are to be implemented by the town manager and by other officers and employees appointed by or under its authority.

(B) Said board of selectmen shall have the power to enact rules and regulations to implement policies and to issue interpretations of said rules and regulations.

(C) Said board of selectmen shall exercise, through the town manager, general supervision over all matters affecting the interests or welfare of the town.

(D) Said board of selectmen shall appoint the town manager, town counsel, and assistant or special counsels and all members of committees, boards, and commissions except those appointed by the moderator, elected by the voters, or as otherwise appointed by bylaw. They may make appointments to all positions and committees they create for special or general purposes.

(E) Said board of selectmen shall have general administrative oversight of such boards, committees, positions, or commissions appointed by the board of selectmen.

(F) Said board of selectmen shall have the responsibility and authority for licenses and other nonpersonnel related functions as provided by the General Laws and the bylaws of said town of Cohasset.

(G) Said board of selectmen shall be responsible for the preparation of all town meeting warrants.

(H) Said board of selectmen shall review the annual proposed budget submitted by the town manager and make recommendations with respect thereto as they deem advisable. The town manager shall present the budget, incorporating the recommendations of said board of selectmen, to the advisory committee and the town meeting.

(I) Said board of selectmen, by a majority vote of its full membership, shall appoint a town manager who shall be a professionally qualified person especially fitted by education, training, and previous full-time experience to perform the duties of the office. He shall be a citizen of the United States. The town may from time to time, by bylaw, establish such additional qualifications as seem necessary and appropriate. Said board of selectmen shall enter into a formal contract with the town manager and may set a job description for the town manager which shall take precedence over any personnel bylaws.

The town manager may be appointed for successive terms of office, no term of which shall be more than three years. Before entering upon the duties of his office, he shall be sworn in the presence of a majority of said board of selectmen, to the faithful and impartial performance thereof by the town clerk or a notary public.

He shall execute a bond in favor of the town of Cohasset for the faithful performance of his duties in such sums and with such sureties as may be fixed and approved by said board of selectmen, the cost for which will be borne by the town.

No person holding elective or appointive office in the town shall within one year of holding such office be eligible to be appointed to the position of town manager.

(J) Said board of selectmen, by a majority vote may remove the town manager. At least 30 days before such removal shall be effective, the board of selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be delivered to the town manager.

Said town manager may reply in writing to the resolution and may request a public hearing. If said town manager so requests, the board of selectmen shall hold a public hearing not earlier than 14 days nor later than 30 days after the filing of such request. Following such public hearing or, if none, at the expiration of 30 days following the filing of the preliminary resolution, said board of selectmen may adopt a final resolution of removal. As part of the preliminary resolution, said board of selectmen may suspend said town manager from duty. Nothing contained herein shall limit the authority of said board of selectmen to suspend or remove said town manager as provided by state law. Any suspension may be with or without pay.

(K) Said board of selectmen shall set the compensation for said town manager, not to exceed an amount appropriated by the town meeting.

(L) Said board of selectmen shall designate a qualified person to serve as acting town manager and to perform the duties of the office during any period of vacancy exceeding 30 days, caused by the manager's absence, illness, suspension, removal or resignation.

**SECTION 4.** (A) The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the effective management of all town affairs placed in the manager's charge by this act, said board of selectmen, by bylaw, or vote of town meeting, and for the implementation of town policies placed in the manager's charge by said board of selectmen.

Said town manager shall devote his full working time to the duties of the office, and shall not engage in any business activity during his term, except with the written consent of said board of selectmen.

(B) Said town manager shall be the chief financial officer of the town, and shall be responsible for the design and preparation of the annual budget, filing grant applications, and controlling budget expenditures, including approval of the warrants for the payment of town funds prepared by the town accountant in accordance with the provision of section 56 of chapter 41 of the General Laws. Without limiting the generality of the foregoing the town manager shall have the following specific budgetary powers:



(i) Said town manager shall submit to said board of selectmen a written proposed budget for town government for the ensuing fiscal year, including the budget as proposed by the school committee. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current, and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by agency, department, committee, purpose, and position, together with estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by bylaw, establish additional financial information and reports to be provided by said town manager.

(ii) Said town manager shall report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.

(iii) The calendar dates on or before which the proposed budget, revenue statement, and tax rate are to be submitted to said board of selectmen, shall be 30 days prior to the date the budget is required to be submitted to the advisory board as specified by bylaw, action of the advisory board, or powers of the board of assessors.

(iv) To assist said town manager in preparing the proposed annual budget of revenue and expenditures, all boards, officers, and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town manager, in writing in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(v) Said town manager shall submit annually to said board of selectmen a five year capital improvements program.

(C) In addition to specific powers and duties provided by this act, said town manager shall have the powers and duties set forth in this section:

(i) Said town manager shall supervise all town departments under the jurisdiction of said board of selectmen and direct the operation of the town.

(ii) Said town manager shall be responsible for coordination of operational and strategic planning for the town.

(iii) Said town manager shall appoint the police chief, fire chief, town treasurer/collector, town accountant, department of public works superintendent, health agent, chief librarian, superintendent of wires, building inspector/zoning officer, plumbing and gas inspector, constable, harbor master, and the tree, park and cemetery superintendent; and any other positions normally appointed by said board of selectmen and 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. Said town manager may appoint such ad hoc committees as he deems necessary.

Employees not protected by civil service law or union contract shall have the right to appeal the town manager's decision to discharge. Said appeal shall be initiated by filing a written notice of appeal with the town manager within ten calendar days after receiving notice of such discharge. Said appeal shall be conducted pursuant to the personnel bylaw and

procedures of the personnel committee.

Appointments made by said town manager of department heads shall become effective on the fifteenth day following the day notice of the appointment is filed with said board of selectmen or other appointing authority unless said board of selectmen or other appointing authority shall within that period, by a majority of its members present and voting, vote to reject the said appointment or removal. Within said 15 day period, said board of selectmen or the appointing authority may, by a majority of its members present and voting, vote to waive its power to reject the appointment, whereupon the appointment shall become effective immediately.

Appointments by said town manager for all positions except department heads shall become effective immediately.

(iv) Said town manager, subject to any applicable provisions of the General Laws relating thereto, may assume, temporarily, the duties of any office which said town manager is authorized to fill by appointment.

(v) Said town manager shall:

(a) Attend all meetings of said board of selectmen, except when excused, having the right to speak but not vote; and attend all annual and special town meetings and shall be permitted to speak when recognized by the moderator.

(b) Administer, either directly or through a person or persons appointed by him in accordance with this act, all provisions of General Laws and special acts applicable to the town, all town bylaws, and all regulations established by said board of selectmen.

(c) Be responsible for seeing that the budget is administered as adopted by the town meeting and in accordance with the General Laws, this act and bylaws.

(d) Keep said board of selectmen fully informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end shall submit periodic reports to said board of selectmen.

(e) Keep said board of selectmen informed regarding the availability of federal and state funds and how such funds might relate to unmet long-range needs.

(f) Prepare applications for all town grants.

(g) Be responsible for the day-to-day administration of the town's personnel system, personnel evaluation policies, and practices, enforcement of labor contracts, labor relations, collective bargaining and state and federal equal opportunities law compliance functions of the town.

(h) Negotiate collective bargaining contracts unless said board of selectmen designates another negotiator.

(i) Be responsible for the purchasing for all town functions and departments, pursuant to chapter 30B of the General Laws, and all other applicable statutes, procedures, and bylaws. Said town manager, shall at the request of the school committee, delegate such duties for school department purchasing to an employee of the school committee as per the requirements of said chapter 30B.

(j) Coordinate the activities of any board, commission, and committee, concerned with long-range municipal planning, including physical or economic development, and environmental or resource protection of the town.

(k) Manage and be responsible for all town buildings, property, and facilities, except those under the jurisdiction of the school committee, sewer commission, or water commission, unless requested by those agencies. He shall, to these ends, develop, keep and annually update a full and complete inventory of all property of the town, both real and personal.

(l) Distribute, or cause to be distributed, copies of the warrant for the annual town meeting to the residences of all registered voters of the town.

(m) Have the authority to sign payroll and accounts payable warrants concerning the everyday operation of the town.

(n) Upon request and with the approval of said board of selectmen, prosecute, defend, or compromise all litigation to which the town is party.

(o) Advise said board of selectmen of all matters requiring action by them or by the town.

(p) Keep full and complete records of his office and annually submit to said board of selectmen, unless requested to do so more frequently, a full written report of the operations of the office.

(q) Perform such other duties as may be required by this act, bylaw, or vote of said board of selectmen.

During his temporary absence, said town manager shall designate by letter filed with said board of selectmen, a qualified administrative employee or officer to exercise the powers to perform the duties of said town manager.

The town may by bylaw, from time to time, establish such additional duties as necessary or appropriate, consistent with this act.

**SECTION 5.** The town manager shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of said town manager. Said town manager may, without notice, cause the affairs of any division or department under the manager's supervision or the conduct of any officer or employee thereof to be examined.

**SECTION 6.** The organization of the town into operating agencies may be accomplished through either of the methods provided in this section.

(i) Subject only to express prohibitions in the Constitution of the Commonwealth and general and special laws and provisions of this act, the board of selectmen or the town manager may petition the town meeting, and, the town meeting may, by bylaw, reorganize, consolidate, or abolish any town agency, in whole or in part; establish such new town agencies as it deems necessary or advisable and may prescribe the functions of any such town agency; provided, however, that no function assigned by this act to a particular town agency may be discontinued or, unless the act specifically so provides, assigned to any other.

(ii) Nothing contained herein shall limit the authority of the town to petition the general court for special legislation to organize operating agencies within the town.

**SECTION 7.** All laws, bylaws, votes, rules and regulations whether enacted by authority of the town or any other authority, which are in force in the town of Cohasset on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act, shall continue in full force and effect until otherwise provided by other law, bylaws, votes, rules and regulations, respectively.

**SECTION 8.** No contract existing and no action at law or suit in equity, or other proceeding pending on the effective date of this act, or the time of revocation of such acceptance, shall be affected by such acceptance or revocation of this act.

**SECTION 9.** 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 who continues in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. The position of town administrator to the board of selectmen shall be terminated upon approval of the town manager proposal by town meeting and subsequent approval by the general court.

**SECTION 10.** This act shall take effect on July 1, 1997.

Approved June 30, 1997.

## **Chapter 35. AN ACT AUTHORIZING CERTAIN EXPENDITURES BY THE TOWN OF WEBSTER.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or charter provision to the contrary, the town of Webster is authorized to expend funds in the absence of an appropriation for a period commencing on July 1, 1997 and ending on September 30, 1997. Expenditures made under authority of this act shall be authorized by the board of selectmen of said town with the approval of the director of accounts in the department of revenue.

**SECTION 2.** Pursuant to section 1, during each calendar month, the town may expend no more than one-twelfth of its budget for the preceding fiscal year.

**SECTION 3.** The spending authority under this act shall expire at such time as the annual budget for fiscal year 1998, as adopted and approved by the town meeting, shall become effective.

**SECTION 4.** To the extent that the director of accounts authorizes spending pursuant to the provisions of section 31 of chapter 44 of the General Laws in the town of Webster during the period from July 1, 1997 to the effective date of this act, such authorizations are hereby ratified, approved and confirmed.

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

Approved June 30, 1997.



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**Chapter 36. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1998 PRIOR TO FINAL ACTION ON THE GENERAL APPROPRIATION BILL FOR SAID FISCAL YEAR.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the amount of \$575,000,000 is hereby appropriated for the fiscal year ending June 30, 1998, to meet necessary expenditures prior to the enactment into law of the general appropriation act for said fiscal year, for the maintenance and operations of the several departments, boards, commissions, and institutions, including federal grant and intragovernmental service fund expenditures, for other necessary services, and for meeting certain requirements of law; provided, however, that the authorization contained herein shall cease to be operative as of the effective date of the general appropriation act for said fiscal year and all actions taken under this section shall apply against said appropriation act; provided, further, that all expenditures made under this authorization shall be consistent with appropriations made in said appropriation act.

**SECTION 2.** Item 4800-0020 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out the figure "47,571,907" and inserting in place thereof the following figure:- 49,416,253.

**SECTION 3.** Item 4800-1100 of said section 2 of said chapter 151 is hereby amended by striking out the figure "80,479,763" and inserting in place thereof the following figure:- 82,124,763.

**SECTION 4.** Section 1 shall take effect as of July 1, 1997.

**SECTION 5.** Sections 2 and 3 shall take effect as of June 30, 1997.

Approved June 30, 1997.

**Chapter 37. AN ACT EXTENDING CERTAIN BOND AUTHORIZATIONS OF THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to provide for the extension of certain bond funded projects and activities, 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 in progress, the authorizations for which would otherwise expire on June 30, 1997, the items set forth in section 2C are hereby authorized to continue, subject to the conditions specified in the original authorizations and any amendments thereto, and subject to the provisions of law regulating the disbursement of public funds.

**SECTION 2C.** For the purpose of making available for expenditure certain balances of authorizations which would otherwise revert on June 30, 1997, the authorizations listed in this section are hereby extended through June 30, 1998.

0121-7890	1102-7894	1102-9881	2150-7890
0330-7872	1102-7896	1102-9882	2150-7891
0330-7884	1102-7897	1102-9884	2200-7883
0330-8890	1102-7930	1102-9890	2200-7884
0330-8891	1102-8791	1102-9891	2200-7888
0332-8811	1102-8792	1102-9892	2240-8801
0431-8811	1102-8801	1102-9893	2240-8820
0431-8833	1102-8804	1102-9896	2240-8860
0610-8900	1102-8812	1102-9897	2250-1001
1100-1560	1102-8813	1102-9898	2250-7874
1100-7850	1102-8814	1102-9899	2250-8820
1100-8880	1102-8819	1599-8000	2250-8822
1101-8921	1102-8822	1790-8921	2250-8823
1102-0890	1102-8841	2000-8842	2250-8844
1102-6896	1102-8842	2000-9841	2250-8860
1102-7840	1102-8847	2100-7871	2250-8863
1102-7841	1102-8869	2100-7890	2250-8864
1102-7842	1102-8872	2120-7871	2250-8865
1102-7843	1102-8873	2120-7873	2260-8830
1102-7844	1102-8874	2120-7875	2260-8840
1102-7845	1102-8875	2120-7880	2260-8880
1102-7846	1102-8877	2120-7882	2260-9881
1102-7848	1102-8878	2120-7885	2260-9882
1102-7849	1102-8880	2120-7886	2260-9883
1102-7870	1102-8883	2120-8805	2260-9884
1102-7871	1102-8888	2120-8812	2260-9885
1102-7872	1102-8889	2120-8848	2260-9886
1102-7873	1102-8890	2120-8861	2270-8772
1102-7881	1102-8891	2120-8885	2270-8791
1102-7882	1102-8892	2120-9841	2300-8840
1102-7883	1102-8893	2120-9842	2310-7880
1102-7885	1102-8894	2120-9843	2310-7891
1102-7886	1102-8895	2120-9845	2310-7892
1102-7887	1102-8897	2122-8846	2320-8843
1102-7888	1102-8899	2130-8771	2320-9880
1102-7890	1102-9802	2130-8772	2350-7880
1102-7891	1102-9841	2150-7873	2410-7872
1102-7892	1102-9845	2150-7874	2410-8802
1102-7893	1102-9880	2150-7880	2420-7880

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2420-7881	3722-7870	4311-8813	5911-7890
2420-7882	3722-7871	4311-8830	5911-7894
2420-7884	3722-8841	4313-8841	6005-8880
2420-8936	3722-8842	4314-8812	6033-4091
2440-7846	3722-8843	4314-8872	6033-6021
2440-7848	3722-8844	4315-8841	6033-7021
2440-7849	3722-8846	4315-8891	6033-7061
2440-7875	3722-8861	4315-8892	6033-7081
2440-7881	3722-8862	4349-7881	6033-8021
2440-7882	3722-8863	4349-7882	6033-8051
2440-7890	3722-8864	4349-7883	6059-0000
2440-7892	3722-8865	4349-7884	7070-8811
2440-7893	3722-8866	4400-1111	7100-7871
2440-7894	3722-8870	4510-7880	7100-7880
2440-7895	3722-8871	4510-7890	7100-7881
2440-7896	3722-8872	4516-7890	7100-7882
2440-7898	3722-8873	4532-7872	7100-7891
2440-8795	3722-8874	4533-7890	7100-7892
2440-8798	3722-8875	4536-7880	7100-8881
2440-8802	3722-9030	4536-7890	7109-7871
2440-8819	3724-9001	4537-7890	7109-7881
2440-8840	4000-7880	4537-7891	7109-7890
2440-8843	4000-7890	4540-8881	7109-7893
2440-8848	4000-8840	4540-8882	7109-8846
2440-8873	4010-8831	5011-7880	7109-8848
2440-8891	4043-8870	5011-7890	7110-7891
2440-9812	4180-7880	5011-8801	7111-7880
2440-9843	4180-7881	5011-8811	7111-7891
2440-9844	4180-7882	5011-8812	7112-8842
2440-9846	4180-7883	5011-8841	7114-7871
2440-9848	4180-7884	5011-8842	7114-7892
2444-7872	4180-7890	5095-6870	7114-7893
2444-8842	4180-7891	5095-8870	7114-8801
2449-7350	4190-7881	5095-8872	7115-7880
2449-8754	4190-7883	5095-8874	7115-7890
2449-8755	4190-8811	5095-8875	7115-7892
2490-0009	4238-7881	5095-8876	7115-8841
2490-0010	4238-8841	5095-8877	7116-7890
2490-0012	4238-8871	5377-7871	7118-7893
2511-8885	4311-7880	5377-7872	7220-7893
2681-9029	4311-7881	5377-8841	7220-7894
2685-9050	4311-7890	5377-8842	7220-7896

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7310-7891	7502-7893	7510-7881	7518-7892
7310-7892	7503-7892	7510-7891	8000-8841
7310-7893	7504-7890	7510-7892	8000-9705
7310-7895	7504-7892	7511-8801	8000-9706
7410-7896	7504-8842	7511-8842	8200-8842
7410-7898	7505-7871	7514-7890	8312-7892
7410-8842	7505-7890	7514-7891	8350-7881
7411-7880	7505-7891	7515-7892	8700-7892
7411-7881	7505-8843	7516-7890	8800-7890
7411-7891	7506-7890	7516-7891	9200-8870
7411-7892	7507-7891	7516-8841	9300-3902
7411-7894	7508-7871	7516-8843	9300-3905
7452-7872	7508-7890	7518-7871	9300-3909.
7452-7892	7508-7891	7518-7890	
7502-7890			

**SECTION 3.** Section 2C of chapter 31 of the acts of 1996 is hereby amended by inserting after item 2440-8819 the following item:-2440-8840.

**SECTION 4.** Chapter 427 of the acts of 1996 is hereby amended by striking out section 14 and inserting in place thereof the following section:-

*Section 14.* The public employee retirement administration commission, in consultation with the Massachusetts Municipal Association, the Massachusetts Association of Contributory Retirement Systems, the state board of retirement and the teachers' retirement board, shall study and evaluate the early intervention program established by section 5B of chapter 32 of the General Laws. Said early intervention program shall be effective and shall be implemented on January 1, 1998. On or before October 1, 1997, said commission shall file the results of its study together with any recommendations 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.

**SECTION 4A.** Subsection (b) of section 80 of chapter 11 of the acts of 1997 is hereby amended by striking out, in the first sentence, the figure "\$500,000" and inserting in place thereof the following figure:- \$1,200,000.

**SECTION 5.** Section 9 of chapter 17 of the acts of 1997 is hereby repealed.

**SECTION 6.** This act shall take effect as of June 30, 1997.

Approved July 2, 1997.

## Chapter 38. AN ACT FURTHER EXTENDING THE TIME FOR WHICH CERTAIN LAND IN NORFOLK COUNTY MAY BE USED AS A TEMPORARY MINIMUM SECURITY ALTERNATIVE CORRECTION CENTER.

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is



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## **Chap. 38**

to extend the time for which certain land in Norfolk county may be used as a temporary minimum security alternative correction center, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Section 1 of chapter 109 of the acts of 1987 is hereby amended by striking out the second paragraph, as most recently amended by chapter 51 of the acts of 1995, and inserting in place thereof the following paragraph:-

Said center shall remain in operation only until June 30, 1999; provided, however, that if the operation of said facility or the placement of inmates within said facility is removed from the control of the Norfolk county sheriff, the provisions of this act shall terminate within 90 days after such removal.

Approved July 3, 1997.

## **Chapter 39. 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 six, Precinct B of the city of Chicopee shall be one precinct for the purpose of forming congressional, representative, senatorial or councillor districts, and for the purpose of reporting election results to the office of the state secretary, but shall have two polling places for the purpose of any state, municipal or presidential preference election; provided, however, that one said polling place shall be located to the east of I-291, north of the Massachusetts Turnpike and east of Cooley Brook to serve voters residing in Ward six, Precinct B in the Burnett road area and the other polling place shall be located to the west of I-291, south of the Massachusetts Turnpike and west of Cooley Brook to serve voters residing in Ward six, Precinct B in the Sheridan street area.

**SECTION 2.** The city clerk of the city of Chicopee and the board of registrars of said 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 July 3, 1997.

## **Chapter 40. AN ACT RELATIVE TO ACQUISITION OF BLIGHTED BUILDINGS BY THE CITY OF SPRINGFIELD.**

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

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## Chap. 40

**SECTION 1.** The city of Springfield is hereby authorized to issue bonds or notes for the purpose of acquiring or demolishing condemned properties within the city or both, in order to promote the public health, safety and welfare of the residents of said city. Bonds or notes issued pursuant to the authority hereof shall be within the limits of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms not to exceed 20 years from the date of issue and shall otherwise be subject to the provisions of said chapter 44. No properties shall be acquired hereunder unless and until the mayor shall have made a finding that such properties constitute a threat to the health, safety and welfare of the citizens of said city of Springfield.

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

Approved July 3, 1997.

## **Chapter 41. AN ACT AUTHORIZING THE CITY OF GARDNER TO ENTER CONTRACTS FOR THE SALE OR LEASE AND OPERATION AND MAINTENANCE AND MODIFICATIONS OF WATER AND WASTEWATER TREATMENT FACILITIES.**

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

**SECTION 1.** The city of Gardner is hereby authorized to enter into contracts for the sale or lease, operation and maintenance, financing, design and construction of new facilities or modifications to existing facilities and installation of new equipment and systems necessary to ensure adequate services and to ensure the ability of said city's water and wastewater treatment facilities to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that any such contract shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38 O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44M, inclusive, of chapter 149 of the General Laws; and provided, further, that each such contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws, except for clause (3) of paragraph (b) of section 6, paragraphs (e) and (g) of said section 6, clause (4) of section 13 and section 16 of said chapter 30B.

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. The request for proposals shall also specify the performance tests required prior to acceptance by the city of any equipment, facilities, or facility modifications, and the terms of the performance guarantees for all equipment, facilities, and facility modifications. 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.** Notwithstanding the provisions of any general or special law to the contrary, a contract or contracts awarded pursuant to section 1 may provide for a term not exceeding 20 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 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 water and wastewater treatment facility, 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.

A contract entered into pursuant to this act may provide for such activities as may be deemed necessary to carry out the purposes authorized herein including, but not limited to, equipment purchases, 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 construction, management, maintenance, operation and repair of said city's water and wastewater treatment facilities and related facilities, including pipelines and pump stations.

**SECTION 3.** The chief procurement officer shall solicit proposals through a request for proposals which shall include those items in clauses (1) and (2) of paragraph (b) of section 6 of chapter 30B of the General Laws and the 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 such 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 of Gardner. The request for proposals shall provide for the separate submission of price and shall indicate when and how the offerors shall submit the price.

**SECTION 4.** The chief procurement officer shall designate the individuals responsible for the evaluation of the proposals on the basis of criteria other than price. The designated individuals shall prepare their evaluations based solely on the criteria set forth in the request for proposals. Such criteria shall include all standards by which acceptability will be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose, and shall also include all other performance measures that will be utilized. The evaluations shall specify in writing:

- (1) for such evaluation criterion, a rating of each proposal as highly advantageous, advantageous, not advantageous or unacceptable and the reasons for such rating;
- (2) a composite rating for each proposal and the reasons for such rating; and
- (3) revisions, if any, to each proposed plan for providing the required supplies or services which shall be obtained by negotiation prior to awarding the contract to the offeror of the proposal.



**SECTION 5.** 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 proposals. Said chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with such offeror, said chief procurement officer determines that it is in the city of Gardner's best interests, said chief procurement officer may initiate negotiations with 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 non-negotiable with such offeror. Said 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 and 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 city council said 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. The parties may extend the time for acceptance by mutual agreement.

**SECTION 6.** Any contract awarded pursuant to this act shall be subject to such terms and conditions as the mayor and city council of the city of Gardner shall determine to be in the best interests of said city. Any such contract shall provide that prior to the construction, modification or installation of equipment and systems the city shall cause a qualified water and 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 7 of this act and estimated to cost more than \$100,000, the city shall cause a qualified water and 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.** The provisions of any general or special law or special act or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements, except the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, 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 \$100,000, not specifically included in the initial contract for the lease or sale, operation and maintenance, design and construction of the water and wastewater plant, sewers, water mains 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 water and 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 water and 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.

**SECTION 8.** Notwithstanding the provision 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 design/build contract procured by the city for water and wastewater treatment facility improvements, and such design/build contract shall be eligible for assistance under the Water Pollution Abatement Trust, established by section 2 of chapter 29C of the General Laws and any future revolving loan fund programs established by the commonwealth.

**SECTION 9.** Prior to the execution of a contract or contracts pursuant to this act, the selected offeror shall furnish to said city of Gardner performance bonds, payment bonds and insurance satisfactory to the city.

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

Approved July 3, 1997.

**Chapter 42. AN ACT DESIGNATING THE CHOCOLATE CHIP COOKIE AS  
THE OFFICIAL COOKIE OF THE COMMONWEALTH.**

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

Chapter 2 of the General Laws is hereby amended by adding the following section:-  
Section 42. The chocolate chip cookie shall be the official cookie of the commonwealth.

Approved July 9, 1997.

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**Chapter 43. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 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.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 1997, and to make certain changes in 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 the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth as state appropriations in sections 2, 2B, and 3 for the several purposes and subject to the conditions specified in said sections 2, 2B and 3, 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 30, 1998. The sums set forth as federal appropriations in section 2 for the several purposes and subject to the conditions specified in said section 2 are hereby appropriated from the general federal grants fund, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with the provisions of section 6B of chapter 29 of the General Laws. The amounts of any unexpended balances of the federal grant funds received prior to June 30, 1997 and not included as part of an appropriation item in section 2 are hereby made available for expenditure during fiscal year 1998, in addition to any amount appropriated in section 2.

**SECTION 1A.** In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 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 30, 1998 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 2 and 2B. 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

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to include a full statement comparing such actual and projected receipts in the annual report for such fiscal year pursuant to section 13 of chapter 7A of the General Laws; provided, that 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 1998 Revenue by Source and Budgetary Fund**  
(In Millions)

Source	All Funds	General Fund	Highway Fund	Local Aid Fund	Other Funds
Alcoholic Beverages	60.0	60.0	-	-	-
Commercial Banks	140.0	140.0	-	-	-
Savings Institutions	75.0	75.0	-	-	-
Cigarette Corporations	304.0	89.0	-	-	215.0
Deeds	900.0	540.0	-	360.0	-
Estate/Inheritance	47.0	47.0	-	-	-
Income	175.0	175.0	-	-	-
Insurance	7,162.4	4,190.5	-	2,865.0	106.9
Motor Fuels	275.0	275.0	-	-	-
Utilities	600.0	84.0	507.6	-	8.4
Room Occupancy	135.0	135.0	-	-	-
Sales & Use: Regular	78.0	50.7	-	-	27.3
Sales & Use: Services	1,950.0	1,170.	-	780.0	-
Sales & Use: Meals	165.0	99.0	-	66.0	-
Sales & Use: Motor Vehicles	375.0	225.0	-	150.0	-
Miscellaneous	385.0	231.0	-	154.0	-
Racing	0.4	0.4	-	-	-
Beano	10.0	10.0	-	-	-
Raffles/Bazaars	3.6	3.6	-	-	-
Division of Insurance	1.1	1.1	-	-	-
Total Consensus Taxes	8.5	8.5	-	-	-
Tax Enforcement	12,850.0	7,609.8	507.6	4,375.0	357.6
Personal Income Tax Reductions	19.0	19.0	-	-	-
Total Taxes	-53.7	-32.	-	-21.5	-
Federal Reimbursements	12,815.3	7,596.6	507.6	4,375.0	357.6
Departmental Revenues	3,287.2	2,616.3	3.4	-	667.5
Transfers & Other Receipts	1,243.6	780.8	309.1	1.9	151.8
Total for Budget	906.7	349.8	-	639.8	- 82.9
	18,252.8	11,343.5	820.1	5,016.7	1,094.0

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**SECTION 1B.** The comptroller is hereby authorized and directed to keep a distinct account of actual receipts of nontax revenues by each department, board, commission or institution to furnish the executive office 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 13 of chapter 7A of the General Laws; provided, that such quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

**Nontax Revenue Executive Office Summary**

Source	FY 1998	FY 1998	FY 1998
	Unrestricted Nontax	Restricted Nontax	Total Nontax
Judiciary	58,177,221	500,000	58,677,221
Executive	2,500	-	2,500
Secretary of State	47,394,713	30,000	47,424,713
Treasurer	421,634,657	539,665,201	961,299,858
Attorney General	6,518,039	-	6,518,039
Ethics Commission	43,000	-	43,000
Inspector General	-	100,000	100,000
Campaign and Political Finance	24,762	-	24,762
Comptroller	2,623,087	20,000	2,643,087
Administration and Finance	255,676,079	22,560,087	278,236,166
Environmental Affairs	76,493,089	1,465,506	77,958,595
Health and Human Services	3,157,170,504	228,209,914	3,385,380,418
Transportation and Construction	8,032,243	27,345	8,059,588
Board of Library Commissioners	750	-	750
Labor, Education and Development	250,307,104	1,230,100	251,537,204
Public Safety	332,420,885	23,827,995	356,248,880
Elder Affairs	318,175	3,000,000	3,318,175
Legislature	21,500	-	21,500
Total	4,616,858,308	820,636,148	5,437,494,456



**Chap. 43****Nontax Revenue Executive Office by Department Summary**

Source	FY 1998 Unrestricted Nontax	FY 1998 Restricted Nontax	FY 1998 Total Nontax
<b>Judiciary</b>			
Supreme Judicial Court	980,690	-	980,690
Committee for Public Counsel	95,253	-	95,253
Appeals Court	265,500	-	265,500
Trial Court	<u>56,835,778</u>	<u>500,000</u>	<u>57,335,778</u>
Total Judiciary	58,177,221	500,000	58,677,221
<b>Executive</b>	2,500	-	2,500
<b>Secretary of State</b>	47,394,713	30,000	47,424,713
<b>Treasurer</b>			
Treasurer's Office	189,417,376	-	189,417,376
State Lottery Commission	220,841,991	539,665,201	760,507,192
Massachusetts Cultural Council	<u>11,375,290</u>	-	<u>11,375,290</u>
Total Treasurer	421,634,657	539,665,201	961,299,858
<b>Attorney General</b>			
Victim Witness Assistance	<u>100,000</u>	-	<u>100,000</u>
Total Attorney General	6,518,039	-	6,518,039
<b>Ethics Commission</b>	43,000	-	43,000
<b>Inspector General</b>	-	100,000	100,000
<b>Campaign &amp; Political Finance</b>	24,762	-	24,762
<b>Comptroller</b>	2,623,087	20,000	2,643,087
<b>Administration and Finance</b>			
Office of the Secretary	34,660,000	90,000	34,750,000
Division of Fiscal Affairs	28,299,136	-	28,299,136
Capital Planning and Operations	5,124,037	13,197,944	18,321,981
Group Insurance Commission	110,079,932	-	110,079,932
Administrative Law Appeals Division	50,000	-	50,000
Commission Against Discrimination	800	1,533,344	1,534,144
Department of Revenue	74,585,525	3,697,176	78,282,701

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Source	FY 1998 Unrestricted Nontax	FY 1998 Restricted Nontax	FY 1998 Total Nontax
Appellate Tax Board	1,705,250	-	1,705,250
Human Resources Division	40,000	1,200,000	1,240,000
Division of Operational Services	1,131,199	1,402,578	2,533,777
Division of Information Technology	<u>200</u>	<u>1,439,045</u>	<u>1,439,245</u>
Total Administration and Finance	255,676,079	22,560,087	278,236,166
Environmental Affairs			
Office of the Secretary	318,382	200,000	518,382
Department of Environmental Management	7,757,971	75,000	7,832,971
Department of Environmental Protection	28,675,004	-	28,675,004
Fish/Wildlife Environmental Law Enforcement	15,636,785	717,000	16,353,785
Metropolitan District Commission	18,168,813	473,506	18,642,319
Department of Food & Agriculture	<u>5,936,134</u>	-	<u>5,936,134</u>
Total Environmental Affairs	76,493,089	1,465,506	77,958,595
Health and Human Services			
Office of the Secretary	170,512,411	-	170,512,411
Division of Medical Assistance	2,031,931,366	65,000,000	2,096,931,366
Division of Health Care Financing and Policy	11,233,825	-	11,233,825
Commission for the Blind	2,745,373	-	2,745,373
Rehabilitation Commission	20,000	-	20,000
Commission for the Deaf and Hard of Hearing	1,000	70,000	71,000
Office of Child Care Services	658,522	-	658,522
Chelsea Soldiers' Home	6,802,274	132,000	6,934,274
Holyoke Soldiers' Home	6,045,773	88,000	6,133,773
Department of Youth Services	73,748	-	73,748
Department of Transitional Assistance	352,469,950	32,500,000	384,969,950
Department of Public Health	13,236,341	98,194,914	111,431,255
Department of Social Services	190,950,812	26,000,000	216,950,812
Department of Mental Health	60,752,709	6,225,000	66,977,709
Department of Mental Retardation	<u>309,736,400</u>	-	<u>309,736,400</u>
Total Health and Human Services	3,157,170,504	228,209,914	3,385,380,418

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Source	FY 1998 Unrestricted Nontax	FY 1998 Restricted Nontax	FY 1998 Total Nontax
Transportation and Construction			
Office of the Secretary	489,243	27,345	516,588
Massachusetts Aeronautics Commission	275,000	-	275,000
Department of Public Works	<u>7,268,000</u>	-	<u>7,268,000</u>
Total Transportation and Construction	8,032,243	27,345	8,059,588
Board of Library Commissioners	750	-	750
Labor, Education and Development			
Office of Director of Labor	902,500	-	902,500
Department of Industrial Accidents	22,126,424	-	22,126,424
Conciliation and Arbitration Board	60,000	-	60,000
Department of Workforce Development	31,490	-	31,490
Office of Communities and Development	2,946,011	708,000	3,654,011
Consumer Affairs and Business Regulation	2,000	-	2,000
Division of Banks	10,183,472	-	10,183,472
Division of Insurance	33,948,538	-	33,948,538
Division of Registration	13,066,265	-	13,066,265
Division of Standards	1,138,100	50,000	1,188,100
Department of Public Utilities	9,701,934	-	9,701,934
Energy Facilities Siting Commission	-	225,000	225,000
Alcohol Beverages Control Commission	1,507,788	-	1,507,788
State Racing Commission	2,262,000	-	2,262,000
Community Antenna Television Division	2,086,169	-	2,086,169
Board of Medicine	2,365,137	-	2,365,137
Department of Economic Development	90,000	-	90,000
Division of Energy Resources	453,166	-	453,166
Department of Education	3,487,000	-	3,487,000
State and Community Colleges	48,018,041	247,100	48,265,141
University of Massachusetts	<u>95,931,069</u>	-	<u>95,931,069</u>
Total Labor, Education and Development	250,307,104	1,230,100	251,537,204
Public Safety			
Office of the Secretary	300,641	30,000	330,641
Chief Medical Examiner	848	-	848
Criminal History Systems Board	621,040	300,000	921,040
Board of Building Regulations	200,000	40,000	240,000

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Source	FY 1998 Unrestricted Nontax	FY 1998 Restricted Nontax	FY 1998 Total Nontax
Architectural Access Board	15,000	-	15,000
Department of Police	412,301	14,350,000	14,762,301
Criminal Justice Training Council	1,081,625	-	1,081,625
Department of Public Safety	8,640,713	-	8,640,713
Department of Fire Services	3,534,269	-	3,534,269
Registry of Motor Vehicles	312,727,276	5,800,000	318,527,276
Merit Rating Board	65,000	-	65,000
Military Division	152,541	240,000	392,541
Emergency Management Agency	650,571	-	650,571
Highway Safety Bureau	170,000	-	170,000
Department of Corrections	3,849,060	3,067,995	6,917,055
Total Public Safety	332,420,885	23,827,995	356,248,880
Elder Affairs	318,175	3,000,000	3,318,175
Legislature	21,500	-	21,500
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Total Nontax Revenue	4,616,858,308	820,636,148	5,437,494,456

SECTION 2.

JUDICIARY

Notwithstanding the provisions of section 1 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 \$24,817 shall be expended for a paralegal/computer analyst position, so-called; provided further, that \$67,156 shall be made available for the judicial youth corporation program, so-called; provided further, that the supreme judicial court shall not charge the trial court for any assessments, services, educational training or other costs; and provided further, that priority shall be given to automating all aspects of the commonwealth's judicial system. . . .	\$3,807,906



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0320-0006	For the expenses of the futures lab task force project, so-called; provided, that \$50,000 shall be expended on the Franklin county futures lab project, so-called . . . . .	\$100,000
0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk county; provided, that the salary of the first assistant clerk shall be as set forth in section 145 . . . . .	\$810,260
0321-0001	For operation of the commission on judicial conduct . . . . .	\$273,885
0321-0100	For the services of the board of bar examiners; provided, that a report on the feasibility of raising fees for the bar exam shall be submitted to both the senate and house committees on ways and means and the secretary of administration and finance not later than February 2, 1998; and provided further, that such report shall include, but not be limited to, a cost analysis for the administering of the bar exam, the number of applicants taking the bar exam and the feasibility of raising said fees in fiscal year 1999 . . . . .	\$828,570

*Committee for Public Counsel Services*

0321-1500	For the operation of the committee for public counsel services, as authorized by chapter 211D of the General Laws, including expenses for an audit and oversight unit . . .	\$6,631,512
0321-1502	For compensation to public counsel assigned cases under the provisions of subparagraph (a) of section 6 of chapter 211D of the General Laws and section 13 of said chapter 211D of the General Laws, including compensation to the chief counsel, deputy chief counsels and general counsel . . .	\$7,063,412
0321-1503	For the continuation of a children and family law pilot program in Hampden and Essex counties pursuant to section 171 . . . . .	\$458,439
0321-1504	For the continuation of a youth advocacy program, so-called. . . . .	\$414,843
0321-1510	For the compensation to private counsel assigned to criminal cases under the provisions of subparagraph (b) of section 6 of chapter 211D of the General Laws and section 12 of said chapter 211D; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year 1998 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 committees on ways and means 30 days prior to any such transfer; provided further, that the rate of compensation for private counsel services provided for murder cases shall be	

\$54 per hour for in-court and out-of-court services; and provided further, that the rate of compensation paid for services for superior court criminal cases, so-called, shall be \$39 per hour for in-court and out-of-court services; and provided further, that the rate of compensation paid for services for other criminal cases, so-called, shall be \$30 per hour for in-court and out-of-court services . . . . . \$35,924,000

0321-1512 For the compensation to private counsel assigned to family law and mental health cases under the provisions of subparagraph (b) of section 6 of chapter 211D of the General Laws and section 12 of said chapter 211D; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year 1998 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 committees on ways and means 30 days prior to any such transfer; and provided further, that the rate of compensation for private counsel services provided for herein shall be, for cases under section 12S of chapter 112 of the General Laws, section 39F of chapter 119 of the General Laws and section 9C of chapter 123A of the General Laws, \$30 per hour for in-court and out-of-court services; and provided further, that the rate of compensation paid for other noncriminal cases, so-called, shall be \$39 per hour for in-court and out-of-court services . . . . . \$17,021,000

0321-1520 For the fees and costs, as defined in section 27A of chapter 261 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 27A of said chapter 261; provided, that the amount appropriated herein shall only be expended for services rendered in fiscal year 1998 . . . . . \$4,560,000

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, the transitional SSI Assistance project, so-called, and the battered women’s legal assistance project; provided further, that the first paragraph of section 9 of chapter 221A of the General Laws shall not apply to said

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	programs; and provided further, that said corporation may contract with any organization for the purpose of providing such representation . . . . .	\$3,137,826
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 34E of chapter 221 of the General Laws . . . . .	\$374,191
0321-2100	For the Massachusetts correctional legal services committee . . . . .	\$526,782
0321-2205	For the expenses of the social law library located in Suffolk county; provided, that not less than \$192,000 shall be made available for computerized legal research . . . . .	\$1,550,000
0321-2206	For the social law library to operate the electronic law database project . . . . .	\$300,000

### *Appeals Court*

0322-0100	For the appeals court, including the salaries, traveling allowances, and expenses of the chief justice and the 13 associate justices and the expenses of the conference program, so-called . . . . .	\$5,516,276
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### *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 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 30 days of such transfer. . .	\$7,378,844
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 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 30 days of such transfer. . .	\$16,290,956
0330-0103	For the salaries of the justices of the probate and family court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item	

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	to any other item of appropriation within 30 days of such transfer . . . . .	\$4,184,133
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 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 30 days of such transfer . . . . .	\$389,638
0330-0105	For the salaries of the justices of the Boston municipal court; provided, that the chief justice for administration and management 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 30 days of such transfer . . . . .	\$1,085,148
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 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 30 days of such transfer. . . . .	\$580,463
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 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 30 days of such transfer. . . .	\$3,198,979
0330-0300	For the administration of the office of the chief justice for administration and management, including the salary of said chief justice for administration and management; provided, that the supreme judicial court shall not charge the trial court for any assessments, services, education, training, or costs of any kind . . . . .	\$5,769,130
0330-0301	For the salary and expenses of the executive director and staff of the trial court office of community corrections; provided, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$211,000 shall be expended for the operation of the Suffolk county courts' community service program, so-called, to be supervised by the chief justice for administration and management; provided further, that \$90,000 shall be	



expended for a “drug treatment on demand” drug offender program in the district court of Lawrence; provided further, that \$150,000 shall be expended on an alternative probation program “honor court,” so-called, in the district court of Hampshire at Northampton; provided further, that not more than \$50,000 shall be expended for a study to establish for offenders convicted of repeat drunk driving offenses an intermediate sanction secure residential facility that shall provide rehabilitative treatment and an aftercare monitoring program; provided further, that said executive director shall, subject to the approval of the chief justice for administration and management, hire 200 associate probation officers during fiscal year 1998; provided further, that such associate probation officers shall perform in-court functions only and shall assume the in-court duties of currently employed probation officers who shall be reassigned within the probation service, subject to collective bargaining agreements, to perform intensive, community-based supervision of probationers, including the provisions of intensive supervision and community restraint services as described in item 0330-0302; provided further, that said executive director shall expend no more than \$2,750,000 for the salaries of such associate probation officers in fiscal year 1998; and provided further, that the annualized cost of the salaries of such associate probation officers shall not exceed \$4,400,000 ..... \$4,495,219

0330-0302 For the cost of intensive supervision and community corrections programs; provided, that such programs shall include tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution and community incapacitation or restraint; provided further, that the number of placements in such programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that funds from this item shall be expended to cover the costs of such programs that are undertaken and administered by court probation offices and county sheriffs’ offices; provided further, that the executive director of the trial court office of community corrections shall enter into interagency service agreements and memoranda of understanding with such probation offices and sheriffs’ offices

for the provision of said programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that such agreements and memoranda shall be entered into at the direction of said executive director; provided further, that expenditures from this item shall not be made until a spending and management plan for such programs has been submitted by said executive director to both the house and senate committees on ways and means for approval; provided further, that such plan shall be so submitted no later than September 15, 1997; and provided further, that such plan shall include the projected number of probationers to be served by each such program and a description of the oversight and services provided to such probationers ..... \$3,000,000

0330-0317 For the operation and expenses of the Massachusetts sentencing commission, pursuant to subsection (a) of section one of chapter 432 of the acts of 1993 ..... \$323,130

0330-0400 For the nonemployee 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 nonemployee 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 interpretive services shall be provided by interpreters who have a place of business in the county or within 20 miles of the county wherein the subject court is located and a permanent court interpreter program shall be established within the counties of Hampden, Hampshire, Berkshire and Franklin with the goal of ensuring that interpretive services be provided by interpreters who have a place of business in said counties; 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 further, that not less than \$100,000 shall be provided for a contract with Massachusetts General Hospital for a research program on abused children; provided further, that \$146,688 shall be expended for the purpose of providing a community services for women program in the district court of Southern Essex; and provided further, that not less than \$85,000 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	\$16,934,792
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 ; provided further, that not less than \$35,000 shall be expended for Framingham mediation services; provided further, that the chief justice for administration and management is hereby directed to submit a report on alternative dispute resolution services to the senate and house committees on ways and means not later than February 2, 1998; and provided further, that such report shall include, but not be limited to, cost-benefit analysis of providing such services and the impact of such services on the courts' caseload	\$85,000
0330-0600	For dental and optical health plan trust agreements	\$2,553,308
0330-1000	For trial court jury expenses	\$3,220,757
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	\$1,866,947
0330-2002	For the maintenance, purchase and binding of trial court law library materials	\$2,008,031
0330-2003	Notwithstanding any general or special law to the contrary, the chief justice for administration and management is hereby authorized to establish and collect fees for	

attorneys who use the trial court law libraries; provided, that such fees shall be deposited in this item and shall be structured so as not to exceed, in the aggregate, \$500,000; and provided further, that funds from this item may be expended for any costs associated with the law libraries . . . . . \$500,000

0330-2010 For the costs associated with computerized legal research . . . . . \$253,084

0330-2020 For centralized law book purchases . . . . . \$476,738

0330-2200 For the rental of county court facilities, in accordance with section 4 of chapter 29A 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 shall be at least 90 per cent 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 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 such 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 lease of statewide telecommunications for the trial court; provided, that not less than \$255,000 shall be expended for data lines for the warrant management system . . . . . \$3,066,893

0330-2202 For the payment of private and municipal court leases; provided, that the administrative office of the trial court shall, in conjunction with the division of capital planning and operations, lease no more than 2,500 square feet of



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	additional office space in the town of Edgartown; and provided further, that such space shall be made available to the probate court of the county of Dukes county . . . . .	\$9,840,719
0330-2205	For the costs associated with maintaining and operating court-house facilities owned by the commonwealth; provided, that two additional maintenance personnel positions shall be funded from this item in fiscal year 1998 and that such additional employees shall be assigned to the trial court building in Fall River at the former Durfee High School; and provided further, that four custodians employed by Franklin county in fiscal year 1997 shall be reclassified as state employees for fiscal year 1998 and shall be compensated from this item . . . . .	\$13,677,060
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 \$100,000 shall be expended for the training of court personnel on domestic violence issues; and provided further, that not less than \$100,000 shall be expended for a substance abuse training program . . . . .	\$751,875
0330-2600	For the travel expenses of judicial personnel; provided, that the chief justice for administration and management shall promulgate rules and regulations governing the selection of justices for travel outside of the commonwealth for the purpose of judicial training; and provided further, that said rules and regulations shall give first priority to newly appointed justices for such training . . . . .	\$1,139,937
0330-2700	For trial court printing expenses; provided, that the trial court shall maximize to the extent possible the use of recycled paper and soy-based ink products for any document printing and purchasing . . . . .	\$1,672,955
0330-2800	For the cost of equipment maintenance and repairs . . . . .	\$2,805,628
0330-3000	For equipment purchases and rentals; provided, that such purchases and rentals may be allocated by the chief justice for administration and management; and provided further, that in purchasing such 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 such vendors are more favorable than those otherwise available . . . . .	\$560,000

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- 0330-3200 For the court security program, including personnel and expenses; provided, that \$790,000 shall be expended for additional security guards; provided further, that \$720,625 shall be expended for 25 additional court officers; provided further, that such security guards and court officers may be available for assignment in accordance with juvenile court expansion funded pursuant to item 0337-0003; and provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements ..... \$27,718,857
- 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 ..... \$720,032
- 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 \$90,000 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; and provided further, that two additional Portuguese interpreters, who shall serve in the New Bedford district court, shall be funded from this item in fiscal year 1998 ..... \$374,358
- 0330-4100 For a trial court vacancy pool and reserve; provided, that by March 1, 1998, 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 funded from this item; and provided further, that the annualized cost of positions so filled shall not exceed the amount appropriated herein ..... \$1,500,000
- 0330-4303 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 ..... \$5,470,115

*Superior Court Department*

- 0331-0100 For the administrative office of the superior court department; provided, that not more than \$75,000 shall be expended for

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	judicial education, including the semi-annual conferences, racial and gender bias orientation programs and judicial induction ceremonies; provided further, that \$594,000 shall be expended for the compensation of 12 additional superior court law clerks .....	\$5,728,973
0331-0300	For medical malpractice tribunals established in accordance with the provisions of section 60B of chapter 231 of the General Laws .....	\$77,800
0331-0600	For superior court probation services .....	\$8,576,142
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 10A of chapter 211B of the General Laws; provided further, that 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 .....	\$446,063
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 10A of chapter 211B of the General Laws; provided further, that 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 .....	\$264,850
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 10A of chapter 211B of the General Laws; provided further, that 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 and two additional procedure clerk I positions shall be appointed and funded from this item in fiscal year 1998 . . . . .	\$1,265,808
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 10A of chapter 211B of the General Laws; provided further, that 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 one additional first assistant clerk and one additional procedures clerk I shall be appointed and funded from this item in fiscal year 1998 . . . . .	\$198,314
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 10A of chapter 211B of the General Laws; provided further, that 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 . . . . .	\$1,630,680
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 10A of chapter 211B of the General Laws; provided further, that 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 one additional head procedures clerk and one additional administrative assistant shall be funded from this item in fiscal year 1998 . . . . .	\$314,084
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 10A of chapter 211B of the General Laws; provided further, that 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 and one additional first assistant clerk shall be appointed and funded from this item in fiscal year 1998 . . . . .	\$1,526,891
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 10A of chapter 211B of the General Laws; provided further, that 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 . . . . .	\$358,086
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 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice	

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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 four additional assistant clerks shall be appointed and funded from this item in fiscal year 1998 ..... \$3,807,047

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 10A of chapter 211B of the General Laws; provided further, that 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 ..... \$121,301

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 10A of chapter 211B of the General Laws; provided further, that 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 ..... \$1,293,664

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 10A of chapter 211B of the General Laws; provided further, that 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 . . . . . \$1,276,957
- 0331-3300 For the Suffolk superior civil court; 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 10A of 211B of the General Laws; provided further, that 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 . . . . . \$3,401,053
- 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 10A of chapter 211B of the General Laws; provided further, that 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 \$65,000 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 \$46,000 shall be expended for the purpose of holding the unified session for sexually dangerous persons, pursuant to section 9 of chapter 123A of the General Laws . . . . . \$2,061,459
- 0331-3404 For an education and community outreach pilot program to be administered in the Suffolk superior criminal court . . . . . \$150,000
- 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 10A of chapter 211B of the General Laws;

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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 . . . . . \$1,453,653

*District Court Department*

- 0332-0100 For the administrative office of the district court department, including a civil conciliation program; provided, that not less than \$178,000 shall be expended on 6 additional law clerks . . . . . \$1,598,791
- 0332-1100 For the first district court of Barnstable . . . . . \$1,852,080
- 0332-1200 For the second district court of Barnstable at Orleans . . . . . \$1,002,977
- 0332-1203 For the third district court of Barnstable at Falmouth; provided, that two additional procedures clerk II positions and one additional head administrative assistant shall be funded from this item in fiscal year 1998 . . . . . \$955,433
- 0332-1300 For the district court of northern Berkshire at Adams, North Adams and Williamstown; provided, that two additional positions shall be funded from this item at said court during fiscal year 1998 . . . . . \$672,952
- 0332-1400 For the district court of central Berkshire at Pittsfield; provided, that one additional administrative secretary, one additional procedures clerk I and one additional procedures clerk II shall be funded from this item in fiscal year 1998 . . . \$1,159,206
- 0332-1500 For the district court of southern Berkshire at Great Barrington and Lee . . . . . \$439,434
- 0332-1600 For the first district court of Bristol at Taunton; provided, that two additional assistant clerks, two additional probation officers, three additional procedures clerk II positions, one additional administrative assistant II and three additional procedures clerk I positions shall be appointed and funded from this item in fiscal year 1998 . . . . . \$1,876,777
- 0332-1700 For the second district court of Bristol at Fall River . . . . . \$2,453,170
- 0332-1800 For the third district court of Bristol at New Bedford; provided, that three additional procedures clerk I positions, two additional assistant clerk positions and one additional



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	sessions clerk shall be appointed and funded from this item at said court during fiscal year 1998 .....	\$2,577,547
0332-1900	For the fourth district court of Bristol at Attleboro; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 .....	\$1,087,368
0332-2000	For the district court of Edgartown .....	\$349,392
0332-2100	For the first district court of Essex at Salem; provided, that two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998 .....	\$1,904,729
0332-2300	For the third district court of Essex at Ipswich .....	\$262,545
0332-2400	For the central district court of northern Essex at Haverhill; provided, that two additional probation officers, one additional secretary I and two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998 .....	\$1,867,626
0332-2500	For the district court of eastern Essex at Gloucester .....	\$881,880
0332-2600	For the district court of Lawrence .....	\$2,718,673
0332-2700	For the district court of southern Essex at Lynn .....	\$2,547,981
0332-2800	For the district court of Newburyport .....	\$1,133,762
0332-2900	For the district court of Peabody; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1998 .....	\$1,251,582
0332-3000	For the district court of Greenfield; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 .....	\$1,109,384
0332-3100	For the district court of Orange; provided, that one additional probation officer and one additional procedures clerk I position shall be funded from this item in fiscal year 1998. ....	\$465,489
0332-3200	For the district court of Chicopee .....	\$907,554
0332-3300	For the district court of Holyoke .....	\$1,052,915
0332-3400	For the district court of eastern Hampden at Palmer .....	\$741,025
0332-3500	For the district court of Springfield .....	\$3,989,801
0332-3600	For the district court of western Hampden at Westfield; provided, that one additional security guard shall be funded from this item in fiscal year 1998 .....	\$817,593
0332-3700	For the district court of Hampshire at Northampton .....	\$1,627,739
0332-3800	For the district court of eastern Hampshire at Ware .....	\$552,685

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0332-3900	For the district court of Lowell; provided, that three additional probation officers and two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998. . . .	\$3,553,104
0332-4000	For the district court of Somerville; provided, that one additional special assistant clerk, so-called, one additional assistant clerk, one additional administrative assistant in the clerk's office and three additional procedures clerk I positions in the office of the clerk magistrate shall be appointed and funded from this item in fiscal year 1998; and provided further, that said procedures clerk I's position shall not be subject to the provisions of paragraphs (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws . . . . .	\$2,508,364
0332-4100	For the district court of Newton . . . . .	\$967,365
0332-4200	For the district court of Marlborough . . . . .	\$1,070,482
0332-4300	For the district court of Natick . . . . .	\$858,361
0332-4400	For the first district court of eastern Middlesex at Malden; provided, that one additional assistant clerk magistrate shall be funded from this item in fiscal year 1998 . . . . .	\$2,151,956
0332-4500	For the second district court of eastern Middlesex at Waltham. . .	\$1,532,702
0332-4600	For the third district court of eastern Middlesex at Cambridge. . .	\$3,465,399
0332-4700	For the fourth district court of eastern Middlesex at Woburn provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 . . . .	\$2,133,793
0332-4800	For the first district court of northern Middlesex at Ayer . . . . .	\$1,239,016
0332-4900	For the first district court of southern Middlesex at Framingham . . . . .	\$2,081,100
0332-5000	For the district court of central Middlesex at Concord . . . . .	\$1,273,882
0332-5100	For the district court of Nantucket . . . . .	\$208,376
0332-5200	For the district court of northern Norfolk at Dedham . . . . .	\$2,061,118
0332-5300	For the district court of East Norfolk at Quincy; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998; and provided further, that one probation officer, currently serving in the second district court of southern Worcester but assigned to the district court of East Norfolk, shall be reassigned to the second district court of southern Worcester at Uxbridge . . . .	\$4,499,163
0332-5400	For the district court of western Norfolk at Wrentham; provided, that funds from this item shall include the costs	

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	associated with the transfer of one probation officer to the district court of northern Norfolk .....	\$1,308,800
0332-5500	For the district court of southern Norfolk at Stoughton; provided, that one additional administrative assistant and two additional sessions clerk positions shall be funded from this item in fiscal year 1998; and provided further, that funds from this item shall include the costs associated with the transfer of one probation officer from the Brockton district court in item 0332-5700 to this item in fiscal year 1998 .....	\$1,800,809
0332-5600	For the municipal court of Brookline; provided, that \$75,000 shall be expended in fiscal year 1998 for one additional assistant clerk at said court .....	\$998,694
0332-5700	For the district court of Brockton; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 .....	\$3,001,079
0332-5800	For the second district court of Plymouth at Hingham .....	\$1,630,967
0332-5900	For the third district court of Plymouth at Plymouth .....	\$1,757,495
0332-6000	For the fourth district court of Plymouth at Wareham .....	\$1,498,324
0332-6100	For the district court of Brighton; provided, that one additional probation officer position and one additional procedure clerk I position shall be funded from this item in fiscal year 1998; provided further, that the commissioner of probation shall assign said probation officer to the district court of Brighton; provided further, that one court officer assigned to said court shall be designated by the first justice of said court, with the approval of the chief justice for administration and management, as chief court officer; and provided further, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 ....	\$1,297,314
0332-6200	For the district court of Charlestown; provided, that two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1998 .....	\$927,373
0332-6300	For the district court of Chelsea .....	\$1,965,969
0332-6400	For the municipal court of the Dorchester district; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998 .....	\$4,391,785
0332-6500	For the district court of East Boston; provided, that two additional associate probation officers, so-called, one account clerk I, so-called, two procedure clerks I, and one	

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	procedures clerk II shall be funded from this item in fiscal year 1998 .....	\$1,708,898
0332-6600	For the district court of Roxbury; provided, that \$130,000 shall be expended in fiscal year 1998 for 1 additional assistant clerk and 1 jury sessions clerk, so-called, at said court. ...	\$4,075,540
0332-6700	For the district court of South Boston .....	\$1,042,433
0332-6800	For the district court of West Roxbury .....	\$2,019,582
0332-6900	For the central district court of Worcester; provided, that a head administrative assistant and a head procedures clerk shall be funded from this item in fiscal year 1998 .....	\$3,775,309
0332-7000	For the district court of Fitchburg; provided, that two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998 .....	\$1,229,425
0332-7100	For the district court of Leominster .....	\$744,182
0332-7200	For the district court of Winchendon .....	\$170,980
0332-7300	For the first district court of northern Worcester at Gardner .....	\$924,462
0332-7400	For the first district court of eastern Worcester at Westborough .....	\$981,636
0332-7500	For the second district court of eastern Worcester at Clinton .....	\$654,565
0332-7600	For the first district court of southern Worcester at Dudley; provided that two additional probation officers shall be funded from this item in fiscal year 1998 .....	\$1,141,926
0332-7700	For the second district court of southern Worcester at Uxbridge; provided, that one additional administrative assistant, one additional probation officer and one additional court officer shall be funded from this item in fiscal year 1998; and provided further, that one probation officer position referred to in item 0332-5300 shall be assigned to and funded from this item .....	\$739,473
0332-7800	For the third district court of southern Worcester at Milford; provided, that one additional courtroom procedures clerk, one additional procedures clerk II and one additional court officer shall be funded from this item in fiscal year 1998 .....	\$985,298
0332-7900	For the district court of western Worcester at East Brookfield. ....	\$781,354
0332-8000	For the development of an early intervention project for substance abusers at the Cambridge division of the district court department; provided, that such project shall 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 county 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 . . . . . \$90,000

*Probate and Family Court Department*

- 0333-0002 For the administrative office of the probate and family court department; provided, that not less than \$48,000 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 such case manager shall assist said chief justice with the management of petitions to dispense with parental consent to adoption pursuant to section 3 chapter 210, of the General Laws by coordinating department of social services and probate court actions related to such cases; provided further, that such case manager's duties shall include coordinating conferences and trials and monitoring paperwork and appointments with parties' counsel; provided further, that such 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 such backlog each month; and provided further, that there shall be one law clerk for each of the 14 probate courts . . . . . \$1,169,262
- 0333-0100 For the Barnstable probate court; provided, that one additional assistant register shall be appointed and funded from this item in fiscal year 1998 . . . . . \$1,112,004
- 0333-0150 For the operation of a child and parents program in the Barnstable probate court; provided, that this item shall not be subject to paragraphs (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws . . . . . \$40,000
- 0333-0200 For the Berkshire probate court . . . . . \$634,122
- 0333-0300 For the Bristol probate court; provided, that one additional assistant register, one additional administrative secretary,

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	two head administrative assistants and three procedures clerk I positions shall be appointed and funded from this item in fiscal year 1998 .....	\$2,038,025
0333-0400	For the Dukes probate court; provided, that one additional administrative secretary position shall be appointed and funded from this item in fiscal year 1998 .....	\$208,967
0333-0500	For the Essex probate court; provided, that two additional probation officers shall be funded from this item in fiscal year 1998 .....	\$2,210,819
0333-0600	For the Franklin probate court; provided, that one additional procedures clerk I and one additional probation officer shall be funded from this item in fiscal year 1998 .....	\$594,744
0333-0700	For the Hampden probate court .....	\$2,248,836
0333-0711	For the Hampden probate court family services clinic .....	\$50,000
0333-0800	For the Hampshire probate court .....	\$785,293
0333-0900	For the Middlesex probate court; provided, that two additional head administrative assistants, two additional administrative secretary positions, and three additional procedures clerk I positions shall be funded from this item in fiscal year 1998 .....	\$4,010,033
0333-0911	For the Middlesex probate court family services clinic .....	\$244,041
0333-1000	For the Nantucket probate court .....	\$143,096
0333-1100	For the Norfolk probate court .....	\$2,666,411
0333-1111	For the Norfolk probate court family services clinic .....	\$146,472
0333-1200	For the Plymouth probate court .....	\$1,970,304
0333-1300	For the Suffolk probate court .....	\$3,185,239
0333-1313	For the Suffolk probate community access program of community outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county. ....	\$150,000
0333-1400	For the Worcester probate court .....	\$2,128,901

*Land Court Department*

0334-0001	For the operation of the land court .....	\$2,545,266
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*Boston Municipal Court Department*

0335-0001	For the operation of the Boston municipal court .....	\$7,591,821
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*Housing Court Department*

0336-0002	For the administrative office of the housing court department; provided, that any division of the housing court department, as defined in section 4 of chapter 185C of the General Laws, shall hold its sittings in the facilities of the district court of central Berkshire county in the city of Pittsfield not less than once per month; and provided further, that such sittings shall be held by an associate justice of the trial court appointed to a division of the housing court department .....	\$128,160
0336-0100	For the Boston housing court .....	\$956,591
0336-0200	For the Hampden housing court .....	\$501,069
0336-0300	For the Worcester housing court .....	\$468,754
0336-0400	For the Southeastern housing court; provided, that an additional sessions clerk and one administrative assistant II shall be appointed and funded from this item during fiscal year 1998 .....	\$679,377
0336-0500	For the Northeastern housing court .....	\$423,276

*Juvenile Court Department*

0337-0002	For the administrative office of the juvenile court department. ....	\$574,636
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 \$80,000 shall be expended on the CASA program, so-called, in the Lawrence district court; provided further, that \$50,000 shall be expended for the CASA program in the Worcester juvenile court; provided further, that \$50,000 shall be expended for the CASA program in the Plymouth county juvenile court; provided further, that \$80,000 shall be expended for the Franklin/Hampshire CASA program, including Northampton, Greenfield, Orange and Ware district courts; and provided further, that one additional assistant clerk in the Norfolk juvenile court, one additional assistant clerk in the Franklin/Hampshire juvenile court and one additional assistant clerk in the North Adams juvenile court shall be appointed and funded from this item in fiscal year 1998 ...	\$15,496,329
0337-0100	For the Boston juvenile court .....	\$3,632,350

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0337-0200	For the Bristol juvenile court; provided, that \$165,000 shall be expended for three additional assistant clerks at said juvenile court in fiscal year 1998; and provided further, that six additional procedures clerk II positions and one additional procedures clerk I position shall be funded from this item in fiscal year 1998 .....	\$2,350,741
0337-0300	For the Springfield juvenile court; provided, that \$82,350 shall be expended for the CASA program, so-called, in the Springfield juvenile court .....	\$1,491,040
0337-0400	For the Worcester juvenile court; provided, that 2 assistant clerks shall be funded from this item in fiscal year 1998 ....	\$1,294,380
0337-0500	For the Barnstable county, town of Plymouth juvenile court; provided, that \$62,822 shall 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 the provisions of paragraphs (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws; provided further, that the annualized cost of such expenditures shall not exceed the amount appropriated herein; and provided further, that one additional assistant clerk shall be appointed and funded from this item in fiscal 1998 .....	\$1,642,432

*Office of the Commissioner of Probation*

0339-1001	For the office of the commissioner of probation; provided, that not less than \$103,884 shall be expended from this item to hire three additional probation officers to be assigned in New Bedford district court .....	\$4,764,606
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*Office of the Jury Commissioner*

0339-2100	For the office of the jury commissioner in accordance with chapter 234A of the General Laws .....	\$2,440,783
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**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 \$125,000 shall be expended for a safe neighborhood initiative, so-called, in Suffolk county; provided further, that not less than	
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\$278,713 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 for intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996 ..... \$12,404,827

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 \$341,815 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 for intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996. . . . \$8,994,015

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 \$156,670 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 for intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996. . . . \$5,878,044

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 \$126,000 shall be used for an anti-gang unit, so-called; and provided further, that \$210,000 shall be expended for the costs associated with six-person jury sessions . . . . . \$6,419,875

Local Aid Fund . . . . .	92.0%
Victim and Witness Assistance Fund . . . . .	8.0%

*Hampden District Attorney*

*State Appropriation*

0340-0500 For the Hampden 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 \$268,500 shall be used for a specialized homicide trial unit; provided further, that not less than \$156,421 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 for intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that not less than \$400,000 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 prosecu-

tion 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 said Hampden county, the state police, the sheriff of Hampden county and all appropriate federal law enforcement authorities ..... \$5,548,937

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; and provided, that not less than \$100,000 shall be expended for the salaries and expenses of a children's advocacy project, so-called ..... 3,371,526

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 ..... \$5,743,714

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; and provided further, that not less than \$90,437 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

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serious juvenile offenders and for intervention through coordination and cooperation with 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 pursuant to section 652 of chapter 151 of the acts of 1996 ..... \$5,092,615

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 \$50,000 shall be expended to study the potential impact on the criminal justice system in Bristol county of the proposed Wampanoag entertainment center ..... \$5,140,483

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 \$90,245 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 for intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996 ..... \$2,435,322

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 \$68,386 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the county of Berkshire for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with 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, pursuant to section 652 of chapter 151 of the acts of 1996 . . . . . \$2,274,577

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; provided further, that a report shall be filed with the house and senate committees on ways and means not later than January 1, 1998 detailing the status of the office automation and case management and tracking system; provided further, that said report shall include, but not be limited to, an analysis of the total cost of the district attorneys computer network, the total cost incurred by each district attorney's office a breakdown of fixed costs and variable costs associated with the network for each district attorneys office and a detailed summary of any policies implemented to contain the costs of said network by either the Massachusetts district attorneys association or the individual district attorney's offices . . . . . \$1,720,000

Local Aid Fund . . . . . 100.0%

**EXECUTIVE**

0411-1000 For the offices of the governor, lieutenant governor and the governor's council pursuant to chapter 6 of the General Laws and for the salaries and expenses of the administrative office pursuant to said chapter 6; provided, that the amount appropriated herein may be used at the discretion of the governor for the payment of extraordinary

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expenses not otherwise provided for and for transfer to appropriation accounts where the amounts otherwise available may be insufficient; and provided further that \$25,000 shall be expended for office supplies for the offices of the governor's council . . . . . \$5,055,838

0411-1010 For the governor's commission on mental retardation . . . . . \$201,793

### SECRETARY OF STATE

0511-0000 For the operation of the office of the secretary; provided, that \$125,000 shall be expended for the costs of complying with the provisions of chapter 281 of the acts of 1995; provided further, that \$175,000 shall be expended for the corporation dissolution project, so-called; provided further, that \$50,000 shall be expended for the one stop shopping program, so-called; provided further, that \$27,000 shall be expended for the limited liability partnership/corporation program, so-called; provided further, that said office shall submit a report detailing staffing patterns for each program operated by the office; provided further, that said report shall include, but not be limited to, actual and functional job titles by program, compensation rates and lengths of service for each employee; and provided further, that said office shall submit said report not later than February 1, 1998 to the house and senate committees on ways and means . . . . . \$6,689,511

0511-0001 The state secretary is hereby authorized to expend revenues not to exceed \$30,000, 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 of the state archives division; provided, that \$30,000 shall be expended for a conservation laboratory . . . . . \$548,783

0511-0220 For the costs associated with the archiving of artifacts recovered during the Central Artery/Third Harbor Tunnel Project, so-called . . . . . \$164,100

0511-0230 For the operation of the records center . . . . . \$187,776

0511-0250 For the operation of the archives facility . . . . . \$587,839

0511-0255 For one time building repair costs at the archives facility . . . . . \$100,000

0511-0260 For the operation of the commonwealth museum . . . . . \$206,850

0517-0000 For the printing of public documents . . . . . \$1,214,400

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0521-0000	For the operation of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections; provided, that the state secretary is hereby authorized to award grants for voter registration and education in the cities of Boston, Springfield and Worcester: and provided further, that such activity shall be conducted by a community-based voter registration and education organization. . . .	\$1,999,731
	Local Aid Fund . . . . .	100.0%
0521-0001	For the operation 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 and the senate committee on post audit and oversight on or before January 1, 1998 . . . . .	\$2,938,378
	Local Aid Fund . . . . .	100.0%
0524-0000	For providing information to voters . . . . .	\$130,713
	Local Aid Fund . . . . .	100.0%
0526-0100	For the operation of the Massachusetts historical commission; provided, that not less than \$50,000 shall be expended for historic preservation grants; provided further, that the unexpended balance of said \$50,000 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; provided further, that not less than \$100,000 shall be expended for the historic preservation and utilization of the Beebe Estate in the city of Melrose; provided further, that the Massachusetts historical commission shall expend not less than \$50,000 for the repair, maintenance and lead removal of the Asa Waters mansion site in the town of Millbury; and provided further, that not less than \$15,000 shall be expended for the purposes of protecting and preserving the Clara Barton collection at the Clara Barton historical site in the town of Oxford . . . . .	\$1,100,000
0527-0100	For the operation of the ballot law commission . . . . .	\$17,500
0528-0100	For the operation of the records conservation board . . . . .	\$35,110
0540-1100	For the Franklin county registry of deeds . . . . .	\$452,264

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### *Federal Appropriations*

0526-0105	For the purposes of a federally funded grant entitled, Massachusetts Statewide Historical Survey and Plan .....	\$2,000
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning .....	\$243,000
0526-0115	For the purposes of a federally funded grant entitled, Massachusetts Historical Commission & Federal Preservation Grants .....	\$120,000
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 .....	\$50,000

### *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 advance with the house and senate committees on ways and means, from this item, sufficient funds to ensure full payment of said bank fees .....	\$5,811,854
	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 .....	\$900,000
	General Fund .....	50.0%
	Local Aid Fund .....	40.0%
	Highway Fund .....	10.0%
0610-1500	For tuition payments as required by section 12B of chapter 76 of the General Laws, notwithstanding the provisions of chapter 29 of the General Laws to the contrary; provided, that the state treasurer is hereby authorized to expend in	



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anticipation of revenue such amounts as are necessary to meet such payments; and provided further, that the state treasurer shall deduct the amount expended from this account from items 7061-0008 and 0611-5500 and from the amounts specified in section 3, in accordance with the provisions of said section 12B of said chapter 76.

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 258C of the General Laws, if a claimant is 60 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 \$50; 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 5 of chapter 258A of the General Laws. ...	\$2,200,000
	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 3 and for assistance to certain public entities of the commonwealth which have constructed water pollution abatement facilities; provided, that said distribution to said public entities shall equal \$1,249,948 .....	\$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 13 to 17, inclusive, of chapter 58 of the General Laws .....	\$10,000,000
	Local Aid Fund .....	100.0%
0611-5800	For distribution, pursuant to section 18D of chapter 58 of the General Laws, to each city and town within which racing meetings are conducted .....	\$1,633,059
	Local Aid Fund .....	100.0%

*Pension Benefits*

0612-0105	For payment of the public safety employee killed-in-line-of-duty benefit authorized by section 100A of chapter 32 of the General Laws .....	\$500,000
	Local Aid Fund .....	100.0%
0612-1010	For the Commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws; provided, that the amount appropriated herein shall constitute the first-year payment of a 20 year, level-funded funding schedule for the commonwealth's unfunded pension liability; provided further, that said funding schedule shall be predicated upon an assumed investment rate-of-return of 8¼ per cent; provided further, that said amount shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of said chapter 32, for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984; provided further, that subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and 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 22B of said chapter 32 and the amounts to be appropriated pursuant to clause (a) of the last paragraph of section 21 of chapter 138 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 state retirement board is authorized to expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws; provided further, that except where authorized herein, no funds shall be expended from this item, other than deposits to the Commonwealth's Pension Liability Fund; provided further, that of the amount appropriated herein, \$19,358,124 shall be attributed to the total amount to be expended on the education reform funding schedule specified in section 68 of chapter 71 of the acts of 1993; and provided further, that to the extent that the amount appropriated herein exceeds the amount necessary to adequately fund this item, said excess amount shall be credited to the pension reserve investment trust fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth . . . . . \$1,045,570,000

Local Aid Fund . . . . . 59.0%  
General Fund . . . . . 33.9%  
Highway Fund . . . . . 7.0%  
Inland Fisheries and Game Fund . . . . . 0.1%

0612-1506 For a reserve to meet the commonwealth's obligation for the fiscal year ending June 30, 1998, pursuant to section 22B of chapter 32 of the General Laws, to reduce the unfunded pension liabilities of public retirement systems, other than the state employees' and state teachers' systems; provided, 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 30, 1997 . . . . . \$4,891,074

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 22 of chapter 32 of the General Laws for the fiscal year ending June 30, 1998; provided, that the public employee retirement administration commission shall certify such losses; and provided further,

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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 30, 1998 ..... \$3,233

Local Aid Fund ..... 100.0%

0612-2000 For retirement benefits authorized pursuant to chapters 712 and 721 of the acts of 1981, chapter 154 of the acts of 1983, chapter 67 of the acts of 1988 and chapter 621 of the acts of 1989, 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 ..... \$19,096,964

General Fund ..... 82.2%

Highway Fund ..... 17.8%

*Commission on Firefighters' 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 ..... \$70,351

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 30 and 31 of the General Laws; provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund; provided further, that the state treasurer shall conduct a feasibility study on the implementation of a redemption deposit system for lottery "scratch tickets", so-called; provided further, that said study shall include the cost of the system and a copy shall be submitted to the house and senate committees on ways and means not later than November 1, 1997; and provided further, that no funds appropriated herein shall be scheduled in, transferred to or expended from the EE subsidiary, so-called, of this item .....	\$35,140,464
0640-0005	For the costs 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; and provided further, that 25 per cent of this appropriation shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$2,202,000
0640-0010	For the promotional activities associated with the state lottery program; provided, that such promotional expenses shall be limited to point of sale promotions and agent newsletters; and provided further, that 25 per cent of this appropriation shall be transferred quarterly from the State Lottery Fund to the General Fund .....	\$400,000
0640-0045	For the telecommunication lease to purchase costs associated with the replacement of the Massachusetts state lottery commission's computer system; provided, that the state treasurer shall file a report with the house and senate committees on ways and means not later than August 15, 1997 delineating the amortization schedule, total cost, consultants' fees and the configuration, capabilities, estimated useful life and estimated annual maintenance and operating costs of said computer system .....	\$7,101,201

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- 0640-0096 For the purpose of the commonwealth's fiscal year 1998 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 said trust fund on such basis as said collective bargaining agreement provides . . . . . \$231,400
- 0640-0103 For the operation of the state lottery commission and arts lottery; provided, that all funds appropriated herein shall be scheduled in and expended from 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 25 per cent of this appropriation shall be transferred quarterly from the State Lottery Fund to the General Fund . . . . . \$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 52 to 58, inclusive, of chapter 10 of the General Laws in such amounts and at such times as the council may determine pursuant to section 54 of said chapter 10; provided further, that 25 per cent of this appropriation shall be transferred quarterly from the Arts - Lottery Fund to the General Fund; provided further, that any funds expended from this item 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 item for any recipient that, in any

program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such school children; and provided further, that persons employed under this item shall be considered employees within the meaning of section 1 of chapter 150E and shall be placed in the appropriate bargaining units . . . . . \$11,361,807

0640-0350 For the purposes of cultural resources pursuant to section 36 of chapter 69 of the General Laws; provided, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren . . . . . \$3,329,850

*Federal Appropriations*

0640-9717 For the purposes of a federally funded grant entitled, Basic State Grant . . . . . \$362,900

0640-9718 For the purposes of a federally funded grant entitled, Artists in Education . . . . . \$47,000

0640-9724 For the purposes of a federally funded grant entitled, Youth Reach . . . . . \$63,400

*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 certain bonde section 2 O of chapter 29 of the General Laws shall be paid from this item and shall be charged to the Infrastructure subfund of the Highway fund; provided further, that payments of interest, discount and principal on d debt of the commonwealth associated with the Watershed Management Fund for the acquisition of

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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 to the contrary or the provisions of this item, 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 . . . \$1,105,106,700

General Fund . . . . . 56.64%  
Highway Fund . . . . . 31.93%  
Local Aid Fund . . . . . 11.39%  
Watershed Management Fund . . . . . 0.04%

0699-0090 For the debt service associated with Dedicated Income Tax Bonds, Fiscal Recovery Loan Act of 1990 and any funds made available pursuant to section 160; provided, that the state comptroller is hereby authorized to transfer such amounts as would otherwise be unexpended on June 30, 1998 to item 0699-0100, if said item has insufficient amounts to meet debt service payments for the fiscal year ending June 30, 1998; and provided further, that any amount transferred to item 0699-0100 shall be charged to the Commonwealth Fiscal Recovery Fund, prior appropriation continued . . . . . \$106,900,000

Commonwealth Fiscal Recovery Fund . . . . . 100.0%

0699-0100 For payments related to bonds issued pursuant to chapter 151 of the acts of 1990 due under agreements entered into pursuant to section 38C of chapter 29 of the General Laws; provided, that the state comptroller is hereby authorized to transfer such amounts as would otherwise be unexpended on June 30, 1998 to item 0699-0090, if said item has insufficient amounts to meet debt service payments for the fiscal year ending June 30, 1998; and provided further, that any amount transferred to item 0699-0090 shall be charged to the General Fund . . . . . \$4,246,000

0699-9100 For the payment of interest and issuance costs on bonds and bond and revenue anticipation notes and other notes pursuant to sections 47 and 49B of chapter 29 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 such schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 1998 shall be charged to the various funds or to the General Fund or Highway Fund debt service reserves ..... \$10,000,000

0699-9200 For certain debt service contract assistance to the government land bank in accordance with the provisions of section 8B of chapter 212 of the acts of 1975 ..... \$6,000,000

STATE AUDITOR

*Office of the State Auditor*

0710-0000 For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with the provisions of sections 52 to 55, inclusive, of chapter 7 of the General Laws; provided, that a report shall be submitted to the house and senate committees on ways and means not later than September 30, 1997 delineating the privatization contracts reviewed and monitored during fiscal year 1997; and provided further, that such report shall further detail the number of full-time equivalent positions assigned by said office for the review of each of the aforementioned privatization contracts ..... \$12,278,251

0710-0100 For the operation of the division of local mandates ..... \$708,798  
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 and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with the provisions of chapters 258B and 258C 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 indicating both the number and costs for each category of claim; provided further, that not less than \$600,000 shall be expended for merit compensation adjustments for staff of the office of the attorney general; provided further, that not less than \$125,000 shall be expended for three additional assistant attorneys general for the administrative law division; provided further, that an additional sum of \$435,000 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 \$125,000 shall be expended for three additional assistant attorneys general to expand said initiative to Hampden and Middlesex counties; and provided further, that the public proceedings unit shall review the water rate increases .....		\$17,033,193
General Fund .....		92.74%
Local Aid Fund .....		3.91%
Anti-Trust Law Enforcement Fund .....		1.98%
Victim and Witness Assistance Fund .....		0.88%
Safe Drinking Water Act Fund .....		0.49%
0810-0014	For the operation of the public utilities proceedings unit pursuant to section 11E of chapter 12 of the General Laws. ...	\$1,435,876
0810-0017	For the expenses related to judicial proceedings relevant to the fuel charge pursuant to section 94G of chapter 164 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 from this item shall not be less than 75 per cent of such expenditure .....	\$1,405,833
0810-0045	For the labor law enforcement program pursuant to subsection (b) of section 1 of chapter 25 of the General Laws; provided, that notwithstanding the provisions of any general or special law to the contrary, any nonmanagement 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 provisions of chapter 150E of the General Laws .....	\$2,749,872

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0810-0201	For the costs incurred in administrative or judicial proceedings on insurance as authorized by section 11F of chapter 12 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 . . . . .	\$1,326,510
0810-0338	For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding the provisions of section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$250,000 . . . . .	\$261,032
0810-0399	For the investigation and prosecution of workers' compensation fraud; provided, that notwithstanding the provisions of section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$250,000; 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 152 of the General Laws . . . . .	\$435,389

### *Federal Appropriation*

0810-6646	For the purposes of a federally funded grant entitled Crime Victim Compensation . . . . .	\$1,300,000
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### *Commission on Uniform State Laws*

0830-0100	For the commission on uniform state laws . . . . .	\$29,200
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### *Victim Witness Assistance Board*

0840-0100	For the operation of the Massachusetts office for victim assistance . . . . .	\$305,661
	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 \$37,000 from said program shall be made available for the salary and expenses of a coordinator or 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 3, 1998, a report detailing the effectiveness of contracting for said program including, but not limited to, the number and types of incidents to which such advocates responded, the types of service and service referrals provided by such domestic violence advocates, the cost of providing such contracted services and the extent of coordination with other service providers and state agencies ..... \$115,162

*Federal Appropriations*

- 0840-0110 For the purposes of a federally funded grant entitled, Crime Victim Assistance ..... \$8,920,000
- 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 ..... \$1,282,518
  - General Fund ..... 50.0%
  - Local Aid Fund ..... 50.0%

**OFFICE OF THE INSPECTOR GENERAL**

- 0910-0200 For the operation of the office of the inspector general ..... \$1,774,756
- 0910-0210 The office of the inspector general is hereby authorized to expend revenues collected up to a maximum of \$100,000 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 to 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 ..... \$769,737
  - 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 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 1997, 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 office of the comptroller shall charge not more than a total of \$525,000 to other items of appropriation for the cost of said audit; 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 item without further appropriation, in addition to state funds appropriated to this item, 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 item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and nontax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary of administration and finance; 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 ..... \$6,919,142
- General Fund ..... 93.81%
- Revenue Maximization Fund ..... 6.19%
- 1000-0004 The office of the comptroller is hereby authorized and directed to expend an amount not to exceed \$20,000 from fees collected from vendors who participate in training on statewide financial systems including, but not limited to, the Massachusetts management accounting and reporting

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system; provided, that said office is hereby further authorized and directed to provide such training, to offer sessions to vendors who do business with the commonwealth and to establish and charge a reasonable fee for such training ..... \$20,000

### EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

#### *Office of the Secretary*

1100-1100 For the office of the secretary ..... \$1,248,236  
1100-1101 For the implementation of the Massachusetts performance enhancement program pursuant to section 224 ..... \$200,000

#### *Administering Agency for Developmental Disabilities*

#### *Federal Appropriations*

1100-1703 For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities Act; provided, that in order to qualify for said grant, this item shall be exempt from the first \$55,600 of fringe benefit charges pursuant to section 6B of chapter 29 of the General Laws ..... \$1,367,599  
1100-1710 For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Council Service Grant ..... \$363,601

#### *Office of Dispute Resolution*

1100-1103 For the office of dispute resolution; provided, that the office shall generate not less than \$395,467 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 ..... \$395,467  
1100-1104 The office of dispute resolution is hereby authorized to expend an amount not to exceed \$90,000 in revenues collected from fees charged to cities, towns or public instrumentalities and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services ..... \$90,000

#### *Central Business Office*

1100-1140 For the operation of the central business office; provided, that said office shall quantify office expenditures which can

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and shall be reduced through shared contracts, bulk purchasing and other centralized procurement savings programs for the agencies served by said office; and provided further, that documentation of said expenditures and any resulting savings shall be submitted to the house and senate committees on ways and means not later than December 1, 1997 . . . . . \$1,893,424

*Massachusetts Corporation For Educational Telecommunications*

1100-1400 For a payment to the Massachusetts Corporation for Educational Telecommunications to be expended in accordance with a financial and programmatic plan to be filed with the General Court on or before September 1, 1997; provided, that said plan shall include a framework to make the operations of said corporation self-sufficient not later than July 1, 2000; provided, further that said plan shall include, but not be limited to, a means of reducing the commonwealth's share of the amount appropriated herein in each fiscal year and to be self-sufficient not later than fiscal year 2001; and provided further, that the Massachusetts Corporation for Educational Telecommunications shall explore the delivery of training through distance learning and other on-line methods to municipal police officers with the criminal justice training council . . . . \$3,700,000

*State House Physician*

1100-2600 For the emergency services of a physician, for medical supplies in the state house and for expenses, including the purchase of equipment in connection therewith; provided, that section 21 of chapter 30 of the General Laws shall not apply to the payments made under this item, prior appropriation continued . . . . . \$26,170

*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 . . . . . \$2,121,164

*Division of Capital Planning and Operations*

- 1102-3205 The division of capital planning and operations is hereby authorized to expend for the maintenance and operation of the Massachusetts information technology center an amount not to exceed \$6,042,944 in revenues collected from rentals, commissions, fees, parking fees and any and all other sources pertaining to the operations of said center; provided, that the building manager selected by the division shall make such expenditures on behalf of the division pursuant to the provisions of section 2AA of chapter 29 of the General Laws; and provided further, that notwithstanding the provisions of any general or special law to the contrary and for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditure, the division 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 ..... \$6,042,944
- State Building Management Fund ..... 100.0%
- 1102-3206 For the costs associated with the maintenance and security of surplus state properties, so-called ..... \$1,180,000
- 1102-3210 For the operation of the division of capital planning and operations; provided, that not more than \$40,000 shall be expended for an economic development study of the Newmarket business district-South Bay incinerator area, so-called, in the city of Boston; and provided further, that said division shall file said study with the house and senate committees on ways and means not later than February 1, 1998 ..... \$4,801,725
- 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 \$6,205,000 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 further, that the building manager selected by said division shall make such expenditures on behalf of said division



pursuant to the provisions of section 2AA of chapter 29 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 . . . . . \$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, up to a maximum of \$200,000 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 42J of chapter 7 of the General Laws, including the costs of personnel; provided, that said division shall file a quarterly report with the house and senate committees on ways and means detailing all expenditures for each project by MMARS subsidiary and object codes; 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 . . . . . \$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 \$750,000 accrued from rents charged to agencies occupying said Springfield state office building for the maintenance and operation of said building, pursuant to the provisions of section 2AA of chapter 29 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

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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%

1102-9999 For the 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 . . . . . \$4,800,000  
Asbestos Cost Recovery Fund . . . . . 100.0%

*Bureau Of State Office Buildings*

1102-3301 For the operation of the bureau of state office buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, that said bureau shall retain full jurisdiction over all contracts, purchases and payments for any and all materials and services required in the operation of said bureau; provided further, that not less than \$200,000 shall be made available for cleaning and maintenance services of the Lindemann Mental Health Center; provided further, that not less than \$50,000 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 \$90,000 shall be made available for the Massachusetts art commission; and provided further, that notwithstanding the provisions of section 19 of chapter 6 of the General Laws, the chairman of said commission shall serve for the duration of the historic flags project as executive director of said project and shall be compensated therefor from said \$90,000 . . . . . \$8,876,629  
1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings and the division of capital planning and operations . . . . . \$7,922,516

*Office on Disability*

1107-2400 For the office on disability; provided, that not less than \$50,000 of the amount appropriated herein shall be expended for arts programs for people with disabilities

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including, but not limited to, festivals, training and  
education through the arts ..... \$616,213

*Federal Appropriation*

1107-2450 For the purposes of a federally funded grant entitled,  
Client Assistance Program ..... \$207,000

*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 and report to the house and senate committees  
on ways and means not later than the last day of each  
quarter on 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  
the Massachusetts rehabilitation commission; and provided  
further, that said report shall include the following: (i)  
number of claims that are found to be substantiated; (ii)  
number of claims that are unsubstantiated; and (iii) number  
of claims that are found to be falsely reported as a result of  
intentional and malicious action ..... \$1,405,991

1107-2502 For a study and report of criminal abuse cases as provided for  
in section 256 ..... \$40,000

*Federal Appropriation*

1107-2525 For the purposes of a federally funded grant entitled, Abuse  
Prevention for Consumers with Disabilities ..... \$85,000

*Civil Service Commission*

1108-1011 For the civil service commission ..... \$434,412  
Local Aid Fund ..... 65.0%  
General Fund ..... 35.0%

*Group Insurance Commission*

1108-5100 For the administration of the group insurance commission;  
provided, that said commission shall generate the maxi-  
mum amounts allowable under the federal Consolidated  
Omnibus Budget Reconciliation Act, as amended, and

from reimbursements allowed by sections 8, 10B, 10C and  
12 of chapter 32A of the General Laws . . . . . \$2,001,024

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 1998; provided, that not more than \$300,000 shall be obligated for the evaluation and audit of said premium and plan costs; provided further, that not more than \$300,000 shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, prescription drug plans and long-term disability plans; provided further, that not more than \$150,000 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 prior year costs incurred by the state indemnity health insurance plan and the preferred provider organization shall be funded from this item; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways and means the amounts expended from this item for said prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; 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 26 of chapter 29 of the General



Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding the provisions of chapter 150E of the General Laws and as provided in section 8 of said chapter 32A and for the purposes of section 14 of said chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired prior to July 1, 1994 shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994 shall be 85 per cent; provided further, that the commission shall provide the number of retirees for whom the commonwealth pays said 85 per cent to the house and senate committees on ways and means by February 1 of each year; provided further, that the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premiums and rates; provided further, that notwithstanding the provisions of chapter 150E of the General Laws, employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall continue to pay the same per centage, if any, of the health insurance premium that they paid on June 1, 1994; provided further, that active employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay 15 per cent of such premiums and rates; and provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year . . . . .

		\$501,680,309
1108-5350	For elderly governmental retired employee premium payments . . . . .	\$1,850,190
1108-5400	For the costs of the retired municipal teachers' premiums and the audit of said premiums . . . . .	\$23,123,624
	Local Aid Fund . . . . .	100.0%
1108-5500	For the costs, notwithstanding the provisions of chapter 32A of the General Laws to the contrary, of dental and vision benefits for those active employees of the commonwealth,	

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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; provided, that said employees shall pay at least 15 per cent of the monthly premium established by the commission for such benefits . . . . . \$3,351,860

*Division of Administrative Law Appeals*

1110-1000 For the operation of the division of administrative law appeals established by section 4H of chapter 7 of the General Laws. . . . . \$565,501

*George Fingold Library*

1120-4005 For the administration of the library; provided, that said library shall maintain regular hours of operation from 9:00 a.m. to 5:00 p.m.; and provided further, that said library shall continue the implementation program necessary in order to secure access to the wide area network . . . . . \$1,205,154

*Massachusetts Commission Against Discrimination*

*State Appropriations*

1150-5100 For the office of the commission; provided, that all positions except clerical, shall be exempt from the provisions of chapter 31 of the General Laws; and provided further, that said commission shall pursue the highest allowable rate of federal reimbursement . . . . . \$1,120,261

1150-5104 The Massachusetts commission against discrimination is hereby authorized to expend revenues collected through federal reimbursements received for the purposes of the United States Department of Housing and Urban Development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 1998 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 revenue estimate as reported in the state accounting system; provided further,

that notwithstanding the provisions of section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$1,533,344 shall be credited to the General Fund; provided further, that notwithstanding the provisions of 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 shall include, but 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 1998; provided further, that the commission shall report to the house and senate committees on ways and means not later than the last day of each quarter federal reimbursements received in each such 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 such purposes; provided further, that such 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 . . . . . \$1,533,344

1150-5114 The Massachusetts commission against discrimination is hereby authorized to expend \$100,000 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; and 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 1, 1993 and of all cases pending before the commis-

sion in which the Massachusetts Bay Transportation Authority is named as a respondent; provided, that on or before October 1, 1997, 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 prepublic hearing, and post-hearing stages; provided further, that the commission shall file an update of such report with said committees on or before March 1, 1998; provided further, that the commission shall identify in such 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 151B of the General Laws 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 1, 1997 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 said chapter 151B 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 \$15,000 may be expended to fund Edward Brooke scholarships to the extent that the recipients of said scholarships shall assist the commission in resolving the cases pending before the commission which were filed on or before July 1, 1993 ..... \$115,000

*Federal Appropriations*

1150-5109 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type V ..... \$17,425

*Department of Revenue*

1201-0100 For tax collection administration, including audits of certain foreign corporations; provided, that the comptroller shall transfer to the General Fund the sum of \$260,000 from the receipts of the cigarette tax in accordance with the provisions of paragraph (b) of section 14 of chapter 291 of



the acts of 1975; provided further, that the department may allocate an amount not to exceed \$250,000 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 unit 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 not later than November 30, 1997; provided further, that the department shall maintain a regional office in the city of Springfield; provided further, that the department shall maintain a regional office in the city of Pittsfield; and provided further, that the department shall maintain a regional office in the city of Worcester . . . . .

\$105,156,215

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 not to exceed \$3,697,176 from revenues collected from the tax enforcement program authorized by section 249 of chapter 38 of the acts of 1995 and section 557 of chapter 151 of the acts of 1996, for the cost of personnel, related benefits and equipment and supplies; provided, that in addition to the number of positions specified in said sections, an additional 25 persons shall be employed in said tax enforcement program for legal and technology support of said tax enforcement program; and provided further, that no monies shall be transferred from this item to any other item of appropriation . . . . .

\$3,697,176

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support

enforcement activities and that such agencies are hereby authorized to expend said funds 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; 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 9 of chapter 119A 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 15, 1997, detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC 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 federal reimbursements for child support collections ..... \$36,213,412

1201-8888 For costs associated with printing expenses and supplies of the department of revenue; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the EE subsidiary, so-called; provided further, that after said date, the commissioner of revenue, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said EE subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not

to exceed 15 per cent of the funds appropriated herein if said 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 said department of revenue for costs associated with printing expenses and supplies does not exceed the amount appropriated herein; (2) that the department does not require any supplemental appropriations in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for costs associated with printing expenses and supplies in any of its other items of appropriation; provided further, that said 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 in a subsidiary which is not explicitly referenced herein . . . . . \$2,740,691

General Fund . . . . .	59.57%
Local Aid Fund . . . . .	35.47%
Highway Fund . . . . .	4.96%

1231-0100 For the administration of the division of local services, 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,

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	that the department shall provide to the general court access to the municipal data bank .....	\$4,825,352
	Local Aid Fund .....	100.0%
1231-1000	For the Commonwealth Sewer Rate Relief Fund established by section 2Z of chapter 29 of the General Laws .....	\$50,700,000
	Local Aid Fund .....	87.2%
	Commonwealth Cost Relief Fund .....	12.8%
1231-1020	For a program of loans, loan purchases or loan guarantees or interest subsidies to assist homeowners, homeowner associations or condominium associations in complying with 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 program established pursuant to item 2200-9959 in section 2 of chapter 85 of the acts of 1994; 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 loans, loan purchases or 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; prior appropriation continued	
1232-0000	For the underground storage tank program and the administrative expenses associated with the implementation of chapter 21J of the General Laws; provided, that notwithstanding the provisions of section 4 of said chapter 21J 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; provided further, that in the processing of claims, priority shall be given to claims where an imminent health hazard to residential water supplies is present; and pro-	



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	vided further, the department of revenue is hereby authorized to enter into an interagency service agreement, so-called, with the department of fire services for the purpose of ensuring compliance with the provisions of chapter 21J of the General Laws	\$441,354
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0100	For underground storage tank reimbursements to parties that have cleaned up spills of petroleum products pursuant to chapter 21J of the General Laws; provided, that in the prioritization of claims, consideration shall be given to claimants who own not more than two dispensing facilities.	\$19,200,000
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0200	For the underground storage tank administrative review board pursuant to chapter 21J of the General Laws	\$1,603,941
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0300	For underground storage tank municipal grants to remove and replace said tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws	\$2,000,000
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
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 5 of chapter 59 of the General Laws	\$8,250,000
	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 65 pursuant to clause Fifty-second of section 5 of chapter 59 of the General Laws; and provided further, that not more than \$2,000,000 shall be expended from this item for a low income sewer and water assistance program pursuant to the provisions of section 24B of chapter 23B of the General Laws, prior appropriation continued.	

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- 1233-2310 For reimbursing cities and towns for taxes abated under clauses Forty-first, Forty-first B and Forty-first C of section 5 of chapter 59 of the General Laws; and provided further, that the commonwealth shall reimburse each city or town that accepts the provisions of said clause Forty-first B or Forty-First C for additional costs incurred in determining eligibility of applicants under said clauses in an amount not to exceed \$2 per exemption granted . . . . \$13,400,000  
Local Aid Fund . . . . . 100.0%

### *Federal Appropriation*

- 1232-9707 For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program . . . . . \$200,000

### *Appellate Tax Board*

- 1310-1000 For the operation of the appellate tax board; provided, that the board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield and Worcester; and provided further, that no funds expended in the AA subsidiary, so-called, shall be used to compensate hearing stenographers after January 1, 1998 . . . . \$1,464,534

### *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" . . . . . \$18,000  
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 \$10,000 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 from this item . . . . . \$1,716,222
- 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 \$185,000 shall be obligated for a contract with the

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Veterans Benefits Clearinghouse in the Roxbury section of the city of Boston; provided further, that \$75,000 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that \$95,100 shall be obligated for a contract with the North Shore Veterans Counseling Center in the city of Beverly; provided further, that \$70,000 shall be obligated for a contract with the Veterans Association of Bristol County in the city of Fall River; provided further, that \$100,000 shall be obligated for a contract with NamVets of the Cape and Islands in the town of Hyannis; provided further, that \$55,000 shall be obligated for a contract with the Outreach Center, Inc., in the city of Pittsfield; provided further, that \$82,200 shall be obligated for a contract with the Montachusett Veterans Outreach Center in Gardner; provided further, that \$70,000 shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in the town of Framingham; and provided further, that \$60,000 shall be obligated for a contract with the Holyoke Soldiers' Home .....		\$822,884
Local Aid Fund .....	100.0%	
1410-0015	For the women veterans' outreach program .....	\$25,000
	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 .....	\$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 \$1,975,000 shall be obligated for a contract with the New England Shelter for Homeless Veterans located in the city of Boston; provided further, that not less than \$255,000 shall be obligated for a contract with the Central Massachusetts Shelter for Homeless Veterans located in the city of Worcester; provided further, that not less than \$255,000 shall be obligated for a contract with the Southeastern Massachusetts Veterans Housing Program, Inc. located in the city of New Bedford; provided further, that not less than \$198,000 shall be obligated for a contract with the United Veterans of America shelter located in the town of Leeds; provided	

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	further, that \$30,000 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$40,500 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$30,000 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$47,500 shall be obligated for a contract with the Mansion located in the city of Haverhill; and provided further, that not less than \$30,000 shall be obligated for a contract with the Homestead located in the town of Hyannis . . . . .	\$2,861,000
1410-0300	For the payment of annuities to certain disabled veterans; provided, that such payments shall be made pursuant to section 6B of chapter 115 of the General Laws; provided, that the department shall take reasonable steps to terminate payments upon the death of a recipient . . . . .	\$500,000
1410-0400	For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that said reimbursements shall be made pursuant to section 6 of chapter 115 of the General Laws; and provided further, that notwithstanding any general or special law to the contrary 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns . . . . .	\$8,610,000
	Local Aid Fund . . . . .	100.0%
1410-0620	For a veterans' cemetery in the town of Agawam . . . . .	\$1,700,000
1410-0621	For the study of a veterans' cemetery in central Massachusetts. . . . .	\$25,000
<i>Reserves</i>		
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 14G of chapter 151A 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	



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	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 by section 20 of chapter 118G 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 section 238 of this act . . . . .	\$4,500,000
	Revenue Maximization Fund . . . . .	100.0%
1599-0035	For certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with the provisions of section 39I of chapter 190 of the acts of 1982 . . . . .	\$24,660,494
1599-0036	For the expenses of the Massachusetts Convention Center Authority . . . . .	\$10,374,000
	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 sections 6 and 6A of chapter 29C of the General Laws . . . . .	\$27,408,000
	Local Aid Fund . . . . .	65.1%
	Commonwealth Cost Relief Fund . . . . .	34.9%
1599-2999	For a reserve to fund one time expenditures for improvements in the provision of state subsidized day care including, but not limited to, expanded technology for the administration and delivery of day care; provided that expenditures from this item shall be made in accordance with the recommendations issued in the independent evaluation authorized pursuant to section 255 of this act; provided further, that prior to March 1, 1998, the office of child care services shall file a plan with the house and senate committees on ways and means detailing proposed expenditures from this item; and provided further, that 30 days prior to authorizing expenditures from this item, the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that expenditures from this item shall have no fiscal impact beyond fiscal year 1998 . . . . .	\$2,685,000
	Child Care Fund . . . . .	100.0%

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1599-3175	For a grant to the city of Springfield for the Dunbar Community Center Project, so-called .....	\$1,200,000
	Local Aid Fund .....	100.0%
1599-3234	For the Commonwealth's south Essex sewerage district debt service assessment .....	\$213,326
1599-3856	For rent and associated costs for the Chelsea information technology center .....	\$7,115,000
	State Building Management Fund .....	100.0%
1599-6896	For a reserve to meet the cost of providing salary increases for direct care employees and supervisory staff earning less than \$30,000 in annual compensation employed by private human service providers that deliver services under contract with departments within the executive office of health and human services and the executive office of elder affairs; provided, that funds from this item may be used for all employee-related costs associated with such salary increases; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws; provided further, that the secretary of administration and finance is hereby authorized to transfer funds from this item to other items of appropriation in order to effectively implement such salary increases; provided further, that not later than September 1, 1997, the operational services division shall develop a plan for the allocation and expenditure of funds from this item that shall ensure that the funds are used solely to implement this initiative; provided further, that no funds shall be allocated or expended from this item until said division files such plan with the executive office of health and human services and the executive office of elder affairs, the budget director, the executive office for administration and finance and the house and senate committees on ways and means; provided further, that such plan shall require that the total fiscal year 1998 cost of the salary adjustments authorized under such plan does not exceed \$15,000,000; and provided further, that such plan shall require that the annualized cost of this initiative does not exceed \$15,000,000 .....	\$15,000,000

1599-9952 For the purpose of contracting independent technical advisors to assist communities 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 may issue a request for proposals for such technical advisor, said contract to be drafted in conjunction with designated representatives from the impacted neighborhoods; provided further, that not less than \$75,000 shall be expended from this item for a technical advisor to the North End, Waterfront area of the city of Boston; provided further, that not less than \$40,000 shall be expended for a technical advisor for the East Boston section of the city of Boston; provided further, that after such a contract for a technical advisor has been awarded, such advisor shall have access to data relative to design and mitigation; and provided further, that such independent technical advisor shall be accountable to and work directly with residents, designated community representatives and organizations of the aforementioned communities in assessing impacts and recommending alternative design modifications to the Central Artery/Third Harbor Tunnel, prior appropriation continued . . . . . \$115,000  
Highway Fund . . . . . 100.0%

*Division of Human Resources*

1750-0100 For the operation of the division of human resources; provided, that the division 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 appointing authorities; provided further, that notwithstanding the provisions of clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of \$35 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 con-

ducted pursuant to Executive Order 227 adopted on February 25, 1983; 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 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 per centage or dollar based salary adjustments, nonbase payments or other forms of compensation and all supplemental fringe benefits resulting in any incremental costs ..... \$4,700,763

1750-0102 The division of human resources is hereby authorized to expend revenues up to a maximum of \$1,200,000 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 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 nonstate 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	\$1,200,000
1750-0111	For the planning and implementation of a civil service continuous testing program	\$314,600
	Local Aid Fund	65.0%
	General Fund	35.0%
1750-0200	For implementation of the medical and physical fitness standards program established pursuant to sections 61A and 61B of chapter 31, and chapter 32 of the General Laws; provided, that the personnel administrator shall charge a fee of not less than \$50 to be collected from each applicant who participates in the physical ability test; provided further, that the division of human resources shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of in-service standards, and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means not later than February 1, 1998 on the projected costs of said program for fiscal year 1999	\$1,003,930
1750-0300	For the commonwealth's contributions in fiscal year 1998 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that such 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	\$15,207,023

*Division of Operational Services*

- 1775-0100 For the operation of the division of operational services; 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 1997 ..... \$3,153,574
- 1775-0600 The division of operational services is hereby authorized to expend revenues collected up to a maximum of \$135,000 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 \$130,000, in addition to the amount authorized in item 1775-1000 of section 2B, 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 449 of the acts of 1984 and section 4L of chapter 7 of the General Laws, the division of operational services is hereby authorized to expend revenues in an amount not to exceed \$195,578 collected from the sale of federal surplus property, including the payment, expenses and liabilities 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

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1775-1100 The division of operational services is hereby authorized to expend revenues in an amount not to exceed \$942,000 collected 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 ..... \$942,000

*Division of Information Technology*

1790-0100 For the operation 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 \$500,000; 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 2B 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 15, 1998 with actual and projected savings and expenditures for said audits in the fiscal year ending June 30, 1998; 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 . . . . .	\$8,780,341
1790-0300	The division of information technology is hereby authorized to expend up to a maximum of \$1,439,045 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 . . . . .	\$1,439,045
1790-0600	For the operation of the commonwealth's data warehouse . . . . .	\$644,592

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS**

*Office of the Secretary*  
*State Appropriations*

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 sections 61 to 62H, inclusive, of chapter 30 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 \$200,000 shall be expended on a program of coastal resources 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 \$80,000 shall be expended for conservation districts; 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 said executive	
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	office whereby the agency may render data processing services to said secretary; provided further, that not less than \$55,000 shall be expended for printing of the Massachusetts environmental policy act 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 . . . . .	\$2,394,567
	General Fund . . . . .	60.0%
	Local Aid Fund . . . . .	40.0%
2001-1001	The secretary of environmental affairs may expend an amount not to exceed \$200,000 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 recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment grants, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that not less than \$100,000 shall be expended for a public education campaign to encourage participation in existing curbside pick-up recycling programs in the city of Boston; provided further, that not less than \$1,125,000 shall be expended for the recycling loan fund; provided further, that not less than \$625,000 shall be expended for business assistance and research and development, including, the strategic envirotechnology partnership, so-called, at public, private, and quasi-public educational and research institutions; provided further, that not less than \$500,000 of the amount appropriated herein shall be expended for a recycling industry reimbursement program	

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pursuant to section 241; provided further, that not more than \$2,200,000 shall be expended on municipal recycling incentive programs, so-called; and provided further, that the secretary of environmental affairs shall prepare a strategic plan to assess and evaluate the supply of recyclable materials and demand of recyclable materials, and promote the use of recyclable materials in manufacturing and production pursuant to section 291 . . . . . \$7,000,000

Clean Environment Fund . . . . . 100.0%

2010-0111 For a grant to the city of Boston for technical assistance to the Haymarket association . . . . . \$150,000

2020-0100 For toxics use reduction technical assistance and technology, in accordance with the provisions of chapter 21I of the General Laws . . . . . \$1,797,464

Toxics Use Reduction Fund . . . . . 100.0%

2060-0100 For the purpose of implementing the management plan adopted pursuant to section 12 of chapter 111H of the General Laws and for carrying out the powers and duties conferred to the program by said chapter 111H; provided, that a report shall be submitted to the house and senate committees on ways and means on or before November 1, 1997 detailing expenditures from the prior year; and provided further, that no money shall be expended from this item after November 1, 1997 unless or until such report has been filed with the house and senate committees on ways and means . . . . . \$313,082

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 . . . . . \$54,667

2000-0141 For the purposes of a federally funded grant entitled, Coastal Zone Management Development . . . . . \$2,261,000

2000-0148 For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project . . . . . \$33,161

2000-0161 For the purposes of a federally funded grant entitled, Thermo-trex Corporation High Temperature Materials Application. . . . . \$225,000

2000-0162 For the purposes of a federally funded grant entitled, Pollution Prevention by Auto Body Shops . . . . . \$18,750

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2000-0163	For the purposes of a federally funded grant entitled, Pollution Prevention Outreach for Dry Cleaners and Auto Body Shops .....	\$15,000
2000-0164	For the purposes of a federally funded grant entitled, Brittany Dyeing and Printing Corporation Energy Savings Textile Finishing Process .....	\$212,500
2000-9736	For the purposes of a federally funded grant entitled, Buzzards Bay Project Management Plan .....	\$273,589
2000-9737	For the purposes of a federally funded grant entitled, Buzzards Bay Project Wetlands Protection .....	\$51,466
2000-9738	For the purposes of a federally funded grant entitled, Buzzards Bay Project Environmental Technology Agreement. ....	\$148,000
2000-9760	For the purposes of a federally funded grant entitled, Inventory of Navy Shipwrecks .....	\$3,000
2030-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects .....	\$699,186

*Department of Environmental Management*

*State Appropriations*

2100-0005	For the department of environmental management pursuant to the purposes of section 10A and one-half of chapter 91 of the General Laws .....	\$2,856,121
	Harbors and Inland Waters Maintenance Fund . 100.0%	
2100-1000	For the operation of the department of environmental management .....	\$2,178,219
	Local Aid Fund .....	100.0%
2100-2002	The department is hereby authorized to expend \$75,000 from revenues received from interstate fire fighting services authorized under section 44 of chapter 138 of the acts of 1991; 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 discrepan-	

cies 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 \$35,000 shall be expended for a supervisor at Lake Whitehall in Hopkinton; provided further, that not less than \$15,000 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 city of Newburyport shall receive a grant for the completion of purchase and installation of three new floats, so-called, in the Merrimack river in the city of Newburyport; provided further, that not less than \$125,000 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 1, 1998; provided further, that the department shall study the feasibility of making the operations of said commission self-sufficient, which shall include, but not be limited to, a cost-benefit analysis and the phase-out of the state subsidy by the year 2001; provided further, that said study shall be filed with the house and senate committees on ways and means no later than March 2, 1998; provided further, that \$52,500 shall be expended for phase two, so-called, for the improvement and preservation of the Craigville pond and Centerville river system, known as the Red Lily Pond Restoration



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	Project; provided further, that the department shall enter into contracts with the Red Lily Pond Project Association; and provided further, that the department shall expend \$180,000 for the purchase of a brush breaker, so-called, to be used for the state parks located in the town of Plymouth. . .	\$19,037,918
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 \$50,000 shall be expended for the promotion of tourism in the city of Fall River, including the Fall River heritage state park; provided further, that such funds shall be administered by the city of Fall River; provided further, that the department shall hire an additional laborer II position and two laborer I positions at the Wachusett mountain state reservation; provided further, that the department shall expend no less than \$130,000 for Maudslay state park, including staff, maintenance and capital needs; and provided further, that no less than \$87,500 shall be expended for upkeep and improvements at Sandy Point State Reservation on Plum Island . . . . .	\$2,500,000
	Second Century Fund . . . . .	100.0%
2100-2045	For the one time inventory of the department of environmental management's state forest system . . . . .	\$200,000
2100-3010	For the summer and fall seasonal 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 fiscal year 1998 as were assigned to said beach in fiscal year 1997; provided further, that no funds shall be expended from this item for year-round seasonal employees, so-called; and provided further, that seasonal employees of the department 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 1997 shall continue to receive such benefits in	

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	fiscal year 1998 during the period of their seasonal employment .....	\$3,302,547
	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 seasonal employees 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 1997 shall continue to receive such benefits in fiscal year 1998 during the period of their seasonal employment .....	\$1,218,032
	Local Aid Fund .....	90.0%
	Highway Fund .....	10.0%

*Federal Appropriations*

2100-9721	For the purposes of a federally funded grant entitled, Connecticut River Valley & National Park Service .....	\$15,000
2120-9702	For the purposes of a federally funded grant entitled, USDA Forest Service, Rural Community Fire Protection .....	\$16,000
2120-9707	For the purposes of a federally funded grant entitled, Urban and Community Forestry .....	\$90,000
120-9708	For the purposes of a federally funded grant entitled, Improved Wood Utilization .....	\$11,280
2121-9705	For the purposes of a federally funded grant entitled, USFS Shade Tree and Health .....	\$371,402
2121-9709	For the purposes of a federally funded grant entitled, Forestry Planning .....	\$62,432
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 .....	\$19,645
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 .....	\$10,000

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2121-9718	For the purposes of a federally funded grant entitled, Forestry Incentives Program .....	\$3,000
2121-9719	For the purposes of a federally funded grant entitled, USFS Wood In Transportation Project .....	\$10,000
2121-9722	For the purposes of a federally funded grant entitled, USFS Forest Resource Management .....	\$24,563
2121-9726	For the purposes of a federally funded grant entitled, USFS Forest Health Management .....	\$18,000
2121-9728	For the purposes of a federally funded grant entitled, USFS Forest Health Monitoring .....	\$13,000
2121-9730	For the purposes of a federally funded grant entitled, USFS North American Maple Project .....	\$8,500
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

*Department of Environmental Protection*

*State Appropriations*

2200-0100	For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the bureau of waste prevention, the Wall experimental station, and a contract with the university of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A 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 18 of chapter 21A of the General Laws; provided further, that said appropria-
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tions 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 \$535,000 shall be expended for technical assistance to communities to comply with provisions of Title V; provided further, that not less than \$90,000 shall be allocated to the Massachusetts Military Reservation Environmental Technology Center, so-called, pursuant to section 252 of chapter 38 of the acts of 1995; provided further, that the unexpended balance made available in this item from section 2 of chapter 151 of the Acts of 1996 for said center shall be carried forward in fiscal year 1998; provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 1997 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; provided further, that not less than \$14,000 shall be expended for a study of connecting certain homes in the town of Mendon to the water supply of said town in recognition of pollution to other available water supplies; provided further, that the department is authorized to expend \$55,000 for reimbursing the communities of Westfield, Southamptton, and Holyoke for all costs related to the restoration of water service to homes located in Southamptton and Westfield disconnected from the Manhan Line, so-called; and provided further, that said communities of Westfield, Southamptton and Holyoke shall use these funds for their proportional share of the cost of drilling new water wells at the homes disconnected from said water line and to reimburse said homeowners for their proportional cost pursuant to an agreement negotiated with the department ..... \$26,777,398



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	General Fund .....	57.15%	
	Environmental Permitting and Compliance Fund .....	31.69%	
	Clean Environment Fund .....	11.16%	
2200-0110	For a portion of the costs of the development and construction of a piped water distribution system to the Plum Island barrier beach, so-called, said system referenced in the draft order dated May 19, 1995 between the department of environmental protection, the town of Newbury, and the city of Newburyport; provided, that no funds authorized herein shall be expended prior to the receipt of equal matching funds .....		\$1,878,000
2210-0100	For the implementation and administration of chapter 21I 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 1, 1997 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with said chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 21I .....		\$1,063,336
	Toxics 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 .....		\$1,541,649
	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 .....		\$74,526
	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 .....		\$404,243
	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 .....		\$57,873
	Clean Air Act Compliance Fund .....	100.0%	

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2220-2210	For the administration and implementation of the federal Clean Air Act, including the non-auto related state implementation program, so-called .....	\$96,118
	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 18A of chapter 21A of the General Laws .....	\$1,753,137
	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 323F of chapter 94 of the General Laws and section 2K of chapter 29 of the General Laws and section 4 of chapter 21J of the General Laws; provided, that not less than \$25,000 shall be expended for the sea change project, so-called, in the evaluation and development of innovative technologies for hazardous waste remediation, brownfields development and ecosystem recovery associated with the Superfund cleanup of the New Bedford harbor; provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 1997 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects .....	\$15,382,458
	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 19A of chapter 21A of the General Laws .....	\$330,026
	Environmental Challenge Fund .....	100.0%

*Federal Appropriations*

2200-9705	For the purposes of a federally funded grant entitled, Underground Water Source Protection Program .....	\$10,000
2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning .....	\$150,000

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2200-9709	For the purposes of a federally funded grant entitled, Massachusetts Multi-Site Cooperative Agreement .....	\$351,129
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tank Program .....	\$632,221
2200-9715	For the purposes of a federally funded grant entitled, Core Cooperative Agreement CERCLA Implementation Support .....	\$115,683
2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration .....	\$1,223,279
2200-9721	For the purposes of a federally funded grant entitled, Charles George Landfill - Operable Unit III Operations and Maintenance .....	\$42,865
2200-9722	For the purposes of a federally funded grant entitled, Baird and McGuire .....	\$790,000
2200-9723	For the purposes of a federally funded grant entitled, Federal/State Waste Removal and Site Assessment Programs .....	\$346,516
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Fund Cooperative Agreement .....	\$900,000
2230-9702	For the purposes of a federally funded grant entitled, Performance Partnership Grant .....	\$9,925,568
2230-9703	For the purposes of a federally funded grant entitled, Pilot Project to Support DEP Efforts to Develop Facility One-Stop Reporting for Environmental Data .....	\$200,000
2240-9707	For the purposes of a federally funded grant entitled, 1991 Water Pollution Control Program .....	\$10,000
2240-9709	For the purposes of a federally funded grant entitled, Clean Lakes Program .....	\$30,253
2240-9710	For the purposes of a federally funded grant entitled, State Management Assistance Grant .....	\$200,000
2240-9719	For the purposes of a federally funded grant entitled, Lake Water Quality Assessment .....	\$7,420
2240-9721	For the purposes of a federally funded grant entitled, Water Quality/NPDES Implementation .....	\$26,800
2240-9723	For the purposes of a federally funded grant entitled, Non-Point Source Implementation .....	\$16,500
2240-9725	For the purposes of a federally funded grant entitled, Non-Point Source Management Plan (319H-3) .....	\$21,000

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2240-9726	For the purposes of a federally funded grant entitled, Non-Point Source Pollution (319h FY94) .....	\$271,702
2240-9727	For the purposes of a federally funded grant entitled, Non-Point Source Pollution (319h) .....	\$200,000
2240-9728	For the purposes of a federally funded grant entitled, Non-Point Source Pollution Management Plan (319h-7) .....	\$200,000
2240-9733	For the purposes of a federally funded grant entitled, Public Outreach (104b-3) .....	\$9,775
2240-9735	For the purposes of a federally funded grant entitled, Blackstone Sewer/Storm-water Combined .....	\$15,500
2240-9736	For the purposes of a federally funded grant entitled, Clean Water Strategy/NPDES (104B(3)) .....	\$75,000
2240-9737	For the purposes of a federally funded grant entitled, 401 Regulation Development (104b-3) .....	\$4,800
2240-9740	For the purposes of a federally funded grant entitled, NPDES Related State Program Costs (104b-3) 94 Funds .....	\$72,900
2240-9742	For the purposes of a federally funded grant entitled, Wetlands Protection - Circuit Rider 2 .....	\$2,100
2240-9743	For the purposes of a federally funded grant entitled, Wetlands Delineation Methods .....	\$91,000
2240-9744	For the purposes of a federally funded grant entitled, Water Resource Protection Strategy (104b-3) .....	\$144,000
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) .....	\$57,000
2240-9747	For the purposes of a federally funded grant entitled, Docks and Piers (104b-3) .....	\$80,000
2240-9748	For the purposes of a federally funded grant entitled, 401 Permits (104b-3) .....	\$275,000
2240-9749	For the purposes of a federally funded grant entitled, Water Quality Cooperative Grants (104b-3) .....	\$60,000
2240-9751	For the purposes of a federally funded grant entitled, U.I.C. Water Sewer Project .....	\$50,000
2250-9701	For the purposes of a federally funded grant entitled, Public Water Supply Supervision Program .....	\$10,000
2250-9709	For the purposes of a federally funded grant entitled, Environmental Technology Initiative .....	\$50,000



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Department of Fisheries, Wildlife, and Environmental Law Enforcement

State Appropriations

2300-0100	For the office of the commissioner . . . . .	\$546,318
	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 31 of the General Laws . . . . .	\$223,331
	Public Access Fund . . . . .	100.0%
2300-0104	For the purpose of the development of a conservation engineering program to promote the development of alternative species fisheries through the development, testing and monitoring of new fishing gear and fishing techniques; provided, that the department of fisheries wildlife and environmental law enforcement shall conduct research on gear modifications that will reduce the risk of entanglement of northern right whales and other protected species; and provided further, that said department shall provide funding to support emergency research and management measures in the coastal waters of the commonwealth necessitated by the presence of northern right whales . . . . .	\$110,000

Federal funds received as reimbursements for expenditures from the following items shall be credited as income to the Inland Fisheries and Game Fund.

2310-0200	For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal aid to fish and wildlife restoration act; provided, that an amount shall be used by the university of Massachusetts at Amherst for
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	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 1997 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 75 per cent of the amount expended; provided further, that not more than \$200,000 of the sum appropriated herein may be obligated for a program of acid rain monitoring; and provided further, that \$40,000 shall be expended to implement the provisions of item 2310-8960 of section 2 of chapter 15 of the acts of 1996 .....	\$6,696,316
	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 2 and 2A of chapter 131 of the General Laws .....	\$2,000,000
	Inland Fisheries and Game Fund .....	100.0%
2310-0317	For the waterfowl management program pursuant to section 11 of chapter 131 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 .....	\$204,457
	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 .....	\$424,378
	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 31 of the General Laws .....	\$234,104
	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 17A of chapter 21 of the General Laws; provided, that not less than \$25,000 shall be expended for the design	

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	of a pier, including associated parking and amenities, located at the Massachusetts Maritime Academy at the west end of the Cape Cod canal .....	\$600,000
	Public Access Fund .....	100.0%
2330-0100	For the operation of the division of marine fisheries, including expenses of the Annisquam River 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 \$300,000 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 \$115,000 from purification fees; and provided further, that not less than \$100,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and the Cape Cod economic development council .....	\$3,795,935
	Marine Fisheries Fund .....	100.0%
2330-0120	For the division of marine fisheries 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 .....	\$697,274
	Marine Fisheries Fund .....	100.0%
2330-0121	For the division of marine fisheries to utilize a one time windfall of reimbursable federal sportfish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that not less than \$80,000 shall be expended for the research on artificial reefs; provided further, that the division of marine fisheries is hereby authorized to expend revenues up to \$467,000 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing; and provided further, that this expend-	

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	iture shall generate an additional \$350,000 reimbursement from the federal sportfish restoration program to the marine fisheries fund .....	\$467,000
	Marine Fisheries Fund .....	100.0%
2350-0100	For the operation of the division of environmental law enforcement; provided, that each county in the commonwealth shall be assigned at least one full time environmental officer; provided further, that officers shall be assigned to vacant patrol districts and shall provide monitoring pursuant to the national shellfish sanitation program; and provided further, that not more than \$20,000 shall be expended on the continued expansion of the communications network to join a statewide communications system with the executive office of public safety ....	\$8,941,061
	Environmental Law Enforcement Fund .....	50.0%
	Highway Fund .....	15.0%
	General Fund .....	35.0%
2350-0101	For the hunter safety training program .....	\$273,914
	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 of up to \$250,000 collected from fees charged for private details .....	\$250,000
	Environmental Law Enforcement Fund .....	100.0%
<i>Federal Appropriations</i>		
2300-0103	For the purposes of a federally funded grant entitled, EPA Urban Rivers Action .....	\$3,000
2300-9885	For the purposes of a federally funded grant entitled, SUASCO Scenic River .....	\$12,000
2300-9888	For the purposes of a federally funded grant entitled, Urban Rivers Action Program .....	\$10,000
2300-9889	For the purposes of a federally funded grant entitled, EPA Shoreline Surveys .....	\$2,000
2315-9703	For the purposes of a federally funded grant entitled, Protection of Flood Plain Forests and Significant Wetlands. ....	\$30,146
2315-9705	For the purposes of a federally funded grant entitled, Vernal Pools Project .....	\$4,803



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2315-9706	For the purposes of a federally funded grant entitled, Riverlines Project .....	\$16,000
2315-9707	For the purposes of a federally funded grant entitled, Coastal Ponds and Peat Lands Projects .....	\$13,881
2300-9708	For the purposes of a federally funded grant entitled, Hyannis Ponds Biohydrology Phase II Project .....	\$14,000
2330-9222	For the purpose of a federally funded grant entitled, Clean Vessel Act, for vessel pumpout equipment, education, planning and administration .....	\$833,945
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
2330-9714	For the purposes of a federally funded grant entitled, Commercial Fisheries Extension .....	\$50,000
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fisheries Management .....	\$60,000
2340-9701	For the purposes of a federally funded grant entitled, Safe Boating Program .....	\$550,000

*Metropolitan District Commission*

*State Appropriations*

2410-1000	For the administration of the metropolitan district commission; provided, that said 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 3B of chapter 7 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
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be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 13, 1998; 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 operational services division; and provided further, that no funds shall be expended from this item for personnel overtime costs ..... \$1,333,580

Local Aid Fund ..... 75.0%

Highway Fund ..... 25.0%

2410-1001 The commission is hereby authorized to expend \$100,000 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 this section shall not impair or diminish the rights of access and utilization of all current users of the system pursuant to agreements which previously 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 \$500,000 shall be paid to the town of Clinton, pursuant to section 8 of chapter 307 of the acts of 1987, 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 113 of chapter 92 of the General Laws; provided further, that a work crew shall be made available at the Sudbury reservoir for maintenance of said reservoir; and provided further, that not less than 13 rangers shall be assigned to patrol watershed areas . . . . . \$11,380,046

Watershed Management Fund . . . . . 95.61%

Local Aid Fund . . . . . 4.39%

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 \$37,482 shall be expended for additional personnel in the Fells Reservation; provided further, that not less than \$50,000 shall be expended for maintenance and repairs to Pine Banks Park; provided further, that not less than \$842,994 shall be expended for expenses of the State House Park Rangers, including the cost of personnel; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that no less than \$25,000 shall be expended for Ginn field, including the installation of safety fences in front of player benches and spectator stands and the replacement of stands, backstop and fences; provided further, that not less than \$50,000 shall be expended for improvements to Bellevue reservation in West Roxbury, including, but not limited to, ranger patrols of said reservation, lighting and irrigation; provided further, that not less than \$25,000 shall be expended for algae and weed treatment of the upper mystic lakes; provided further,

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that \$10,000 shall be expended for payments to the Charles River Watershed Association for testing of fecal coliform levels in the Charles river and the posting of warning flags to indicate unsafe levels of contamination; provided further, that \$100,000 shall be expended for the repairs or replacement of the rink bed, so-called, at the veterans rink in the city of Somerville; provided further, that not less than \$2,700,000 shall be expended for the Dilboy complex, so-called, in the city of Somerville; and provided further, that not less than \$150,000 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

Highway Fund . . . . . 60.0%

Local Aid Fund . . . . . 40.0%

2440-0045 For payment to the city of Boston for maintenance and operation of the James Michael Curley recreation center . . . . . \$293,116

Local Aid Fund . . . . . 100.0%

2440-1000 The metropolitan district commission is hereby authorized to expend an amount not to exceed \$100,000 from revenue generated pursuant to section 34B of chapter 92 of the General Laws . . . . . \$100,000

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 \$273,506 from skating rink fees and rentals for the operation and maintenance, including personnel costs, of four rinks between September 1, 1997 and April 13, 1998 for an expanded and extended rink season . . . . . \$273,506

2440-4000 For the operation of the Ponkapoag golf course including maintenance, equipment, and capital improvements pursuant to section 2U of chapter 29 of the General Laws. . . . . \$700,000



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	Ponkapoag Recreational Fund . . . . .	100.0%	
2440-4500	For the operation of the Leo J. Martin golf course, including the costs of year round and true seasonal employees, so-called, pursuant to section 2II of chapter 29 of the General Laws . . . . .		\$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 . . . . .		\$2,371,833
	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 . . . . .		\$538,558
	Highway Fund . . . . .	60.0%	
	Local Aid Fund . . . . .	40.0%	
2443-2000	For the operation of the Commonwealth Zoological Corporation, pursuant to chapter 92B of the General Laws; provided, that \$3,000,000 of the amount appropriated herein shall be used toward the improvement of the Franklin Park and Stone Zoos and for the purposes of promoting private fund-raising, achieving self-sufficiency and serving as a catalyst for urban economic development and job opportunities for local residents; provided further, that said corporation shall take all steps necessary to increase the amount of private funding available for the operation of said zoos; provided further, that said corporation shall report to the house and senate committees on ways and means no later than March 1, 1998 on the status of, and amounts collected from, the private fundraising and enhanced revenue efforts identified in the draft Massachusetts zoos business and operations plan dated December, 1996; and provided further, that said corporation shall continue to provide free services and supplies, including, but not limited to, routine animal check-ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the trailside museum and the Chickatawbut Hill center in the town of Milton . . . . .		\$6,000,000
	Local Aid Fund . . . . .	100.0%	

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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 trailside 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 45 to 50, inclusive, of chapter 30 of the General Laws . . . . .	\$2,730,794
	Highway Fund . . . . .	80.0%
	Local Aid Fund . . . . .	20.0%

*Department of Food and Agriculture*

2511-0100	For the operation of the department, including the office of the commissioner, the expenses of the board of agriculture, the division of dairy services, the operation of the division of regulatory services and animal health, including a program of laboratory services at the university of Massachusetts at Amherst, the expenses of the pesticides board, 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 \$225,000 shall be expended for the farmer's market coupon program; provided further, that not less than \$150,000 shall be expended for agricultural fair prizes, including prizes for pie baking; provided further, that not less than \$40,000 shall be expended for the cost of leased agricultural equipment at the Smith Vocational High School in Northampton; provided further, that not less than \$55,000 shall be expended for the purposes of the mastitis laboratory at the University of Massachusetts at Amherst; provided further, that funds shall be made available from this item for the cranberry trade initiative,	
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so-called; provided further, that \$50,000 shall be expended for a one time payment to stabilize the viability of the center city farmer's market, so-called, in the city of Lowell; provided further, that not less than \$60,000 shall be expended for the purpose of reviewing current federal meat inspection programs and regulations, and investigating ways in which the commonwealth can assist value-added meat processing agricultural business, so-called, including, but not limited to, marketing, business and financing plans; provided further, that not less than \$49,976 be expended on the rabies control program; and provided further, that not less than \$50,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered jointly by the state aquaculture coordinator and Dukes and Nantucket counties ..... \$4,500,807

2511-0105 For the purchase of supplemental foods for the emergency food assistance program within the second harvest nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall be expended for food to be distributed by the greater Boston food bank as follows: 70.8 per cent to the greater Boston food bank, 16.8 per cent to the food bank of western Massachusetts, and 12.4 per cent to the Worcester county food bank; provided further, that the department of food and agriculture 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 February 13, 1998; and provided further, that such findings shall include, but not be limited to, any formulas needed for distribution of funds and recommendations for providing more equitable regional funding ..... \$3,000,000

2511-3002 For the integrated pest management program; provided, that not less than \$250,000 shall be expended for the purpose of a research grant at the University of Massachusetts; provided further, that said university shall not assess any overhead costs or charges to funds allocated to said university from this line item ..... \$299,500

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2511-4010	For the development of the aquaculture program including promotion, marketing, industry unification, and the formulation of a grant program that is responsive to the needs of the Massachusetts aquaculture industry . . . . .	\$130,000
2520-0100	For the operation of the state reclamation board . . . . .	\$52,759
	Mosquito and Greenhead Fly Control Fund . . .	100.0%

For the expenses of the following mosquito control projects; provided, that persons employed in these projects shall be exempt from the provisions of section 29A of chapter 29 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 . . . . .	\$173,772
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1000	For the Central Massachusetts mosquito control program . . . . .	\$700,457
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1100	For the Berkshire county mosquito control program . . . . .	\$104,412
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1200	For the Norfolk county mosquito control program . . . . .	\$685,863
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1300	For the Bristol county mosquito control program . . . . .	\$547,453
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1400	For the Plymouth county mosquito control program . . . . .	\$670,666
	Mosquito and Greenhead Fly Control Fund . . .	100.0%
2520-1500	For the Essex county mosquito control program . . . . .	\$392,060
	Mosquito and Greenhead Fly Control Fund . . .	100.0%

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**

*Office of the Secretary*

*State Appropriation*

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 said 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	
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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 not later than January 15, 1998; provided further, that said executive office shall continue to develop and implement the common client identifier, so-called; provided further, that \$100,000 shall be expended for the purposes of evaluating welfare reform pursuant to section 282; provided further, that said executive office shall work in conjunction with the office of child care services, the department of social services and the department of transitional assistance to develop a detailed plan for the implementation of a unified intake and eligibility system for day care in fiscal year 1999; provided further, that said plan shall include, but not be limited to, the costs of developing, implementing, servicing, and operating said system; provided further, that said executive office shall submit said plan to the house and senate committees on ways and means and the executive office of administration and finance not later than March 1, 1998; provided further, that said executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; and provided further, that said executive office shall work in cooperation with the department of trans-itional assistance, the department of social services, and the office of child care services to facilitate the consol-idation of day care services within said office of child care services ..... \$1,972,842

4000-0105 For the Annie E. Casey foundation project, prior appropri-  
ation continued.

4000-0122 For a citizenship assistance program to assist legal non-  
citizens in becoming citizens of the United States;  
provided, that the executive office of health and human  
services is authorized and directed to enter into an inter-  
agency service agreement with the office for refugees and  
immigrants for the administration of said program;

provided further, that said program shall be administered in consultation with said executive office, the department of transitional assistance, and the division of medical assistance; provided further, that said program shall be provided through community-based organizations to the maximum extent determined appropriate by the office for refugees and immigrants; provided further, that the program funded by this item: (1) shall provide assistance to persons who are eligible to become citizens of the United States within three years; (2) shall provide assistance to such persons who have been determined ineligible for federally funded benefits solely because of their status as non-citizens and who are currently receiving state-funded benefits which could be replaced in whole or in part by federally funded benefits if such persons became citizens of the United States; and (3) may be funded not only through state appropriations but also through matching financial or in-kind contributions by private organizations or local government agencies; provided further, that persons who would qualify for benefits provided pursuant to chapter 118A of the General Laws, but for their status as legal non-citizens shall be accorded the highest priority for provision of services; provided further, that said program shall neither be an entitlement, nor be construed to create an entitlement, and shall be subject to state appropriation; provided further, that the office for refugees and immigrants shall issue quarterly reports to the house and senate committees on ways and means and to the executive office of administration and finance on the number of persons participating in said program and the number of persons attaining citizenship in each quarter; provided further, that said report shall also detail the number of participants in said program receiving state-funded benefits by category of benefit and the federal benefits each participant would have been eligible for, but for his status as a legal non-citizen; provided further, that said office for refugees and immigrants shall report quarterly to the house and senate committees on ways and means and the executive office of administration and finance on the amounts of matching or in-kind contributions by private organizations or local government agen-

cies; provided further, that no funds shall be expended from this item to replace expiring federal funds; provided further, that no funds shall be expended from this item for AA subsidiary payroll costs, so-called; and provided further, that it is declared to be the intention of the general court that this program shall not continue beyond fiscal year 2000 and that not more than an aggregate amount of \$6,000,000 shall be expended for the purposes of said program during the period from fiscal year 1998 through fiscal year 2000, inclusive ..... \$2,000,000

4000-0175 For a pilot program of nutritional assistance through the purchase of federal food stamps for distribution in fiscal year 1998 to residents of the commonwealth who are qualified aliens within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called, and non-citizens otherwise permanently residing under color of law in the United States; provided that such a resident shall be eligible for such benefits only if he (1) is ineligible for federal food stamp benefits pursuant to the provisions of sections 401, 402 or 403 of such Act, (2) would be eligible for federally funded food stamps, but for his citizenship status, and (3) has resided in the commonwealth for at least 60 days; provided further, that priority in the distribution of such benefits shall be given to persons who were receiving federally funded food stamps in fiscal year 1997 but were rendered ineligible for such benefits by operation of said sections 401, 402 or 403; provided further, that on or before August 1, 1997, the secretary shall promulgate regulations implementing the provisions of this item and shall direct the department of transitional assistance to implement the provisions of this item, subject to submission and approval of any plan required under federal law for such distribution; provided further, that the benefit levels established for such program shall, to the extent feasible, replicate the equivalent levels in effect for the federal food stamp program as of June 30, 1997, but shall be reduced by a consistent percentage across all benefit levels to the extent necessary not to exceed the amounts appropriated herein; provided further, that such benefits may be distributed by electronic benefit transfer to the extent such distribution does not jeopardize

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otherwise available federal funding or impede the effective distribution of such benefits; provided further, that on or before February 1, 1998, the secretary shall report to the house and senate committees on ways and means on the fiscal and policy impacts of the pilot program, including an assessment of the size of the caseload, the size of any waiting list for such benefits, and recommendations for future legislative action with respect to such program; 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 said department consistent with this item; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or an enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by said department consistent with this item . . . . . \$5,000,000

*Federal Appropriations*

4000-0705	For the purposes of a federally funded grant entitled, Emergency Shelter Grants Program . . . . .	\$1,700,000
4000-0706	For the purposes of a federally funded grant entitled, Crisis Nursery . . . . .	\$60,000
4000-0707	For the purposes of a federally funded grant entitled, Supportive Housing . . . . .	\$10,738,764
4000-0708	For the purposes of a federally funded grant entitled, Head Start . . . . .	\$200,000
4000-9401	For the purposes of a federally funded grant entitled, Community Mental Health Services . . . . .	\$6,384,827
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 . . . . .	\$1,461,269
4003-0805	For the purposes of a federally funded grant entitled, Refugee Resettlement Program and Social Services . . . . .	\$1,877,195
4003-0806	For the purposes of a federally funded grant entitled, Refugee Cash Assistance, Medical Assistance, and Administration. . .	\$10,579,448



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4003-0807	For the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant .....	\$2,652,931
4000-9404	For the purposes of a federally funded grant entitled, the Shelter Plus Care Grant .....	\$7,772,400

*Division of Medical Assistance*

*State Appropriations*

4000-0300	For the operation 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 1997 shall be retained in fiscal year 1998; 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 30 days prior to making such expenditures; 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
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division shall deposit all federal funds received in the General Fund; provided further, that \$50,000 shall be made available for the funding of a head injury treatment program on Cape Cod, being the head injured program also known as the "CHIP" house, serving the treatment needs of individuals with brain injuries; 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 1, 1996 until July 1, 1998, 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; provided further, that not less than \$107,000 shall be provided to compensate Morgan Memorial Goodwill Industries, Inc., of Boston for services provided to division of medical assistance recipients from March 1993 to June, 1993, inclusive; and provided further, that such reimbursement shall be for services rendered during said period, yet currently outstanding due to technical changes to the Submission Recap Reports Rule, so-called . . . . . \$34,875,614

4000-0307 For the administrative costs related to the implementation and operation of programs authorized by chapter 203 of the acts of 1996 . . . . . \$2,746,100

Children's and Seniors' Health Care  
Assistance Fund . . . . . 100.0%

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

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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; 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 . . . . . \$31,160,000

4000-0315 For administrative support and related services purchased contractually by the division for the implementation and operation of programs authorized by chapter 203 of the acts of 1996, including, but not limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, and interagency service agreements; provided, that not less than \$1,641,150 shall be provided for an interagency service agreement with the executive office of elder affairs that provides for the transfer of funds from this item for the costs of administering enrollment in the senior pharmacy assistance program established pursuant to the provisions of section 16B of chapter 118E of the General Laws; and provided further, that not less than \$500,000 shall be distributed to home care corporations for the purposes of said interagency service agreement . . . . . \$4,783,810

Children's and Seniors' Health Care  
Assistance Fund . . . . . 100.0%

4000-0318 For the nonpersonnel systems costs of the division incurred as a result of the implementation and operation of programs authorized by chapter 203 of the acts of 1996, including vendor contracts to upgrade and enhance the division's central automated vendor payment system, the medicaid management information system, so-called; provided, that not less than \$300,000 shall be provided for said systems enhancements to process claims for the senior pharmacy assistance program established pursuant to the provisions of section 16B of chapter 118E of the General Laws . . . . . \$1,366,221

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**Children's and Seniors' Health Care**

Assistance Fund . . . . . 100.0%

- 4000-0320 The division of medical assistance may expend an amount not to exceed \$65,000,000 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 except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to noncitizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called . . . . . \$65,000,000
- 4000-0325 For the nonpersonnel systems costs of the division, including contracts for the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, contracts for the operation and enhancement of the client eligibility systems, contract-



ed staff whose main duties are systems related, and personal computers and other systems equipment used by division staff; provided, that all federal reimbursements for said contracts shall be deposited in the General Fund; and provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased by the division shall be assumed by the providers utilizing said devices ..... \$28,773,922

4000-0430 For the commonhealth program to provide primary and supplemental medical care and assistance to disabled adults and children pursuant to sections 9A, 16 and 16A of chapter 118E 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; 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; provided further, that the division shall adhere to the same time standards for processing of a commonhealth application as govern applications under Title XIX, namely within 45 days of receipt of a completed application, or within 90 days if a determination of disability is required; provided further, that children will be eligible for said medical care and assistance if said children meet the disability standards as defined by the division of medical assistance; provided further, that said disability standards shall be no more restrictive than the standards in effect on July 1, 1996; and provided further, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called ..... \$24,560,012

4000-0450 For a pharmacy assistance program for eligible residents of the commonwealth aged 65 or older, pursuant to the provisions of chapter 203 of the acts of 1996; provided,

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that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to noncitizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called . . . . . \$30,000,000

Children's and Seniors' Health Care Assistance Fund . . . . . 100.0%

4000-0460 For an interagency service agreement with the executive office of elder affairs to provide home care services to eligible recipients through the enhanced community options program, so-called, the home health substitution initiative, so-called, and the nursing home light care initiative, so-called; provided that, the executive office of elder affairs shall ensure that the home care corporations or other entities that receive funds from this item shall comply with any performance measures, outcome goals and cost-effectiveness standards established by the division and the executive office of elder affairs pursuant to the terms of said interagency service agreement . . . . . \$7,793,000

4000-0500 For health care services provided to medical assistance recipients under the division's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the division; provided, that not more than \$227,100,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; provided further, that no payment for special provider costs shall be made from this item without 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 commissioners of the division of medical assistance and the department of mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health . . . \$1,259,047,300

4000-0600 For health care services provided to medical assistance recipients under the division's senior care plan; provided, that not more than \$255,300,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that notwithstanding the provisions of item 4000-0310 to the contrary, not less than \$8,600,000 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 except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; provided further, that the division is hereby authorized to seek any federal waivers necessary to establish a managed care program for dually-eligible seniors, so-called; provided further, that said program shall integrate services covered by medicare and

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medicaid, including home and community-based support services, for the purpose of providing said seniors with high quality, accessible, cost-effective care which shall enable said seniors to maintain the highest feasible functional level; provided further, that said waiver shall not take effect unless specifically authorized by law; and provided further, that expenditures from this item shall be made only for the purposes expressly stated herein . . . . \$1,542,950,750

4000-0700 For health care services provided to medical assistance recipients under the division's health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the division's managed care or senior care plans; provided, that not more than \$127,000,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$900,000 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; and provided further, that expenditures from this item shall be made only for the purposes expressly stated herein . . . . \$599,085,940

4000-0820 For the intergovernmental transfer component of the disproportionate share program for certain 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



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	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 \$2,500,000 by the medical center for its share of funds transferred pursuant to this item; and provided further, that said hospital shall submit by December 2, 1997, to the house and senate committees on ways and means, a report detailing the programs funded from this item . . . . .	\$5,000,000
4000-0860	For health care services provided to children and adults participating in the medical assistance program pursuant to clauses (a), (b), (c), (d), (e) and (h) of subsection 2 of section 9A of chapter 118E of the General Laws; provided, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; and provided further, that all revenues received as a result of expenditures authorized herein shall be credited to the Children's and Seniors' Health Care Assistance Fund . . . . .	\$48,085,380
	Children's and Seniors' Health Care Assistance Fund . . . . .	100.0%
4000-0870	For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of	

subsection 2 of section 9A of chapter 118E of the General Laws; provided, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to non-citizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; provided further, that all revenues received as a result of expenditures authorized herein shall be credited to the Children's and Seniors' Health Care Assistance Fund; and provided further, that the division may enter into an interagency service agreement with the department of transitional assistance for the provision of health benefits for enrollees in the emergency aid to the elderly, disabled, and children program . . . . . \$54,443,125

Children's and Seniors' Health Care  
Assistance Fund . . . . . 100.0%

4000-0880 For a reserve for health care services provided to children with family incomes between 134 per cent and 200 per cent of the federal poverty level, inclusive, pursuant to clause (b) of subsection 2 of section 9A of chapter 118E of the General Laws; provided, that except as otherwise provided by this act, the division is hereby authorized and directed to make expenditures for services provided to noncitizens in all optional and mandatory coverage groups identified pursuant to sections 401, 402, 403, 411 and 412 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, whether or not federal reimbursement is available and whether or not they are qualified aliens, so-called; provided further, that said division shall apply for an amendment to the MassHealth demonstration project waiver as required by section 26 of chapter 203 of the acts of 1996 no later than October 1, 1997; and provided further, that funds allocated, transferred, or expended from this item shall be expended subject to the availability of federal financial reimbursement for said expenditures . . . . . \$14,845,075

Children's and Seniors' Health Care  
Assistance Fund . . . . . 100.0%

*Federal Appropriation*

4000-0314	For the purposes of a federally funded grant entitled, Welfare Reform .....	\$4,300,000
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*Division of Health Care Finance and Policy*

*State Appropriations*

4100-0060	For the operation of the division and the administration of the uncompensated care pool established pursuant to chapter 118G of the General Laws; provided, that any interest accrued on principal in the compliance liability trust fund, so-called, during fiscal year 1997 and projected to be generated in fiscal year 1998 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 118G for the purposes of this item shall be reduced by the amount of said interest; provided further, that the division 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; provided further, that the division, in consultation with the division of medical assistance, shall not promulgate any increase in medicaid provider 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; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that the division shall share financial data and expertise about the Massachusetts health care industry with the Massachusetts Institute for
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Social and Economic Research for the purpose of enhancing, developing and marketing data products for the public; provided further, that the division and the institute shall share any revenue generated through sale, licensure, royalty, and usage fees charged for said data products; and provided further, that, no later than October 1, 1997, the division shall submit to the comptroller a report describing the method by which the division shall generate revenues not collected from acute care hospitals in an amount sufficient to meet 25 per cent of the projected costs of the division in any fiscal year, as required by section 612 of chapter 151 of the acts of 1996 . . . . . \$9,327,902

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 118G of the General Laws, for the hospital fiscal year beginning October 1, 1997; 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 30, 1998; 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 directed to transfer to the General Fund as of said June 30 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 . . . . .	\$687,314
4110-1000	For the community services program . . . . .	\$2,644,218
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 . . . . .	\$6,902,564
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 so determined through this item, including, but not limited to, reimbursement for the home and community-based waiver initiative . . . . .	\$392,915
4110-2000	For the Turning 22 program of the commission; provided that the amount provided herein for new clients participating in said program in fiscal year 1998 shall not exceed \$320,000 and shall not annualize to more than \$680,000 in fiscal year 1999; 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 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 22 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 . . . . .	\$5,811,340
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; and provided further, that \$163,000 of the amount appropriated herein	

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	shall be obligated for the purpose of mitigating inequitable reimbursement rates for the Carroll Center for the Blind . . . .	\$1,436,122
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 . . . . .	\$1,618,021

*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 . . . . .	\$87,500
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 . . . . .	\$185,000

*Massachusetts Rehabilitation Commission*

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	
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	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 . . . . .	\$304,501
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 shall be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees . . . . .	\$6,322,114
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 \$65,000 be expended for the Charlestown navy yard special project for physically disabled adults . . . . .	\$6,728,813
4120-4000	For independent living assistance services; provided that not less than \$1,378,705 shall be expended for the operation and staffing of independent living centers . . . .	\$4,073,327
4120-4001	For the housing registry for the disabled . . . . .	\$100,000
4120-5000	For homemaking services . . . . .	\$3,904,837
4120-6000	For head injured services . . . . .	\$6,635,516
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; provided further, that all unexpended funds from this item shall revert to the head injury treatment services trust fund; and provided further, that the commission shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the balance of the head injury treatment services trust fund and on the balance of said fund from the corresponding quarter of the prior fiscal year . . . . .	\$250,000
	Head Injury Treatment Services Trust Fund . . . 100.0%	

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**Chap. 43***Federal Appropriations*

4120-0020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation .....	\$36,000,000
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, State-wide 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 .....	\$1,575,000

*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 \$1,140,000 dollars shall be expended for the operation and staffing of independent living centers; provided further, that not less than \$50,000 dollars be allocated for interpreter services for late-deafened adults; and provided further, that not less than \$50,000 be allocated for on-call emergency interpreters .....	\$3,455,060
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 \$70,000 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 .....	\$70,000

*Federal Appropriation*

4125-0103	For the purposes of a federally funded grant entitled Massachusetts Assistive Technology Partnership .....	\$755,368
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*Office of Child Care Services*

4130-0001	For the central administration of the office of child care services; provided, that the office shall administer the child care resource and referral system; and 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 28, 1993 .....	\$283,391
4130-0002	For the administration of the Children's Trust Fund .....	\$811,410
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 \$652,522 to be deposited in the general fund from licensing fees and the sale of day care lists .....	\$6,117,546
4130-1000	For statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns to be administered by the Children's Trust Fund; provided, that such services shall be made available statewide to all parents under the age of 19 years within the amount appropriated herein .....	\$5,000,000
4130-2999	For consultant services to improve the administration and delivery of state subsidized day care; provided, that all expenditures shall be made pursuant to the provisions of section 255 .....	\$200,000
	Child Care Fund .....	100.0%
4130-3000	For the administration of day care programs pursuant to section 239; provided, that the office of child care children shall issue monthly reports detailing the number and average cost of voucher and contracted day care slots funded from items 4130-3200, 4130-3300, 4130-3400, 4130-3500, 4130-3600 and 4130-3700 by category of eligibility; provided further, that the full annualized value of all rate increases granted in prior fiscal years shall be considered to be included in the aforementioned items; provided further, that not more than \$1,083,265 shall be expended for AA subsidiary costs, so-called; and provided further, that said office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplica-	

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	ted number of children on waiting lists for state subsidized day care .....	\$1,273,501
4130-3100	For the regional administration of day care programs and related day care activities; provided, that said activities shall include, but not be limited to, voucher management, child care provider training, child care for children with disabilities in school aged child care programs, community based programs that provide direct services to parents, and coordination of waiting lists for state subsidized day care; provided further, that not less than \$190,000 shall be expended to provide day care services for children with disabilities in school-aged child care programs; provided further, that \$650,000 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 not more than \$6,363,644 shall be expended for the operating expenses of the voucher management system; and provided further, that no funds shall be expended from this item for AA subsidiary payroll expenses, so-called .....	\$8,530,458
	Child Care Fund .....	100.0%
4130-3200	For the employment services voucher and contracted day care program; provided, that the employment services 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 employment services 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 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 not less than \$67,995,440 shall be expended for employment services voucher day care; provided further, that of said voucher amount, not less than \$500,000 shall be expended for eligible participants in the full employment program established by subsection (i) of section 110 of chapter 5 of the acts of 1995; provided further, that not more than \$5,840,633 shall be expended	

for employment services 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 \$495,000 shall be expended by the department of transitional assistance for the provision of 100 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; and 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 18 and who would qualify for benefits under the provisions of chapter 118 of the General Laws but for the deeming of the grandparents' income ..... \$73,836,073

Child Care Fund .....	72.50%
General Fund .....	27.50%

4130-3300 For the provision of income eligible day care slots and vouchers; provided, that not less than \$51,267,083 shall be expended for contracted day care slots for income eligible parents; provided further, that not less than \$1,900,182 shall be expended for contracted day care for teen parents and their children; provided further, that not less than \$37,810,947 shall be expended for voucher day care for income eligible parents; provided further, that of said amounts, not less than \$20,000 shall be expended for the purposes of a program of after school safety day care for the children of homeless families in the town of Framingham; provided further, that prior to January 15, 1998, the commissioners of the office of child care services and the department of transitional assistance shall report to the house and senate committees on ways and means and the executive office of administration and finance the amount of any projected surplus in items 4403-2000, 4403-2002, and 4403-2013 and shall issue a joint recommendation to the house and senate committees on ways and means and the executive office of administration and finance regarding the transfer of any portion of such surplus to this item; provided further, that said recommendation shall include an estimate of the number of day care

slots funded by any proposed transfer, the annualized impact of any such transfer, the impact on the commonwealth's ability to meet federal financial requirements, and the effects, if any, of cost containment efforts implemented in the administration of income eligible day care programs; provided further, that nothing herein shall authorize said transfer; provided further, that prior to July 15, 1997, the commissioner of office of child care services shall report to the house and senate committees on ways and means and the executive office of administration and finance on the amount of funding from this item deemed to be non post-transitional expansion, so-called; provided further, that the annualized cost of said expansion in fiscal year 1999 shall not exceed 200 per cent of the value of said expansion in fiscal year 1998; and provided further, that not less than one half of the expansion slots identified by said report shall be made available prior to January 1, 1998 ..... \$95,959,452

Child Care Fund .....	72.50%
General Fund .....	27.50%

4130-3400 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 110 of chapter 5 of the acts of 1995 (b) teen parents receiving supplemental security income payments who participate in school, education, and 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, that the office of child care 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 stated herein shall 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 \$5,812,027 shall be expended for contracted day care services for such teen parents; provided further, that \$1,207,605 shall be expended for voucher day care services for such teen parents; and provided further, that \$303,790 shall be expended on informal child care services for such teen parents . . . . . \$7,323,422

4130-3500 For the provision of trial court day care services; provided, that \$127,065 shall be expended for day care services in the Roxbury trial court; provided further, that \$152,356 shall be expended for day care services in the Springfield trial court; provided further, that \$97,301 shall be expended for day care services in the West Roxbury trial court; provided further, that \$252,000 shall be expended for day care services in the Middlesex trial court; provided further, that prior to October 13, 1997, the office of child care services shall report to the house and senate committees on ways and means on the number of children served in each program, the extent to which services are utilized by the employees of the trial courts, the extent to which the parents or guardians of children receiving day care services are involved in court proceedings, the types of cases in which said parents or guardians are involved, and the extent to which the children themselves are involved in the proceedings of the court . . . . . \$628,722

4130-3600 For supportive day care associated with the family stabilization program; provided, that no funds shall be expended for "extended vouchers", so-called . . . . . \$40,090,927

Child Care Fund . . . . .	84.84%
General Fund . . . . .	12.66%
Social Services Program Fund . . . . .	2.50%

slots funded by any proposed transfer, the annualized impact of any such transfer, the impact on the commonwealth's ability to meet federal financial requirements, and the effects, if any, of cost containment efforts implemented in the administration of income eligible day care programs; provided further, that nothing herein shall authorize said transfer; provided further, that prior to July 15, 1997, the commissioner of office of child care services shall report to the house and senate committees on ways and means and the executive office of administration and finance on the amount of funding from this item deemed to be non post-transitional expansion, so-called; provided further, that the annualized cost of said expansion in fiscal year 1999 shall not exceed 200 per cent of the value of said expansion in fiscal year 1998; and provided further, that not less than one half of the expansion slots identified by said report shall be made available prior to January 1, 1998 ..... \$95,959,452

Child Care Fund .....	72.50%
General Fund .....	27.50%

4130-3400 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 110 of chapter 5 of the acts of 1995 (b) teen parents receiving supplemental security income payments who participate in school, education, and 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, that the office of child care 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 stated herein shall 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 \$5,812,027 shall be expended for contracted day care services for such teen parents; provided further, that \$1,207,605 shall be expended for voucher day care services for such teen parents; and provided further, that \$303,790 shall be expended on informal child care services for such teen parents . . . . . \$7,323,422

4130-3500 For the provision of trial court day care services; provided, that \$127,065 shall be expended for day care services in the Roxbury trial court; provided further, that \$152,356 shall be expended for day care services in the Springfield trial court; provided further, that \$97,301 shall be expended for day care services in the West Roxbury trial court; provided further, that \$252,000 shall be expended for day care services in the Middlesex trial court; provided further, that prior to October 13, 1997, the office of child care services shall report to the house and senate committees on ways and means on the number of children served in each program, the extent to which services are utilized by the employees of the trial courts, the extent to which the parents or guardians of children receiving day care services are involved in court proceedings, the types of cases in which said parents or guardians are involved, and the extent to which the children themselves are involved in the proceedings of the court . . . . . \$628,722

4130-3600 For supportive day care associated with the family stabilization program; provided, that no funds shall be expended for "extended vouchers", so-called . . . . . \$40,090,927

Child Care Fund . . . . . 84.84%

General Fund . . . . . 12.66%

Social Services Program Fund . . . . . 2.50%

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4130-3700	For the provision and management of the informal child care program; provided, that not more than \$2.00 per child per hour shall be paid for such services; provided further, that not more than \$9,054,791 shall be expended for informal child care services .....	\$9,054,791
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*Federal Appropriations*

4130-2000	For the purposes of a federally funded grant entitled, Project Child care 2000 .....	\$121,811
4130-9002	For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities .....	\$721,594

*Massachusetts Soldiers' Home*

4180-0100	For the maintenance and operation of the Massachusetts soldiers' home, including a specialized unit for the treatment of Alzheimer's disease patients, located in the city of Chelsea .....	\$18,479,573
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4180-1100	The soldiers' home in Chelsea may expend revenues up to a maximum of \$132,000 for facility maintenance and patient care, including personnel costs; provided, that 60 per cent of all revenues generated pursuant to section 2 of chapter 90 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; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said soldiers' home 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, prior appropriation continued .....	\$132,000
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*Holyoke Soldiers' Home*

4190-0100	For the maintenance and operation of the soldiers' home, including the adult day care program, located in the city of Holyoke .....	\$13,108,171
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4190-1100 The soldiers' home in Holyoke may expend revenues up to a maximum of \$88,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 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; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said soldiers' home 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, prior appropriation continued ..... \$88,000

Department of Youth Services  
State Appropriations

4200-0010 For the administration of the department of youth services; provided, that the department shall submit a report to the house and senate committees on ways and means not later than December 15, 1997 detailing the caseload and cost per case estimate for all department programs funded in items 4200-0100, 4200-0200 and 4200-0300; 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 ..... \$3,905,426

4200-0100 For the supervision, counseling, and other community based services provided to committed youths in non-residential care programs of the department; provided, that the commissioner is hereby authorized to transfer up to 5 per cent of the funds appropriated herein to items 4200-0200 and 4200-0300 of section 2; provided further, that 30 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

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- plan showing the amounts to be transferred and the reason  
for the proposed transfer ..... \$16,464,286
- 4200-0200 For pre-trial detention programs, including purchase-of-  
service and state-operated programs; provided, that the  
commissioner is hereby authorized to transfer up to 5 per  
cent of the funds appropriated herein to items 4200-0100  
and 4200-0300 of section 2; provided further, that 30 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 ..... \$12,235,845
- 4200-0300 For secure facilities, including purchase-of-service and state-  
operated programs incidental to the operations of said  
facilities; provided, that the commissioner is hereby  
authorized to transfer up to 3 per cent of the funds  
appropriated herein to items 4200-0100 and 4200-0200 of  
section 2; provided further, that 30 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 ..... \$61,389,032
- 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 15, 1998 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 15 per cent 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 1A and 1B; 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 . . . . . \$848,019

*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*

Notwithstanding the provisions of any general or special law to the contrary, items 4400-1000, 4400-1100, 4400-9999, 4401-1000, 4403-2000, 4403-2110 and 4403-2120 shall be charged to the Transitional Aid to Needy Families Fund according to the approximate percentage established in each such item, pursuant to the provisions of section 219 of this act.

*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 the expenses of operating a food stamp program; provided, that \$350,000 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

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 1A and 1B; 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 . . . . . \$1,374,113

General Fund . . . . . 65.03%

Transitional Aid to Needy Families Fund . . . . . 34.97%

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 18 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 118 of the General Laws, but for the deeming of the grandparents' income, shall be allowed to participate in the employment services 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 employment services 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 100 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 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 \$100,000 shall be expended for the purposes of an employment services program for refugee training and employment for the recipients of said program in Boston; provided further, that not less than \$100,000 shall be made available to the Cape Cod, Martha's Vineyard, and Nantucket regional employment board for the purpose of developing a pre-employment training program for human service vendors which shall include, but not be limited to, training for welfare recipients under the full employment program or under the community service program as defined in subsection (k) of section 110 of chapter 5 of the acts of 1995; provided further, that said training program shall be developed by Cape Cod community college in conjunction with the department of mental health, the department of transitional assistance, the department of mental retardation, the deputy director of workforce development, and five human service vendors to be named by the regional employment board and presented to the Cape Cod, Martha's Vineyard, and Nantucket regional employment board for approval and implementation no later than October 15, 1998; provided further, that \$161,343 shall be expended for the administrative costs of a project at Northern Essex Community College; provided further, that \$300,000 shall be expended for the Parent's Fair Share program operated by Spectra Manage-

ment Services Corporation, Inc., of Springfield; provided further, that not less than \$45,000 shall be expended for English as a Second Language Skills Training program for DTA-TAFDC recipients in the Greater New Bedford Service Delivery Area; provided further, that the annualized value of the programs funded in this item shall not exceed in fiscal year 1999 the amount appropriated herein; and provided further, that the department shall notify the house and senate committees on ways and means of all allocations made from this item ..... \$24,944,367

General Fund ..... 75.0%  
Transitional Aid to Needy Families Fund ..... 25.0%

4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding the provisions of any general or special law to the contrary, benefits from this item shall be paid only to citizens of the United States and to noncitizens for whom federal funds may be used to provide benefits; provided further, that the need standard shall be equal to the standard in effect in fiscal year 1989; 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 110 of chapter 5 of the acts of 1995 shall be 2¼ per cent below the payment standard in effect in fiscal year 1995, pursuant to the provisions of the state plan required under the personal responsibility and work opportunity reconciliation act of 1996, so-called; provided further, that the department shall notify all teen parents receiving benefits from said program of the requirements found in clause 2 of subsection (i) of said section 110 of said chapter 5; provided further, that a \$40 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; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 1997; provided further, that said children's clothing allowance shall be included in the standard of need for the month of September, 1997; 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 2 of chapter 118 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 \$32,500,000 shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that in promulgating, amending, or rescinding its regulations with respect to eligibility for, or levels of, 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 or of this item to the contrary, 30 days 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 the basis for, and text of, such proposed changes; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any unexpended balance remaining in this item at the close of the fiscal year to the Caseload Increase Mitigation Fund, pursuant to the provisions of section 50 of this act . . . . . \$409,005,488

Transitional Aid to Needy Families Fund . . . . . 61.98%  
General Fund . . . . . 38.02%

4403-2002 For a program of supplemental transitional aid to families with dependent children pursuant to the provisions of section 210; provided, that benefits under this item shall be provided only to persons who are not citizens of the United States, and for whom, pursuant to section 401, 402 or 403 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, federal funds may not be used to provide benefits pursuant to chapter 118 of the General Laws, but who are qualified aliens within the meaning of section 431 of said Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641 or are otherwise permanently residing in the United States under color of law; provided further, that the number of assistance units receiving benefits funded from this item at any one time shall not exceed the number of assistance units comprised of qualified aliens or persons permanently residing under color of law which were receiving benefits provided under item 4403-2000 of chapter 151 of the acts of 1996 on June 1, 1997, plus 640 assistance units; provided further, that notwithstanding the provisions of



any general or special law, or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 1989; 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 110 of chapter 5 of the acts of 1995 shall be  $2\frac{3}{4}$  per cent below the payment standard in effect in fiscal year 1995; provided further, that the department shall notify all teen parents receiving benefits from said program of the requirements found in clause 2 of subsection (i) of said section 110 of said chapter 5; provided further, that a \$40 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; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 1997; provided further, that said children's clothing allowance shall be included in the standard of need for the month of September, 1997; 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 supplemental 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 2 of chapter 118 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 supplemental 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 in promulgating, amending, or rescinding its regulations with respect to eligibility for, or levels of, 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; and provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary, 30 days 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 the basis for, and text of, such proposed changes ..... \$20,710,400

4403-2013 The department may expend an amount not to exceed \$32,500,000, in accordance with the provisions of items 4403-2000 of section 2, 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 . . . . \$32,500,000

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, 30 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 shall prepare and promulgate rules and regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section 2; 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 36 months; provided further, that if a person has utilized emergency assistance benefits more than once within 36 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 1998; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States and shall not be provided to illegal or undocumented aliens; provided further, that the department of transitional assistance shall promulgate regulations

consistent with the provisions of this item and section 210, not later than July 15, 1997; 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 or said section 210; 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 regulations promulgated by the department or said section 210; 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 ..... \$10,184,795

Transitional Aid to Needy Families Fund ..... 87.40%  
General Fund ..... 12.60%

- 4403-2119 For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995 for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program, provided, that \$125,000 shall be expended for an independent evaluation of all programs for teen parents and their children administered by the departments of transitional assistance and social services; and provided further, that said evaluation shall include, but not be limited to, an analysis of the impact of the provisions of chapter 5 of the acts of 1995, including an analysis of the structured settings funded herein, and the provisions of the federal personal responsibility and work opportunity reconciliation act of 1996, so-called ..... \$5,341,813
- 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 \$76,650 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 this item to the contrary, 30 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 authorized to enter into an interagency service agreement with the division of housing and community development for a program to prevent homelessness; provided further, that not more than \$4,563,333 shall be expended for said program; provided further, that not less than \$26,959,160 shall be expended on contracted family shelters; provided further, that of the amount authorized for said contracted family shelters, not less than \$798,483 shall be expended for the Safe Harbor shelter, so-called; provided further, that of the amount authorized for said contracted family shelters, not less than \$310,000 shall be expended for the operation of the emergency family shelter operated by Emmaus Inc. of Haverhill; provided further, that of the amount authorized for said contracted family shelters, not more than \$20,000 shall be expended for Champ House; provided further, that \$474,956 shall be expended by the Louison foundation of Brockton to operate a six-family homeless shelter; 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 \$1,280,648 shall be expended on said transitional housing

program; provided further, that no more than \$300,000 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 253 of chapter 60 of the acts of 1994; provided further, that at least as many shelter spaces as were provided for homeless families during fiscal year 1997 be made available in fiscal year 1998; provided further, that the winter shelters, so-called, be operated year-round; provided further, that \$104,148 shall be expended for a furniture donation pickup van; provided further, that the department shall promulgate regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section 2; 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 36 months; provided further, that if a person has utilized emergency assistance benefits more than once within 36 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 1998; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized by this item; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States and shall not be provided to illegal or undocumented aliens; provided further, that the department of transitional assistance shall promulgate regulations consistent with the provisions of this item and section 210 of this act not later than July 15, 1997; 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 or said section; 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 or said section; 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 . . . . . \$34,398,742

Transitional Aid to Needy Families Fund . . . . . 89.0%

General Fund . . . . . 11.0%

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 7A of chapter 118A of the General Laws, may be paid from this item; provided further, that the department of transitional assistance, in collaboration with the division of medical assistance, is hereby authorized to fund an 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 19D 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 notwithstanding provisions of any general or special law to the contrary, persons receiving services under the provisions of subsection (a) of section 6 of chapter 354 of the acts of 1994 on June 30, 1996 shall continue to receive said services until the implementation of said optional category of payments; 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 . . . . . \$172,969,659

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 \$987,431 shall be expended for the health care for the homeless programs in Boston, Worcester and Springfield, including not less than \$563,345 for the Boston health care for the homeless program; provided further, that not less than \$48,400 shall be expended for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc., located in the city of Lynn; provided further, that not less than \$235,000 shall be expended for Our Fathers House in Fitchburg; provided further, that not less than \$2,102,584 shall be expended for the Massachusetts Housing and Shelter Alliance; provided further, that not less than \$659,996 shall be expended for the Middlesex Shelter in Lowell; provided further, that not less than \$84,000 shall be expended for the Boston Rescue Mission; provided further, that not less than \$271,989 shall be expended for the Market Ministries shelter in New Bedford; provided further, that not less than \$11,974,345 shall be expended for a contract with the Pine Street Inn located in the city of Boston; provided further, that not less than \$1,181,539 shall be expended for a comprehensive multi-service day treatment program for the homeless in the city of Boston; provided further, that not less than a total of \$4,205,182 shall be expended for the PIP shelter in Worcester, the daybreak shelter in Lawrence, and the Long Island shelter in Boston; provided further, that not less than \$247,500 shall be expended for the Friends of the Homeless shelter in Springfield; provided further, that \$503,556 shall be expended for the Cambridge Salvation Army; provided further, that not less than \$187,000 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,



\$165,000 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 \$624,494 shall be expended for the Quincy Interfaith Sheltering Coalition; provided further, that not less than \$40,000 shall be expended for the Samaritan Inn homeless shelter in Westfield; provided further, that not less than \$215,824 shall be expended for a shelter operated by Emmaus, Inc. of Haverhill; provided further, that not less than \$116,000 shall be expended for the Marlborough Shelter program, so-called; provided further, that \$140,000 shall be expended for the Meadows program, so-called; provided further, that \$275,000 shall be expended for the Turning Point program, so-called; provided further, that not less than \$187,539 shall be expended for a contract with the Berkshire County Chapter of the American Red Cross; provided further, that not less than \$194,872 shall be expended for a contract with the Somerville Homeless Coalition; provided further, that not less than \$468,498 shall be expended for a contract with the Housing Assistance Corporation in Hyannis; provided further, that not less than \$132,019 shall be expended for the Project Place day services program in the city of Boston; provided further, that not less than \$40,000 shall be expended for a contract with the Hyannis Salvation Army; provided further, that not less than \$95,000 shall be expended for a contract with Sylvia's Haven at Devens to provide transitional housing to pregnant and parenting women and girls; provided further, that not less than \$90,000 shall be expended for a contract with the Mary E. Sargent House to provide transitional housing services to women and children; provided further, that the department is hereby authorized and directed to provide a rate increase to homeless service providers who received payment from this item in fiscal years 1996 and 1997, and who did not receive a rate increase in fiscal year 1997; provided further, that said rate increase shall not exceed 10 per cent of the value of said service providers' contracts in fiscal year 1996; and provided further, that at least as many shelter spaces as were provided for homeless families and individuals during fiscal year 1997 shall be made available in fiscal year 1998 ..... \$29,500,005

4408-1000 For a program of cash assistance to certain residents of the commonwealth pursuant to chapter 117A 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 benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens, so-called, or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that a \$35 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 65 or older who have applied for benefits under chapter 118A 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 21 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 both chapter 118 of the General Laws and the separate program created by section 210 of this act and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 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 under said program; 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 30A 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 1991; 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 30A 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 aid 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 \$18,000,000 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 ..... \$52,652,070

4408-2002 For a program of cash assistance to certain residents of the commonwealth pursuant to chapter 117A of the General Laws found by the department to be eligible for such aid, pursuant to regulations promulgated by said department and subject to the limitations of appropriation therefor; provided, that benefits under this item shall only be provided to residents of the commonwealth who are qualified aliens, so-called, or non-citizens otherwise permanently residing under the color of law, and whose federal supplemental security income benefits have been terminated in fiscal year 1997 or 1998 solely due to their citizenship status, pursuant to the provisions of sections 401, 402, or 403 of the Personal Responsibility and Work Opportunity Reconciliation act of 1996, so-called and shall not be provided to illegal or undocumented aliens; provided further, that benefits under this item shall be paid



only through March 31, 1998; provided further, that any funds remaining in this item on April 1, 1998 shall be transferred to item 4408-2003 of this act; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that a \$35 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 65 or older who have applied for benefits under chapter 118A 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 21 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 both chapter 118 of the General Laws and the separate program created by section 210 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 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 under said program; 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 30A 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 1991; 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 30A 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 persons receiving benefits funded from this item in any month shall not be eligible for benefits funded from item 4408-1000 in the same month; provided further, that persons receiving benefits funded from this item who regain eligibility for federally funded supplemental security income benefits shall be considered ineligible for benefits funded from this item; provided further, that the department shall exert all reasonable efforts to assure that recipients of benefits under this item who subsequently regain eligibility for federally funded supplemental security income benefits are transitioned to said supplemental security income program as soon as is reasonably possible within the guidelines and procedures established for said federal 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 program, and the department shall not spend funds for said program in excess of the amount made available herein . . . . . \$21,186,777

4408-2003 For a reserve to pay over the period April 1 to June 30, 1998, inclusive, cash assistance benefits to certain residents of the commonwealth receiving benefits under item 4408-2002; provided, that if prior to April 1, 1998, the United States Congress has not enacted legislation restoring to certain qualified aliens or persons permanently residing under the color of law, so-called, eligibility for federal Supplemental Security Income benefits, then the funds in this item may not be expended without further appropriation; and, provided further, that if on or before April 1, 1998, the United States Congress enacts legislation restoring eligibility for federal supplemental security income benefits to some or all qualified aliens or persons permanently residing under color of law, so-called, then the funds in this item shall be expended without further appropriation to continue to pay benefits through June 30, 1998 to legal immigrants for whom eligibility for federal supplemental security benefits was not restored and who are eligible for benefits pursuant to chapter 117A of the General Laws, and to pay benefits

pursuant to chapter 118A of the General Laws to such persons to whom eligibility for said federal Supplemental Security Income benefits was so restored; and provided further, that the department shall report to the house and senate committees on ways and means on or before March 1, 1998 a plan for allocating said funds through the remainder of fiscal year 1998 ..... \$7,460,559

*Federal Appropriation*

4400-3069 For the purposes of a federally fund grant entitled, Food Stamp Cash-Out ..... \$1,800,000

*Department of Public Health*

*State Appropriations*

4510-0100 For the operation of the department of public health; provided, that the position of assistant commissioner shall not be subject to chapter 31 of the General Laws; provided further, that the department is hereby authorized to transfer up to 3 per cent of the funds appropriated herein to items 4510-0103, 4510-0104, and 4510-0105 in section 2 of this act; provided further, that no such transfer shall occur before May 1, 1998; provided further, that 30 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 reasons therefor; and provided further, that any such transfers from this item shall not cause a deficiency in this item ..... \$7,779,294

4510-0103 For the payment of charges assessed to the department 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 3 per cent of the funds appropriated herein to items 4510-0104 and 4510-0105 in section 2; provided further, that no such transfer shall occur before May 1, 1998; provided further, that 30 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 reasons therefor; and provided further, that any such transfers shall not cause a deficiency in this item. . . . \$4,228,816

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 3 per cent of the funds appropriated herein to items 4510-0103 and 4510-0105 in section 2; provided further, that no such transfer shall occur before May 1, 1998; provided further, that 30 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 reasons therefor; and provided further, that any such transfers shall not cause a deficiency in this item . . . . . \$1,402,584

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 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 3 per cent of the funds appro-

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	priated herein to items 4510-0103 and 4510-0104 in section 2; provided further, that no such transfer shall occur before May 1, 1998; provided further, that 30 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 reasons therefor; and provided further, that any such transfers shall not cause a deficiency in this item . . . . .	\$3,089,193
4510-0110	For community health center services, including smoking cessation programs . . . . .	\$1,100,473
	General Fund . . . . .	50.12%
	Health Protection Fund . . . . .	49.88%
4510-0150	For the managed care program at community health centers known as CenterCare established pursuant to section 24F of chapter 111 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 1997; 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 \$220,350 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 482 of the acts of 1993, 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 470 of the acts of 1983, 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 100 per cent of the amounts so expended; provided further, that \$50,000 shall be obligated for a contract to provide an environmental risk assessment of the incidence of cancer in the town of Natick, including the costs of a public health nurse or epidemiologists; provided further, that the department may expend not more than \$150,000 to conduct a brain tumor/cancer, leukemia, non-Hodgkin lymphoma, lung and bronchus, liver and inflammatory bowel disease and Hodgkin disease in the town of Rockland; provided further, that not less than \$114,000 shall be expended on the implementation of a program to manage the disposal of low-level radioactive waste in accordance with sections 7, 8, 11, 13 and 16 of chapter 111H of the General Laws; provided further, that no funds appropriated herein shall be expended for the purpose of siting or locating a low-level radioactive waste facility in the commonwealth; and provided further, that up to \$100,000 shall be expended for the study of the spread and control of Lyme disease . . . . . \$3,187,144

4510-0615 The department of public health is hereby authorized to expend an amount not to exceed \$150,000 from assessments collected in accordance with section 5K of chapter 111 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 \$591,216 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 \$518,393 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 ac-

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commodating 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 ..... \$518,393

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 29A of chapter 29 of the General Laws shall be applicable; provided further, that the inspector general shall conduct a review of said contract to ensure that the provisions of chapter 12A of the General Laws 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 2B of chapter 650, and as amended by section 24 of chapter 796 of the acts of 1979, 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; provided further, that the term electric companies shall not include municipalities or municipal light plants; and provided further, that the department of public health shall make quarterly payments to any private research and education foundation providing these services under contract to the department ..... \$87,150



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4510-0710	For the operation 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 .....	\$5,289,671
4510-0712	The department is hereby authorized to expend an amount not to exceed \$473,500 in revenues collected from the licensure of health facilities; provided, that the department is hereby authorized to collect revenues of not less than \$175,000 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 25C of chapter 111 of the General Laws .....	\$135,820
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 1, 1992 shall remain the designated councils and C-MEDs; and provided further, that not less than \$68,000 shall be made available for region I, not less than \$88,000 shall be made available for region II, not less than \$88,000 shall be made available for region III, not less than \$88,000 shall be made available for region IV, and not less than \$68,000 shall be made available for region V .....	\$400,000
	Local Aid Fund .....	100.0%
4510-0810	For a statewide sexual assault nurse examiner program, SANE, for the care of victims of sexual assault who are 16 years of age and older; provided, that the program shall operate under specific protocols and by an on-call system of said nurse examiners established by the department .....	\$200,000
4512-0103	For acquired immune deficiency syndrome prevention and treatment; provided, that not less than \$300,000 shall be expended for the operation of a pilot program to be administered by the Springfield Department of Health for a comprehensive drug treatment for the prevention of AIDS. . .	\$49,618,634

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	General Fund .....	93.27%
	Health Protection Fund .....	6.73%
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 30 per cent of total household income if heat and cooking fuel are provided by the landlord and shall be not less than 25 per cent 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 30, 1991; and provided further, that the department shall not enter into any new housing contracts or expend funds for such new contracts in fiscal year 1998 that would fund units in excess of the number of units funded on June 30, 1997 .....	\$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 \$9,843,259 shall be expended for detoxification services, including not less than \$2,000,000 for detoxification beds targeted to homeless individuals; provided further, that not less than \$500,000 shall be expended for AIDS education for clients served by said program; provided further, that not less than \$615,000 shall be expended for the Celeste House; provided further, that not less than \$66,000 shall be expended for the "CASPAR" emergency service center, so-called in Cambridge; provided further, that not less than \$650,350 shall be expended for a contract with Sobriety Treatment, Education and Prevention, Inc., doing business as STEP, Inc.; provided further, that not less than \$350,000 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 \$500,000 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 \$200,000 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 \$250,000 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 \$80,000 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 \$240,000 shall be expended for additional detoxification services; provided further that \$400,000 shall be expended for an acute treatment program for detoxification and stabilization services for civilly committed women; provided further, that \$75,000 shall be expended for a study, in consultations with the corrections commissioner, probation commissioner, the office of community corrections and the McCormick Institute on alternatives to incarcerations for substance abusing women committed to the state corrections department or county houses of correction; provided further, that not less than \$60,000 shall be allocated for Bay Colony Health Services, Inc.; provided further, that not less than \$2,000,000 shall be allocated to expand the purchase of long-term residential treatment beds operated by agencies contracting with the department of public health as of January 1, 1996; provided further, that not less than \$2,000,000 shall be expended for the purchase of outpatient treatment services to high risk populations in agencies contracted with the department of public health as of January 1, 1996; provided further, that not less than \$72,000 of said allocation shall be expended for the Tynan Community Center Adolescent Wellness program in the city of Boston; provided further, that no less than \$58,420 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;

provided further, that not less than \$50,000 shall be expended for the Hingham district court for a pilot total immersion program; provided further, that not less than \$50,000 shall be expended for the establishment of a training program for a statewide total immersion program; provided further, that Gavin House shall be contracted to provide immersion programs stated herein; provided further, that said study shall identify and quantify the demand for such alternative services and programs, the options available to meeting for meeting such demand and the annualized cost therefor; provided further, that said study shall be submitted to the house and senate committees on ways and means and the joint committee on criminal justice no later than February 1, 1998; provided further, that the department shall add through the competitive process two additional so-called half-way houses to the residential programs funded in order to expand the supply of available beds; provided further, that not less than \$70,000 shall be expended for a department of public health certified New Bedford batterer intervention program; provided further, that not less than \$60,000 shall be expended for the McLaughlin House in Charlestown; provided further, that not less than \$200,000 shall be allocated from this item to Beacon Substance Abuse Programs for programs including but not limited to alcohol, drug and tobacco prevention; provided further, that the department of public health shall conduct a study to produce an inventory of all caseloads and expenditures for substance abuse and rehabilitation programs; provided further, that not less than \$500,000 shall be expended for drug treatment and associated services to Children in Need of Services or CHINS, so-called; provided further, that the department shall file with the house and senate committees on ways and means no later than September 1, 1997 a list of substance abuse treatment facilities providing services for CHINS cases, so-called; provided further, that \$180,000 shall be expended for the establishment of a pilot adolescent residential facility for substance abuse and rehabilitation services in the South Boston section of the city of Boston; and provided further, that the department shall study and file a report with the house and senate



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	committees on ways and means on the impact of all specified expenditures within the substance abuse account no later than January 1, 1999 .....	\$41,861,532
	General Fund .....	83.23%
	Health Protection Fund .....	16.77%
4512-0225	The department is hereby authorized to expend for a compulsive gamblers treatment program an amount not to exceed \$1,000,000 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 .....	\$1,000,000
4512-0500	For dental health services .....	\$1,312,605
4513-1000	For the operation 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 \$250,000 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 \$19,584,887 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 39 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 entitle-	

ment; provided further, that not less than \$107,000 be expended for the Our Babies/Our Future program; provided further, that \$200,000 shall be expended for the "Women Enjoying Longer Lives" program; provided further, that not less than \$100,000 be expended for the purposes of section 51 of chapter 111 of the General Laws and section 10 of chapter 218 of the acts of 1995; provided further, that said department shall file a report with the joint committee on health care no later than December 31, 1997 for the purpose of establishing a mechanism for the collection of data concerning the implementation of and hospital compliance with chapter 218 of the acts of 1995; provided further, that not less than \$35,000 be expended for the Framingham teen parenting program; provided further, that an amount not to exceed \$500,000 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 \$1,946,000 shall be expended for rape prevention and victim services; provided further, that not less than \$4,263,000 shall be expended for family planning services provided by agencies certified as comprehensive family planning agencies; provided further, that not less than \$75,000 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 \$1,290,063 shall be expended for school and community-based teen health programs; provided further, that not less than \$200,000 shall be provided to the Northeastern university conflict resolution program; provided further, that not less than \$79,200 shall be expended for the North Quabbin domestic violence prevention program; provided further, that not less than \$100,000 shall be expended for Latinas 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; provided further, that \$35,000 be allocated from this item to the Men Overcoming Violence (MOVE) program; and provided

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further that not less than \$750,000 shall be expended for state-wide programs that provide suicide prevention outreach to gay and lesbian youth . . . . . \$32,425,439

General Fund . . . . . 75.18%

Health Protection Fund . . . . . 24.82%

4513-1001 For certified batterer intervention programs to assist indigent batterers and their families; provided, that referred batterers are required to perform a minimum of 40 hours of community service; provided further, that the department shall, on behalf of the governor’s commission on domestic violence, conduct a program evaluation to identify the capacity of said programs to comply with certification standards and to effectively meet the safety needs of the victims and children of batterers; and provided further, that said department shall submit a report of the results of said evaluation to said commission no later than November 1, 1997 . . . . . \$300,000

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 1991 caseload levels, shall be served in accordance with priority categories one through seven, as defined by the state WIC program; provided further, that within 30 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 \$602,000 shall be obligated for failure to thrive programs . . . . . \$14,110,801

General Fund . . . . . 87.03%

Health Protection Fund . . . . . 12.97%

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 24D of chapter 111 of the General Laws; provided, that pursuant to an inter-agency agreement established with the division of medical

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	assistance, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter 118E of the General Laws . . . . .	\$6,526,113
	General Fund . . . . .	65.34%
	Health Protection Fund . . . . .	34.66%
4513-1010	The department of public health is hereby authorized to expend an amount not to exceed \$1,500,000 generated from revenues received from the collection of federal financial participation for early intervention services delivered to medicaid-eligible children by developmental educators and related disciplines; provided, 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; and provided further, that said revenue may be used to pay for current and prior year claims . . . . .	\$1,500,000
4513-1012	The department of public health may expend an amount not to exceed \$20,500,000 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
	General Fund . . . . .	64.61%
	Health Protection Fund . . . . .	35.39%
4513-1112	For a prostate cancer prevention, education, and treatment program . . . . .	\$1,500,000



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- 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 \$263,244 shall be expended for the maintenance of the statewide rabies control program coordinated by the department of public health providing assistance to cities, towns, and the public, and for the interagency collaboration through the rabies advisory committee, the 24-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 collaboration with the federal Centers for Disease Control and Prevention; provided further, that funds shall be expended for an eastern encephalitis testing program and 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 ..... \$10,494,271
- 4518-0100 For the health statistics program and for the operation of a cancer registry and occupational lung disease registry ..... \$1,044,485
- General Fund ..... 64.25%
- Health Protection Fund ..... 35.75%
- 4518-0200 The department is hereby authorized to expend an amount not to exceed \$200,000 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; 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

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- 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; provided further, that not less than \$175,000 shall be expended for the FIRSTSteps program in Berkshire County; and provided further, that \$100,000 shall be expended for teen pregnancy prevention services and associated costs in the town of Orange . . . . . \$4,358,882
- 4540-0900 For the maintenance of and for certain improvements to the department of public health hospitals; provided, that the department shall not enter into a tax exempt lease purchase agreement for the purchase for a computerized billing system which requires the amortization of expenditures; provided further, that Tewksbury state 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 \$25,000 shall be expended for an adult day service program; 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 not less than \$15,000 shall be paid for chaplain services at Tewksbury state hospital . . . . . \$30,006,325
- 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 \$1,500,000 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 \$2,250,000 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 268A 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; provided further, that \$250,000 shall be expended for research grants for experienced researchers, subject to the receipt of matching funds from public or private sources; and provided further, that \$1,000,000 shall be expended for the purposes of an early breast cancer detection and education program for uninsured women in identified high-risk communities with increased rates of breast cancer, in order to provide outreach, access, screening and training for early detection and treatment . . . . \$8,200,269

General Fund . . . . .	94.19%
Health Protection Fund . . . . .	5.81%

4580-1000 For the universal immunization program established pursuant to section 141 of chapter 653 of the acts of 1989 and sections 45 and 46 of chapter 495 of the acts of 1991; provided that an amount not to exceed \$375,000 shall be made available for the provision of hepatitis B vaccine and vaccination series for the state, county, and municipal employees at risk of occupational exposure to infection; provided, that no funds appropriated herein shall be expended for administrative or energy expenses of the

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	department not directly related to personnel or programs funded herein; and provided further, that space rental expenditures from this item in fiscal year 1998 shall not exceed the cost of said expenditures in fiscal year 1996 . . . .	\$12,146,840
	Health Care Access Fund . . . . .	100.0%
4580-1230	For medical respite services provided by the health care for the homeless program established pursuant to clause (iv) of section 24F of chapter 111 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 254 of the acts of 1992; provided, that not less than \$4,314,662 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 \$12,081 of said \$4,314,662 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 \$13,806,919 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 \$5,177,595 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 \$1,147,700 shall be expended for tobacco control coalitions; provided further, that not less than \$215,733 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 \$1,078,666 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 \$200,000 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 \$200,000 shall be in addition to any amount previously made available for this purpose . . . . . \$55,821,775

Health Protection Fund . . . . . 100.0%

4590-0350 For the development of a plan delineating the implementation of the recommendations submitted by the special commission relative to the provision of school health services in the commonwealth established pursuant to section 585 of chapter 151 of the acts of 1996; provided, that said plan shall include, but not be limited to, a projection of costs and funding sources associated with said implementation, the identification of mechanisms to promote the development of collaborative partnerships

between school districts, health care providers, and health care insurers, and the identification of criteria necessary to insure that school health services are targeted to high priority sites, and provided further that, said plan shall be submitted to the house and senate committees on ways and means no later than April 1, 1998 ..... \$125,000

4590-0900 The department is hereby authorized to expend an amount not to exceed \$73,261,805 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 10 per cent 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 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; 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 2B .....	\$73,261,805
4590-0902	For the Tewksbury hospital school of nursing; provided, that said school shall merge with an area public institution of higher learning no later than July 1, 1998 .....	\$329,506
4590-0906	For the children's medical security plan to provide primary and preventive health services for uninsured children from birth through age 12; provided, that the department is hereby authorized to transfer not more than \$2,000,000 from this item to item 4590-0907; provided further, 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; 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; provided further, that the department shall develop a marketing plan for program outreach; and provided further, that said plan shall be submitted to the house and senate committees on ways and means no later than October 1, 1997 .....	\$12,244,402
	Health Care Access Fund .....	100.0%

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4590-0907	For the children's medical security plan to provide primary and preventive health services for uninsured children from age 13 through age 18 pursuant to section 24G of chapter 111 of the General Laws; provided, that the department shall prescreen enrollees and applicants for medicaid eligibility; provided further, that the department shall maximize federal reimbursement for state expenditures made on behalf of said children; 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; and provided further, that the department is hereby authorized to transfer not more than \$2,000,000 from this item to item 4590-0906	\$5,730,912
	Children's and Senior's Healthcare Assistance 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 \$450,000 shall be obligated to the emergency medical services regions; and provided further, that not less than \$585,000 be obligated for rape prevention and victim services	\$5,795,262
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



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4510-0113	For the purposes of a federally funded grant entitled, Massachusetts Office of Rural Health .....	\$47,000
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement .....	\$103,247
4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification .....	\$4,797,978
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement Amendments .....	\$597,564
4510-0618	For the purposes of a federally funded grant entitled, HARP .....	\$38,842
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections .....	\$215,959
4510-9019	For the purposes of a federally funded grant entitled, Environmental Monitoring Program .....	\$75,000
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program .....	\$356,910
4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Impact Health Assessments .....	\$365,969
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program .....	\$170,615
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control .....	\$826,782
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project .....	\$9,487,374
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 .....	\$687,317
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection .....	\$103,566
4512-9427	For the purposes of a federally funded grant entitled, State Demand and Needs Assessment Studies/Alcohol and Other Drugs (Treatment) .....	\$793,457
4512-9428	For the purposes of a federally funded grant entitled, State Demand and Needs Assessment Studies/Alcohol and Other Drugs (Prevention) .....	\$150,000
4512-9429	For the purpose of a federally funded grant entitled, HIV/STD/TB Risk Reduction .....	\$396,336

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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 .....	\$702,050
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 .....	\$56,325,561
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 .....	\$8,621,533
4513-9022	For the purposes of a federally funded grant entitled, Prevention Disability State Based Project .....	\$443,844
4519-9101	For the purposes of a federally funded grant entitled, WIC/Immunization Linkage Project .....	\$14,000
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 .....	\$100,000
4513-9031	For the purposes of a federally funded grant entitled, EMS for children .....	\$150,000
4513-9035	For the purposes of a federally funded grant entitled, AIDS Surveillance .....	\$550,903
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources .....	\$4,836,051

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4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester .....	\$159,000
4513-9041	For the purposes of a federally funded grant entitled, Managed Care Enhancement Project .....	\$310,882
4513-9044	For the purposes of a federally funded grant entitled, Evaluating Impact of 1993 AIDS CASE Definition .....	\$348,503
4513-9045	For the purposes of a federally funded grant entitled, MA Women's HIV Advocacy Project .....	\$267,572
4513-9046	For the purposes of a federally funded grant entitled, Congenital Anomalies Center for excellence .....	\$800,000
4513-9047	For the purposes of a federally funded grant entitled, Firstlink Community Organization Project .....	\$50,000
4513-9048	For the purposes of a federally funded grant entitled, Mass. Initiative for the Youth with Disabilities .....	28,000
4513-9049	For the purposes of a federally funded grant entitled, Firstlink Data Utilization Enhancement .....	\$90,000
4513-9050	For the purposes of a federally funded grant entitled, MAXCARE: Maximizing Children's Health and Safety in Child Care .....	\$50,000
4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project .....	\$139,591
4515-0113	For the purposes of a federally funded grant entitled, Health Program for Refugees .....	\$135,841
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project (317) .....	\$2,559,659
4516-1004	For the purposes of a federally funded grant entitled, Active Rabies Surveillance Program .....	\$62,300
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

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4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records for Social Security Administration . . . . .	\$137,535
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 . . . . .	\$27,000
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 . . . . .	\$3,800,000
4570-1504	For the purposes of a federal grant entitled, Prostate Cancer Early Detection Demonstration Project . . . . .	\$121,184
4570-1505	For the purposes of a federal grant entitled, Skin Cancer Primary Prevention and Education . . . . .	\$100,000
4570-1600	For the purposes of a federal grant entitled, Newcomer Women's Health Planning . . . . .	\$2,500

### *Department of Social Services*

*Notwithstanding the provisions 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 the secretary of administration and finance the following: (i) the current social worker caseloads by type of case and level of social worker assigned to cases; (ii) 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; (iii) the amount expended on group care services; provided, that said report shall detail separately, monthly expenditures and number of children served in commonworks, so-called, authorized, and contracted group care placements; and, (iv) beginning October 1, 1997, the amount expended for purchased services from items 4800-0016 and 4800-0017 of this act; provided, that said report shall detail monthly expenditures, number of families served, and average cost per individual or family by category of purchased service so provided.*



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*Notwithstanding the provisions of any 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 the provisions of any 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.*

State Appropriations

- 4800-0014 For costs of the revenue management contract, so-called, only; provided, that the costs of said contract shall be funded entirely from this item and from no other source . . . . \$3,400,000
- General Fund . . . . . 65.60%
- Social Services Program Fund . . . . . 34.40%
- 4800-0015 For central and area office administration; provided, that associated expenses of employees whose AA subsidiary costs, so-called, are paid from items 4800-1100 and 4800-1101 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit eight employees, so-called; provided further, that the department shall maintain a sufficient number of registered nurses to provide medical case management for medically involved children in foster care; provided further, that the department shall not enter into rental agreements that would result in the department expending more than \$8,223,428; provided further, that an area office shall be maintained in the Beverly area; provided further, 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 not more than \$100,000 shall be

expended from this item for the costs of attaining licensure as a licensed social worker associate for those social workers whose date of employment is prior to July 1, 1997 and who are not licensed by the board of registration of social workers; provided further, that said expenditures shall only be made pursuant to section 564 of chapter 151 of the acts of 1996, to the extent that the provisions of said section do not violate existing collective bargaining agreements; provided further, that no funds shall be expended for the costs of attaining said licensure prior to submission of the staffing plan, so-called, required by said section 564; provided further, that social workers who have received financial assistance from the department for obtaining said license must remain with the department for such reasonable minimum duration as established by the department or refund part or all of said financial assistance; provided further, that said costs of attaining licensure shall be funded solely from this item; and provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the General Fund . . . . . \$50,692,108

General Fund . . . . .	85.0%
Social Services Program Fund . . . . .	15.0%

4800-0016 For the family stabilization program for non-placement families experiencing instability, including, not less than \$2,613,654 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 \$30,000 shall be expended for a contract with big brothers and sisters of Cape Cod and the islands; provided further, that not less than \$69,193 shall be expended for the school age parenting project at Framingham high school; provided further, that not less than \$1,500,000 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; provided further, that not less than

\$35,000 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; and provided further, that \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional Housing Program, so-called, of Lynn . . . \$12,300,633

Social Services Program Fund . . . . . 65.0%  
General Fund . . . . . 35.0%

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 \$40,000 with a Boys and Girls club in region 1 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 \$250,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$120,000 shall be expended for family support, programming, counseling, education, job skills preparation, and integrated child care for participants in region 6; and provided further, that not less than \$298,000 shall be expended for alternative schools for students aged 14 to 16, inclusive, who are placed before the court on children in need of services petitions (CHINS) in region 6 . . . . . \$24,827,648

General Fund . . . . . 85.0%  
Social Services Program Fund . . . . . 15.0%

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 12 months for the appropriateness of adoption; provided further, that the department

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	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 \$3,200,000 for the purchase of special needs adoption contracts located at community-based agencies . . .	\$54,261,375
4800-0025	For foster care review services . . . . .	\$2,019,535
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 150 per cent of the federal poverty level; and provided further, that the foster care daily rate paid for subsidies in fiscal year 1998 shall be equal to the daily rate paid in fiscal year 1997, except those rate increases made pursuant to the tiered reimbursement system, so-called, established pursuant to section 566 of chapter 151 of the acts of 1996 . . . . .	\$64,713,464
	General Fund . . . . .	65.0%
	Social Services Program Fund . . . . .	35.0%
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, Nantucket, Norfolk, Plymouth, Suffolk and Worcester; provided, that said program for Barnstable, Dukes, and Nantucket counties shall receive not less than \$80,000 from this item; and provided further, that said program in Suffolk county shall receive not less than \$75,000 from this item . . . . .	\$695,000
	Social Services Program Fund . . . . .	100%
4800-0041	For group care services; provided, that the department shall establish a schedule of fees for services which shall vary	



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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 150 per cent 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 . . . . . \$95,089,580

General Fund . . . . . 68.0%  
Social Services Program Fund . . . . . 32.0%

4800-0050 For the operation of the New Chardon street Home for Women located in the city of Boston . . . . . \$745,311

4800-0151 For a program to provide alternative overnight non-secure placements for status offenders and nonviolent delinquent youth up to the age of 17 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 1974 . . . . . \$750,800

General Fund . . . . . 62.0%  
Social Services Program Fund . . . . . 38.0%

4800-1100 For the AA subsidiary costs, so-called, of the department's social workers, 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 payroll or administrative expenses associated with the management or support of said employees shall be paid from items 4800-0015 and 4800-1115 . . . . . \$79,268,032

General Fund . . . . . 95.0%  
Social Services Program Fund . . . . . 5.0%

4800-1101 For social worker caseload mitigation; provided, that funds from this item shall be expended for the AA subsidiary payroll costs, so-called, of new social workers for the explicit purpose of mitigating social worker caseloads in those area offices furthest above the statewide weighted

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	caseload standard, so-called; provided further, that the annualized value of this item shall not exceed in fiscal year 1999 the amount appropriated herein; and provided further, that no funds from this item shall be expended for any purpose not specifically referenced herein . . . . .	\$500,000
4800-1111	The department of social services, for the purposes of the foster care program, and subject to the provisions of item 4800-0030 in section 2, may expend an amount not to exceed \$20,000,000 from federal revenues collected pursuant to the provisions of Title IV-E of the social security act; provided, that the office of the comptroller shall establish monthly benchmarks for the collection of federal reimbursements based on year-end collections of \$67,409,358; and 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 . . . . .	\$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 4800-0015, 4800-0020, 4800-0030 and 4800-0041 of section 2, may expend an amount not to exceed \$6,000,000 from federal revenues collected pursuant to the provisions of Title II, 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 \$91,000,000; 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 \$1,000,000 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
	General Fund . . . . .	62.0%
	Social Services Program Fund . . . . .	38.0%

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- 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 further, that not less than \$416,850 shall be expended for a contract with the YWCA battered women's shelter in Springfield; provided further, that not less than \$450,000 shall be expended for visitation centers; provided further, that not less than \$10,000 shall be expended for the Melrose alliance against violence; provided further, that not less than \$50,000 shall be expended for Children's Supervised Visitations, Inc. of Framingham; and provided further that not less than \$65,205 shall be expended for the North Quabbin Domestic Violence Prevention Program ... \$11,935,362  
Social Services Program Fund ..... 100.0%
- 4800-1500 For domestic violence prevention specialists in the department's area offices; provided, that individual consultants receiving payment from this item in fiscal year 1997 shall be converted to state employees in fiscal year 1998; and provided further, that expenditures from this item shall not exceed the amount appropriated herein ..... \$463,500
- 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 \$1,312,001 shall be obligated for the costs 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 \$8,000,000 shall be obligated for the purpose of developing a tiered reimbursement system for foster care pursuant to section 566 of chapter 151 of the acts of 1996 provided further, that the commissioner is directed to provide quarterly reports 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 1998 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 \$574,932 shall be obligated for the expenses of not more than 12 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 not more than \$275,000 shall be obligated for an enhanced training program for social workers and investigators, so-called; provided further, that not more than \$4,806,283 shall be obligated for the operation of bridge homes, so-called, in each region; provided further, that said bridge homes shall provide extended diagnostic services not to exceed 90 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 said bridge homes shall be funded solely from this item; provided further, that not less than \$666,667 shall be obligated for child care and respite care services for foster families; provided further, that \$1,250,000 shall be expended for post-adoption services, so-called; and provided further, that no funds shall be transferred from this item to other items for purposes other than those listed herein . . . . \$16,890,937



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General Fund .....	70.0%
Social Services Program Fund .....	30.0%

*Federal Appropriations*

4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act .....	\$194,148
4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention Act .....	\$505,639
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living .....	\$639,370
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support .....	\$3,672,860
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services .....	\$4,644,107
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Basic Grant. ....	\$385,321
4899-0024	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Medical Grant .....	\$59,113

*Department of Mental Health*

*State Appropriations*

5011-0100	For the administration of the department pursuant to the provisions of chapter 19 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 .....	\$19,703,812
5011-0611	The department of mental health is hereby authorized to expend an amount not to exceed \$100,000 in revenue collected from occupancy fees charged to the tenants of the Haskell building, so called, on the campus of the former Northampton state hospital, for repairs, improvements, maintenance and operation of said building .....	\$100,000

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- 5011-7777 For costs associated with electricity, natural gas, and other fuel for buildings of the department of mental health; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the GG 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 GG subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if said 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 said department of mental health for costs associated with electricity, natural gas, and other fuel for buildings of the department does not exceed the amount appropriated herein; (2) that the department does not require any supplemental appropriations in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for costs associated with electricity, natural gas, and other fuel for buildings in any of its other items of appropriation; provided further, that said 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 in a subsidiary which is not explicitly referenced herein . . . . . \$4,412,165
- 5042-1000 For the maintenance and operation of the secure unit at Medfield state hospital . . . . . \$1,802,332
- 5042-5000 For child and adolescent services; provided, that of the sum appropriated herein, not less than \$69,408 shall be expended on the Franklin Community Action Corporation in Greenfield for a youth and adolescent services program; provided further, that not less than \$25,000 be expended for the purposes of sending children to existing summer programs funded through the department of mental health's

camperships, so-called; provided further, that not less than \$189,000 shall be expended for the purposes of providing educational services in institutional settings; provided further, that not less than \$100,000 be expended for the Cape and Islands child advocacy center, so-called; provided further, that \$125,000 shall be expended for adolescent mental health services in the South Boston section of the city of Boston; and provided further, that said services may include a mobile crisis intervention team and a pilot program for juveniles and adolescents before the South Boston district court on matters concerning drug dependence and mental health . . . . . \$57,422,229

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 \$5,000,000 from item 5095-0000 of section 2, to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; provided further, that \$60,000 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 \$163,000 shall be expended for western Massachusetts community enterprise programs; provided further, that not less than \$394,502 shall be expended for the lighthouse clubhouse program, so-called, in the city of Springfield; provided further, that not less than \$43,460 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 Fairwinds clubhouse be allocated an addi-

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	tional one-and one-half full time equivalent staff members, which shall also be reflected in their budget allocation; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planing population, so-called, and the types of services received in each region for fiscal year 1998, no later than December 1, 1997 . . . . .	\$206,576,452
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 \$200,000 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 . . .	\$10,036,450
5046-3000	For metro-Boston homelessness prevention services . . . . .	\$6,109,574
5046-4000	The department of mental health is hereby authorized to expend revenues collected up to a maximum of \$125,000 from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program, so-called, authorized by chapter 167 of the acts of 1987; 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 15, 1998 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 15 per cent 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 1A and 1B; 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 continue 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 the most recent savings projection from the implementation of said agreement may be expended for community services in the MM subsidiary, so-called, of this item; provided further, that the department shall report to the house and senate committees on ways and means not later than October 31, 1997 on the utilization of said emergency programs and acute mental health care beds by clients of the department during each month of fiscal year 1997; provided further, that said report shall detail the number of clients of the department determined to be el-

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igible for the medicaid program during fiscal year 1997;  
and provided further, that said report shall detail  
expenditures made by the division of medical assistance on  
behalf of clients of the department during fiscal year 1997  
for said acute mental health care services ..... \$32,266,959

- 5047-0002 Notwithstanding any general or special law to the contrary,  
the department of mental health may expend revenues for  
continuing care services in the community in an amount  
not to exceed \$6,000,000 from increased revenues from  
federal reimbursement collected for designated emergency  
programs and acute inpatient and diversionary services;  
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 \$1,000,000 from said  
initiative has been deposited in the General Fund; provided  
further, that for the purpose of accommodating discrepan-  
cies 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; provided further, that the department shall submit  
a report to the house and senate committees on ways and  
means no later than February 3, 1998 detailing the use of  
any funds encumbered or expended from this item,  
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; and provided further, that not less than  
\$1,000,000 shall be expended for homelessness services .... \$6,000,000
- 5051-0100 For community mental health centers ..... \$75,959,614
- 5055-0000 For forensic services; provided, that not less than \$282,000  
shall be expended for mental health services at the  
Barnstable and Middlesex county houses of correction ..... \$7,347,324
- 5095-0000 For adult inpatient and facilities' services; provided, that the  
department is hereby authorized to allocate funds in an  
amount not to exceed \$5,000,000 from this item to item  
5046-0000, as necessary, pursuant to allocation plans  
submitted to the house and senate committees on ways and

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means thirty days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities ..... \$99,348,470

Federal Appropriations

- 5012-9106 For the purposes of a federally funded grant entitled, Information Warehouse ..... \$125,000
- 5012-9121 For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness ..... \$332,000
- 5021-9106 For the purposes of a federally funded grant entitled, Mental Health Systems Improvement Demonstration Grant ..... \$225,000
- 5046-9102 For the purposes of a federally funded grant entitled, Shelter Plus Care ..... \$144,240

Department of Mental Retardation

State Appropriations

- 5911-1000 For administration of the department pursuant to the provisions of chapter 19B of the General Laws; provided, that the department of mental retardation 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 December 15, 1997; provided further, that such findings shall include, but not be limited 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; provided further, that not less than \$25,000 be expended for the design and construction of a new entrance, gate, and sign for the Pine Grove Cemetery, so-called, in the town of Belchertown; and provided further, that the name of said cemetery be changed to the Warner-Pine Grove Memorial Cemetery ..... \$5,520,584
- 5911-2000 For transportation costs associated with the adult services program; provided, that the department shall provide transportation on the basis of priority of need as determined by the department; provided further, that not less than \$86,720 shall be expended from this item for 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 transportation services are maintained throughout fiscal year 1998; 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 . . . . . \$24,912,859

5911-7777 For costs associated with electricity, natural gas, and other fuel for buildings of the department of mental retardation; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the GG 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 GG subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if said 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 said department of mental retardation for costs associated with electricity, natural gas, and other fuel for buildings of the department does not exceed the amount appropriated herein; (2) that the department does not require any supplemental appropriations in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for costs associated with electricity, natural gas, and other fuel for buildings in any of its other items of appropriation; provided further, that said 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 in a subsidiary which is not explicitly referenced herein . . . . . \$7,115,553



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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 15, 1998 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 15 per cent 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 1A and 1B; 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

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	deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1998; 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 . . . . .	\$11,860,475
5920-1000	For the operation of the adult services program; 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 1998; 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 . . . . .	\$38,647,145
5920-2000	For vendor-operated community-based residential adult services and for \$5,950,000 in annualized funding for priority one Turning 22 clients who began receiving said services in fiscal 1997 pursuant to item 5920-5000 of section 2 of chapter 151 of the acts of 1996; 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 1998; 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 less than \$100,000 shall be expended for the Massachusetts special olympics, so-called; and provided further, not less \$100,000 shall be expended for increased mentor programs statewide . . . . .	\$291,743,876
5920-2010	For state-operated community-based residential services for adults; provided, that in the event expenditures and en-	

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	cumbrances 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 1998; 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 . . . . .	\$68,216,197
5920-2025	For community-based day and work programs for adults and for \$1,700,000 in annualized funding for priority one Turning 22 clients who began receiving services for fiscal year 1997 pursuant to item 5920-5000 of section 2 of chapter 151 of the acts of 1996; provided, that not less than \$327,611 shall be expended for the life focus center in Charlestown, including an alternative work program and an additional \$25,008 for transportation; 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 1998; 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 . . . . .	\$72,329,032
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 1998; 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 . . . . .	\$10,701,970

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- 5920-3000 For respite services and for \$850,000 in annualized funding for priority one Turning 22 clients who began receiving services for fiscal year 1997 pursuant to item 5920-5000 of section 2 of chapter 151 of the acts of 1996; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; 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 1998; 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 . . . . . \$40,865,329
- 5920-4050 For services to clients identified by the department as unserved or underserved, so- called, on the waiting list for services compiled by the department; provided, that the amount appropriated herein shall not annualize to more than \$5,750,000 in fiscal year 1999; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 1998 on the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served in each region and the types of services purchased in each region; 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; and provided further, that not more than \$350,000 shall be expended for the care of individuals transferred to the care of the department from the department of public health . . . . . \$5,750,000
- 5920-5000 For services for clients of the department who turn 22 years of age during state fiscal year 1998; provided, that the amount appropriated herein shall not annualize to more than \$8,500,000 in fiscal year 1999; 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 1998; 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 \$3,500,000 shall be expended for the provision of 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 1998; 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 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 2, 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 commit-

tees on ways and means 15 days prior to any such transfer; provided further, that not less than \$437,000 shall be expended for support services for families of children with autism; 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 1998; 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 ..... \$4,992,002

5920-8010 For the residential expenses associated with school placements of children and adolescents between the ages of 4 and 21, 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 2, 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 15 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 1998; 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, including the maintenance and operation of the Glavin regional center; provided, that the commissioner of the department of mental retardation is hereby authorized and directed to transfer funds from this item to items 5920-2000, 5920-2010 and 5920-2025 of section 2, as

necessary, 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 more than \$3,000,000 shall be transferred from this item in fiscal year 1998; and provided further, that the department shall comply with the provisions of section 208 of this act ..... \$174,704,667

*Federal Appropriation*

5947-0004 For the purposes of a federally funded grant entitled, Project Engage Temporary Child Care for Children with Disabilities ..... \$139,490

**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 reports 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 reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that said reports shall list all employees who are paid from items 6000-0100, 6005-0011, 6010-0001, 6010-1000, and 6006-0003 of this act who also receive payments from any capital funds; provided further, that said reports shall include for each of said employees how much money said employees receive from said line items and how much

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	money each employee receives from any capital funds; and provided further, that said reports shall delineate said information for full time employees, part-time employees and contracted personnel .....	\$240,003
	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 \$27,345 from the rents and fees received pursuant to section 4 of chapter 161C of the General Laws .....	\$27,345
6005-0011	For additional assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of sections 6 and 9 of chapter 825 of the acts of 1974, as amended by section 4 of chapter 291 of the acts of 1975; 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 1998 shall not exceed 103 per cent of its operating expenditures for calendar year 1997 .....	\$219,083,252
	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 28 of chapter 161A of the General Laws .....	\$266,336,342
	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 common-	



wealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 1997 and ending June 30, 1998, may enter into contracts with the authorities; provided further, that notwithstanding the provisions of section 152A of chapter 161, and of section 23 of chapter 161B of the General Laws, at least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in fiscal year 1997 shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon said cities and towns shall be at least 25 per cent of said net cost of service; provided further, that in the event that 25 per cent of said net cost of service of each authority exceeds 102½ per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service, for which said cities and towns have not previously been assessed, as allowed by chapter 580 of the acts of 1980, the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 1998 shall not exceed 102½ per cent of its operating expenditures for fiscal year 1997; 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; provided further, that no later than October 1, 1997, each of the 15 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing both the costs and revenues associated with human service agency transportation, so-called; 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 ..... \$38,069,721

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 13 of chapter 64A, clause (b) of

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section 13 of chapter 64E and clause (b) of section 14 of chapter 64F 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 1998; 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 1997, 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 1998, 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 \$2,250,000, in accordance with the provisions of section 28A of chapter 161A of the General Laws as amended in section 45 of chapter 811 of the acts of 1985; and provided further, that not less than \$17,500 shall 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 Fund ..... 20.0%

*Federal Appropriations*

6000-0018 For the purposes of a federally funded grant entitled, Section 18 Rural Public Transportation Assistance ..... \$2,297,500

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

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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 Railroad between the city of Boston and interstate highway route 495 . . . . .	\$250,000

*Massachusetts Aeronautics Commission*

*State Appropriation*

6006-0003	For the administration of the commission, including the expenses of the commissioners . . . . .	\$590,761
	Local Aid Fund . . . . .	100.0%

*Federal Appropriation*

6006-0042	For the purposes of a federally funded grant entitled, Airport System Planning . . . . .	\$350,000
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*Department of Highways*

6010-0001	For personnel services of the department of highways, 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, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment, the 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; 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 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	
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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 division of operational services; provided further, that the department shall not be subject to the provisions of section 36A of chapter 30 of the General Laws and section 22 of chapter 7 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 22 of said chapter 7; and provided further, that the department shall provide the house and senate committees on ways and means a quarterly report of repairs requiring said secretary's approval . . . . . \$47,227,021

Highway Fund . . . . . 100.0%

6010-1000 For the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C, so-called, and for costs associated with police services and overtime within said areas; provided, that \$143,750 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; 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 areas appropriated herein; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair . . . . . \$24,885,991

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 appro-



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	priated 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 . . . . .	\$5,059,512
	Highway Fund . . . . .	100.0%
6030-7224	For the design and construction by the Town of Tewksbury of sidewalks along Route 38 from South Street in the Town of Tewksbury, northerly toward the city of Lowell . . . . .	\$100,000
	Highway Fund . . . . .	100.0%

BOARD OF LIBRARY COMMISSIONERS

*State Appropriations*

7000-9101	For the operation of the board of library commissioners; provided, that the appropriation herein shall fund four positions for the purposes of continued implementation of the strategic plan for the future of library services in Massachusetts, so-called; provided further, that said appropriation shall fund a position which will aid small communities as a library project consultant; provided further, that said board shall conduct a study to be completed and reported to the senate and house committees on ways and means by April 1, 1998, that shall review the amount that the commonwealth spends on library services for the blind, including information on the per capita amount spent on libraries statewide in relation to the amount spent on the Perkins and Worcester talking book libraries, including information on the amount that is spent in other states on library services for the blind; and provided further, that the board shall make recommendations regarding a review of the existing formula of library local aid funding, regarding increases for the libraries that specifically serve the blind population, in relation to increases in population and appropriation levels . . . . .	\$1,066,592
	Local Aid Fund . . . . .	100.0%

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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 clauses (1) and (2) of section 19C of chapter 78 of the General Laws, as it deems proper, to 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 19C of chapter 78 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 96.35 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 102½ per cent 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 item, the board of library commissioners may grant waivers, in a number not to exceed one-tenth the number permitted pursuant to the second paragraph of section 19A of said chapter 78, to any library not receiving funds as a library of last recourse for a period of not more than one year; and provided further, that \$2,500,000 shall be expended for continued implementation of the strategic plan, so-called . . .	\$16,005,931
	Local Aid Fund . . . . .	100.0%
7000-9402	For the talking book library at the Worcester public library . . . . .	\$194,478
	Local Aid Fund . . . . .	100.0%
7000-9406	For the braille and talking book library at Watertown, including the operation of the machine lending agency . . . . .	\$1,202,919
	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	

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equal to 102½ per cent 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 item, the board of library commissioners may grant waivers permitted pursuant to the second paragraph of section 19A of chapter 78 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; 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 \$3,338,000 shall be expended from this item solely for the purpose of continued implementation of the strategic plan, so-called . . . . . \$3,815,235

*Federal Appropriations*

7000-9703 For the purposes of a federally funded grant entitled, Title III  
LSCA Inter-library Cooperation . . . . . \$525,000

7000-9705 For the purposes of a federally funded grant entitled, Title I  
LSCA Program . . . . . \$2,033,689

7000-9707 For the purposes of a federally funded grant entitled, Title II  
LSCA Emergency Federal Jobs Bill . . . . . \$379,000

**EXECUTIVE OFFICE OF LABOR, EDUCATION AND WORKFORCE  
DEVELOPMENT**

*Department of Labor and Workforce Development*

7002-0100 For the administration of the department of labor and workforce development including the divisions under the control of the department; provided, that \$50,000 shall be expended from this item for the deputy director of workforce development; and provided further, that on October 1, 1997 and April 1, 1998, the deputy director shall submit to the house and senate committees on ways and means a comprehensive report describing in detail the

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	job training services, including labor exchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year in the commonwealth, describing the systems for delivery of such services, describing the costs of such services and the sources of revenue for such services and making recommendations for improvements in the delivery of such services .....	\$382,817
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 .....	\$377,000
7003-0500	For the economic stabilization trust component of the industrial services program, as provided by chapter 23D of the General Laws, and for a re-employment assistance program as specified in section 71D of chapter 151A 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; and provided further, that funds appropriated herein may be used to provide working capital and related assistance to defense dependent firms and leverage federal matching funds authorized pursuant to Title IX of the public works and economic development act of 1965, as amended .....	\$605,400
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; and provided further, that the same number of youths shall be served in fiscal year 1998 that were served in fiscal year 1997 .....	\$3,050,000
7003-0603	For school-to-work connecting activities so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, the department of labor and 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; provided further, that said program may include the award of matching grants to regional employment boards or other local public-private partnerships involving local community job commitments and work site learning opportunities for students; provided further, that said grants shall require at least a 200 per cent match in wages for said students from private sector participants; provided further, that 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 provided further, that public funds shall assume the costs of connecting schools and businesses to ensure that students serve productively on the job . . . . . \$500,000

7003-0700 For the expenses of the corporation for business, work and learning to secure employment, training and counseling for displaced workers and for the employee involvement and ownership in the workplace component of the industrial services program; provided, that \$1,000,000 shall be expended for employed worker training technical assistance and matching grants; provided further, that not more than \$175,000 shall be expended to administer said technical assistance program; provided further, that said corporation shall submit a study of the Massachusetts economy, including, but not limited to, a 20 year analysis of the Massachusetts economy by the standard industrial classification system, statewide growth projections for the next five years by said system, a review of the state's economic and industrial promotion policies for the last five years, an analysis of the impact of said policies on the state's economy for the last five years, and recommendations for future statewide policies in the context of historical trends and projections; provided further, that said study shall include a survey of Massachusetts businesses that have been defense contractors or sub-contractors to determine the extent to which their defense dependency has been reduced and an investigation of the

of the current and future needs of such firms to continue diversification and to compete successfully in national and international markets; provided further, that said corporation shall consult with the division of employment and training and academic experts to develop said study; provided further, that said study shall be submitted to the house and senate committees on ways and means on or before January 1, 1998; 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 . . . . \$1,900,000

General Fund . . . . . 93.14%

Economic Development Fund . . . . . 6.86%

7003-0801 For the Just-A-Start Cooperation to provide training for entry level employment in the biotech and medical fields for thirty unemployed or displaced workers or people on welfare . . . . . \$150,000

7003-0802 For a reserve to improve the workforce development system in the commonwealth, which may include, but shall not necessarily be limited to improvements to the provision of labor exchange services through additional one-stop career centers, using either the competitive, collaborative or co-located models as determined by the relevant regional employment boards, or otherwise, improvements in the provision of job training services to recipients of transitional aid to families with dependent children, and additional allocations in the second half of fiscal year 1998 of up to \$12,500 to each regional employment board; and provided further, that no funds shall be expended from this item until after receipt of the reports required by sections 200 and 201 of this act and until such additional funds are appropriated by the general court . . . . . \$3,000,000

7003-0803 For the seven one-stop career centers in existence on May 1, 1997 which are located in Boston, Hampden county and the Metro North service delivery area, so-called, and any satellite offices thereof which are currently scheduled to open on or before December 1, 1997, and no other career centers; provided, that said allocation to these centers shall

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be conditioned upon the department's development of, on or before September 1, 1997, and said centers' agreement to, effective on or before October 1, 1997, a comprehensive and uniform set of policies and procedures for measuring the goals and performance of said centers in terms of services rendered and job placements achieved for all individuals served by said centers and for special populations served by said centers, including persons receiving public assistance, persons with disabilities, persons who are collecting unemployment insurance, and other target groups for whom state and federal funding is appropriated; provided further, that said comprehensive and uniform set of policies and procedures, and documentation showing said centers' agreement to such policies and procedures, shall be submitted to the joint committee on commerce and labor and the house and senate committees on ways and means on or before October 1, 1997; and provided further, that allocation of such funds to said career centers shall be conditioned upon no services or functions being performed by employees of the division of employment and training offices as of May 1, 1997 being terminated or curtailed, or transferred to any persons who are not employees of said department, as a result of the actual or anticipated existence of any such career center and upon no agreements for additional career centers being executed prior to February 1, 1998 . . . . \$2,750,000

General Fund . . . . . 93.14%

Economic Development Fund . . . . . 6.86%

7003-0900 For the tactical training initiative, so-called . . . . . \$524,421

General Fund . . . . . 93.14%

Economic Development Fund . . . . . 6.86%

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; and provided further, that an allotment and disbursement plan shall be submitted to the house and senate committees on ways and means prior to the expenditure of any funds appropriated herein . . . . . \$825,000

7003-0904 For the creation and support of manufacturing networks . . . . . \$1,100,000

General Fund . . . . . 93.14%

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	Economic Development Fund . . . . .	6.86%
7003-1000	For the workforce development initiative; provided, that on or before December 1, 1997, the MassJobs council shall submit the report and five-year plan required by section 200 of this act; provided further, that the strategic planning committee of said 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 each regional employment board shall receive not less than \$75,000 in fiscal year 1998; provided further, that each regional employment board shall (1) provide training on or before October 1, 1997 to each of its board members concerning the requirements of federal and state law with respect to conditions on the use of job training funds and the board's role in ensuring compliance with such requirements, (2) shall produce a written assessment of the performance of and planned improvements to job training delivery systems, including any existing one-stop career centers, in its region, and (3) shall file a copy of said assessment with the MassJobs council, the joint committee on commerce and labor and the house and senate committees on ways and means; 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 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 \$150,000 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 \$150,000 shall be expended for the western Massachusetts enterprise fund and JVS micro-enterprise program as the supplemental match to conduct an entrepreneurial training program for income eligible residents; provided further, that not less than \$100,000 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; provided further, that not less than \$150,000 shall be expended to fund a program at the Massachusetts AFL-CIO to support and coordinate labor representation on the regional employment boards; and provided further, that not less than \$75,000 shall be expended for the career beginning program, so called, at Worcester state college in the city of Worcester . . . . . \$1,925,000

General Fund . . . . . 93.14%

Economic Development Fund . . . . . 6.86%

7003-2055 For the youth, senior service, and conservation group corps program, including the costs of administration; provided, that not more than \$200,000 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 . . . . . \$4,000,000

7003-1621 For the purposes of federally funded grant entitled, Title II - Training Services for the Disadvantaged and Title III - Employment and Training Assistance for Dislocated Workers . . . . . \$55,000,000

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7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training .....	\$34,106
7002-6628	For the purposes of a federally funded grant entitled, Disabled Veterans Outreach Program .....	\$2,006,739
7002-6629	For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program .....	\$1,461,008
7002-6630	For the purposes of a federally funded grant entitled, Massachusetts Occupational Information Coordinating Committee Administration .....	\$142,498
7003-9006	For the purposes of a federally funded grant entitled, One-Stop Career Centers; provided, that no career centers in addition to those seven in operation on May 1, 1997, and any satellite offices associated therewith which are currently scheduled to open on or before December 1, 1997, shall be operated in the commonwealth in fiscal year 1998, except with further express statutory approval; and provided further, that on or before December 1, 1997, the joint committee on commerce and labor and the house and senate committees on ways and means shall be provided with a detailed accounting of the amounts previously received pursuant to said grant and the specific purposes for which and by whom such monies have been used ....	\$2,400,000

### *Division of Apprentice Training*

#### *State Appropriations*

7002-0101	For the operation of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter 31 of the General Laws .....	\$275,231
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### *Division of Occupational Safety*

#### *State Appropriations*

7002-0200	For the operation of the industrial safety program .....	\$1,125,892
7002-0400	For the operation of the occupational hygiene program; provided, that the division may employ staff not subject to chapter 31 of the General Laws for a program to evaluate asbestos levels in public schools and other public buildings. ....	\$989,970

#### *Federal Appropriations*

7002-1622	For the purposes of a federally funded grant entitled, Lead Enforcement .....	\$75,900
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7002-4203	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistics Program .....	\$100,054
7002-4212	For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring Toxic Substance Control Act .....	\$133,505
7002-4213	For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring Toxic Substance Control Act .....	\$296,657
7002-4215	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Data Collection Survey .....	\$88,474
7002-6627	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program .....	\$907,224

*Division of Industrial Accidents*

7002-0500	For the operation and administrative expenses of the division of industrial accidents; provided, that \$800,000 shall be expended for occupational safety training grants; provided further, that said division shall submit a report no later than February 1, 1998 to the house and senate committees on ways and means detailing the scope, objective, and results of said grant recipients' safety training program; provided further, that funds appropriated herein in excess of the fiscal year 1997 spending level for said grants shall be a one-time fiscal year 1998 expense; provided further, that the General Fund shall be reimbursed the amount appropriated herein and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws; and provided further, that said division is hereby directed to cooperate and respond to all legislative committee requests for information .....	\$15,137,144
7002-0501	For the AA subsidiary payroll expenses of the office of the commissioner; provided, that any other expenses associated with the employees of said office shall be expended from item 7002-0500; and provided further, that the General Fund shall be reimbursed the amount appropriated herein and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws .....	\$292,120

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7002-0502 For the AA subsidiary payroll expenses of the division's justices; provided, that any other expenses associated with said division's justices shall be expended from item 7002-0500; provided further, that the division shall assign a judge to hear cases in the county of Berkshire not less than once a month; and provided further, that the General Fund shall be reimbursed the amount appropriated herein and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws . . . . . \$3,012,401

*Labor Relations Commission*

7002-0600 For the operation of the labor relations commission; provided, that \$20,000 shall be expended for the purpose of maintaining a satellite office in the Springfield state office building . . . . . \$1,021,690

*Joint Labor Management Committee*

7002-0700 For the operation of the joint labor management committee . . . . . \$439,879

*Board of Conciliation and Arbitration*

7002-0800 For the operation of the board of conciliation and arbitration. . . . . \$722,666

*Division of Employment and Training*

*State Appropriations*

7003-0800 For the welfare-to-work skills plus program to be administered by the division of employment and training; provided, that said program shall serve only transitional aid to families with dependent children recipients; and provided further, that any career center, so-called, receiving funds through said program shall each submit individual quarterly reports to the house and senate committees on ways and means listing the number of said recipients placed in jobs and remaining in such jobs for at least sixty days due to said career center's efforts . . . . . \$2,000,000  
General Fund . . . . . 93.14%  
Economic Development Fund . . . . . 6.86%

*Federal Appropriations*

7002-6624 For the purposes of a federally funded grant entitled, Unemployment Insurance Programs Administration . . . . . \$64,029,514



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7002-6626 For the purposes of a federally funded grant entitled,  
Employment Service Programs Administration ..... \$19,957,364

*Division of Labor Market Information*

*Federal Appropriation*

7002-9701 For the purposes of a federally funded grant entitled, Bureau  
of Labor Statistics Administration ..... \$1,816,781

*Department of Housing and Community Development*

*State Appropriations*

7004-0001 For the Indian affairs commission ..... \$66,697

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 \$40,000 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 137 of chapter 133 of the  
acts of 1992 ..... \$500,000  
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; provided, that funds appropriated  
herein shall be obligated for expenditure by the West  
Broadway housing task force for the purpose of tenant  
services provided by said task force; and provided further,  
that funds appropriated herein shall not be expended by the  
Boston housing authority for discretionary purposes ..... \$76,000  
Local Aid Fund ..... 100.0%

7004-0099 For the administration of the department; provided that,  
notwithstanding the provisions of any general or special  
law to the contrary, the department of housing and  
community development is hereby authorized to make  
expenditures for the purposes of said department 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 department shall submit quarterly reports to the house and senate committees on ways and means on object code expenditures made against said account; and provided further, that not less than \$10,000 be expended for the expenses of the manufactured home commission as established by chapter 145 of the acts of 1993, including, but not limited to travel, postage, advertising and printing . . . . . \$5,484,894

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 said incentive grants may be utilized for the purchase of computer hardware and equipment; provided further, that funds appropriated herein may be provided in advance; provided further, that not less than \$100,000 shall be allocated as technical assistance grants to the towns of Abington, Rockland, and Weymouth for costs associated with participation in the naval air station planning committee; provided further, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees; provided further, that not less than \$350,000 shall be expended for the promotion of regional planning and for regionalization of services; and provided further, that not less than \$42,000 shall be allocated as a management incentive grant to the Franklin Regional Council of Governments for costs associated with the Regional Public Health Agency pilot project in Franklin County . . . . . \$800,000

Local Aid Fund . . . . . 100.0%

7004-1966 For the loan program established pursuant to section 197E of chapter 111 of the General Laws, as amended, for lead

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	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 department 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; and provided further, that such disbursements shall be made upon demonstration of need by the entity selected by the department to implement the program funded herein . . . . .	\$4,500,000
7004-2025	For the Massachusetts neighborhood crime watch commission to provide training and publications in support of a statewide program of crime prevention . . . . .	\$118,000
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 . . . . .	\$1,900,000
	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 . . . . .	\$3,000,000
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 department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in said housing . . . . .	\$550,000

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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 1998 or any subsequent fiscal year . . . . .	\$2,467,621
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 32 and 40 of chapter 121B 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 60 years of age or older on June 30, 1995, then receiving rental assistance from the Massachusetts rental voucher program; provided further, that the department 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 department 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 32 and 40; provided further, that not less than \$45,000 be provided for the establishment of a computer lab to be located at the state-aided Innes apartments operated by the Chelsea housing authority; and	



provided further, that any new reduced rental units developed in fiscal year 1998 eligible for subsidies pursuant to this item, shall not cause any annualization that results in an amount exceeding the amount appropriated herein . . . . \$27,650,000

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 707 certificates, so-called, as of October 31, 1992, pursuant to the chapter 707 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 31, 1992, 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, in emergency situations, subject to the approval of the director of the department, for the purpose of providing housing vouchers to eligible households currently occupying project-based units, so-called, the leases of which have expired due to the non-renewal of project-based rental assistance contracts; provided further, that at the discretion of the director, on a case by case basis, the department shall utilize all otherwise available funds, appropriated herein, to increase the rental subsidy at eligible project-based developments, so-called; provided further, that the department shall submit a report to the house and senate ways and means committees, no later than September 1, 1997, detailing the department's guidelines for assessing emergency situations involving the conversion of project-based vouchers, so-called, to mobile vouchers, so-called, and the eligibility of a project-based development to receive a rental subsidy increase in fiscal year 1998; provided further, that the department shall submit quarterly reports to the house and senate ways and means committees detailing the number of project-based vouchers, so-

called, which have been converted to mobile vouchers, so-called, and the number of project-based developments that have elected or are at risk of non-renewal of the rental assistance contract; provided further, that there shall be no further payments made under said chapter 707 program, so-called, or under said program of housing assistance consistent with the requirements established by the federal government for the program authorized by Public Law 98-181, Section 207, which state program was known as the state housing voucher program, so-called; provided further, that rental assistance shall only be paid pursuant to a program to be known as the Massachusetts rental voucher program, as such program may hereafter be amended by the department of housing and community development; provided further, that the income of said households shall in no event exceed 200 per cent 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 director of said department 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 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 \$25 per voucher per month shall be determined and paid by said department for administration of the rental assistance program; provided further, that said costs of administration shall not exceed 6 per cent of the appropriation provided herein; provided further, that said 6 per cent shall include, but not be limited to, all expenditures which may be made by the 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 per centage 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 30 per cent of income as rent; provided further, that said department 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 department 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 department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12 month contract which shall be executed by the participant and the department; 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 department 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 12 month contract on or before September 1, 1997 if his or her annual eligibility recertification date occurs between June 30, 1997 and September 1, 1997 and otherwise on or before his or her annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under his or her particular circumstances; provided further, that the department 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 ..... \$41,172,368

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 708 of the acts of 1966, 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 7 of chapter 574 of the acts of 1983; provided, that notwithstanding the provisions of section 27 of chapter 23B or sections 26 and 27 of chapter 29 of the General Laws to the contrary, the department of housing and community



development is hereby authorized to enter into such contracts for terms not exceeding 15 years with annual payment obligations not to exceed \$30,098,634; 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 1998 for said fiscal year or any subsequent fiscal years; provided further, that the director of said department 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 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 . . . . . \$30,098,634

7004-9030 For the transitional rental assistance program established pursuant to chapter 179 of the acts of 1995; 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 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 department shall pay local housing agencies administering said program an allowance not to exceed \$25 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 per centage 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 25 per cent of their net income, as defined in regulations promulgated by said department, for units if utilities are not provided by the unit owner, or not less than 30 per cent of their income for units if utilities are provided by the unit owner; provided further, that

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payments for said transitional rental assistance may be provided in advance; provided further, that said department 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 department 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 department shall submit an annual report to the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; 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; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that consistent with chapter 179 of the acts of 1995 the amount appropriated herein shall not annualize to more than \$4,000,000 in fiscal year 1999; and provided further, that said program shall provide funding for not more than 800 mobile vouchers, so-called. . . . \$3,202,920

7004-9101	For federally aided urban renewal community development; provided, that no new contracts shall be entered into during fiscal year 1998 . . . . .	\$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 1998 . . . . .	\$191,145
	Local Aid Fund . . . . .	100.0%

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7004-9108	For urban revitalization and development, for projects authorized pursuant to section 54 of chapter 121B of the General Laws; provided, that notwithstanding the provisions of section 53 or 57 of said chapter 121B 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 1998; and provided further, that not less than \$118,000 and not more than \$200,000 shall be expended for grants to the city of Pittsfield . . . . .	\$2,441,500
	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 1998 for said fiscal year or any subsequent fiscal years . . . . .	\$7,966,427
7004-9315	For the low income housing tax credit program; provided, that the department may expend an amount not to exceed \$702,000 accrued from fees collected for the regulation of TELLER, so-called, projects undertaken pursuant to clause (m) of section 26 of chapter 121B 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 director of the department of housing and community development; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing 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 therefor as reported in the state accounting system . . . . .	\$702,000
7004-9320	For the publication of community profiles, so-called; provided, that the department may expend an amount not to exceed \$6,000 accrued from fees collected for the print-	

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ing and distribution costs of "Community Profiles"; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the department 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 ..... \$89,706

7004-0301 For the purposes of a federally funded grant entitled, Lead Paint Initiatives ..... \$2,685,000

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 department of housing and community development may provide monthly payments in advance to participating agencies ..... \$3,186,824

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 department of housing and community development shall provide monthly payments in advance to participating agencies ..... \$36,508,938

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 department of housing and community development may provide monthly payments in advance to participating agencies ..... \$10,570,068

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 department of housing and community development may provide monthly payments in advance to participating agencies ..... \$31,187,468

7004-3050 For the purposes of a federally funded grant entitled, Rural Development Councils ..... \$146,700

7004-9009 For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided,



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	that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$5,203,225
7004-9011	For the purposes of a federally funded grant entitled, Supportive Housing Demonstration Program .....	\$743,578
7004-9013	For the purposes of a federally funded grant entitled, Section 8 Existing Housing Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$72,949,087
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$24,625,523
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$16,719,100
7004-9020	For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$3,864,024
7004-9028	For the purposes of a federally funded grant entitled, HOME; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies .....	\$6,955,335
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 department 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	

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	department 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 department 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 department of housing and community development may provide monthly payments in advance to participating agencies .....	\$50,000

*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; provided, that said office shall submit a written report on all planned or executed fiscal year 1998 intergovernmental service agreements between said office and the agencies under its control; provided further, that said report shall detail how funds transferred or allocated to said office pursuant to said agreements shall be used by said office and how said funds would have been used by said agencies to which the funds were appropriated but for the existence of such agreements; and provided further, that said report shall be submitted the house and senate committees on ways and means by February 1, 1998 .....	\$1,338,624
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*Division of Banks*

7006-0010	For the operation of the division of banks .....	\$9,114,218
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*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 31 of the General Laws; provided	
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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 1 of chapter 5 of the General Laws; 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; provided further, that the division shall have an employee or other such person answering all initial incoming telephone calls, excluding all direct in-dial calls, between the hours of nine o'clock ante meridian and five o'clock post meridian; and provided further, that the division shall designate an employee to handle all incoming calls relative to chapter 218 of the acts of 1995 or regulations promulgated under said chapter 218. . . . \$5,049,706

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 . . . . . \$3,196,687  
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 2 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 31 of the General Laws; provided further, that the division shall maintain and staff an office in Springfield; provided further, that said division is hereby directed to provide a report detailing how the fiscal year 1998 appropriation will effect caseload backlog of said division; and provided further, that said division shall submit said report to the house and senate committees on ways and means on or before March 1, 1998 . . . . . \$5,133,464

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- 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 in section 2 ..... \$439,415

### *Division of Standards*

- 7006-0060 For the operation and administration of the division of standards ..... \$503,464
- 7006-0065 The division of standards is hereby authorized to expend an amount not to exceed \$50,000 from the local consumer inspection fund established pursuant to section 50 ..... \$50,000
- Local Consumer Inspection Fund ..... 100.0%

### *Department of Public Utilities*

- 7006-0070 For the operation and administration of the department of public utilities including the community antenna television division; provided, that not less than \$350,000 shall be expended on additional personnel for electricity restructuring proceedings, including one economist, one engineer, one attorney, one rate analyst and five consumer assistance specialists; provided further, that notwithstanding the provisions of the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied pursuant to said first paragraph of said section 18 of said chapter 25 for fiscal year 1998 shall be made at a rate sufficient to produce \$4,763,867; provided further, that the community antenna television division shall be assessed at \$720,000 for fiscal year 1998 pursuant to section 2 of chapter 166A of the General Laws; and provided further, that the department shall maintain a toll free consumer access telephone number to facilitate state-wide citizen access on customer service issues in the delivery of cable television services ..... \$5,483,867
- 7006-0080 For the operation of the transportation division ..... \$597,966
- 7006-0090 The department of public utilities may expend revenues collected up to \$225,000 for the operation of the energy facilities siting commission ..... \$225,000

### *Alcoholic Beverages Control Commission*

- 7006-0100 For the operation and administration of the alcoholic beverages control commission; provided, that the commis-



sion 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 performance of investigations ..... \$1,115,341

*State Racing Commission*

7006-0110 For the operation and administration of the state racing commission ..... \$3,660,193

*Board of Registration In Medicine*

7006-0130 For the operation and administration of the board of medicine and the committee on acupuncture ..... \$1,387,113

7006-0135 For the costs of the physician profile program, so-called; provided, that in the event that expenditures and encumbrances for the purpose 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 7006-0130 to this item to ensure that the physician profile program, so-called, is maintained throughout fiscal year 1998 ..... \$247,000

*Department of Economic Development*

*State Appropriations*

7007-0100 For the office of the director of the department of economic development ..... \$274,997

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 director of the department 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; provided further, that said task force shall submit to the house and senate committees on ways and means the plan for the distribution of grants, a timeline for said distribution, a comprehensive list of grant applicants and a list of awarded grants no later than December 1, 1997; provided further, that not less than \$125,000 shall be awarded as a one-time grant to Nueva Esperanza, Inc., a community development corporation serving Latino and lower income people in a fish farming, processing, and marketing venture for the purposes of an urban aquaculture project; and provided further, that said grants shall be awarded to community-based organizations for implementation in minority communities . . . . .	\$440,000
7007-0102	For the operation and expenses of the Berkshire Economic Development Authority established by chapter 295 of the acts of 1996; provided, that said authority shall develop site re-use plans necessary to implement the Pittsfield pilot program and encourage job creation and economic growth as provided in section 23 of said chapter 295; and provided further, that this appropriation shall be subject to a 30 per cent matching funds requirement from local or other public or private sources . . . . .	\$250,000
	Local Aid Fund . . . . .	100.0%
7007-0300	For the operation 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 further that not less than \$200,000 shall be expended for the Center for Advanced Fiberoptic Applications in Southbridge; provided, that applications of said monies shall be a one-time expenditure and shall be contingent upon receipt of matching federal funds; provided further, that not less than \$80,000 shall be expended for the Cape Cod Economic Development Council of Barnstable county; provided further, that not less than \$80,000 shall be expended to support the economic development activities carried out by the non-	

profit Blackstone Valley Development Corporation; provided further, that said office shall maintain business development assistance services in southeastern Massachusetts by responding to business inquiries and providing assistance at an office to be located at the University of Massachusetts at Dartmouth, for New Bedford and Fall River; provided further, that not less than \$250,000 shall be expended for the Massachusetts Ventures Corporation in the Pioneer Valley; provided further, that for any and all advertising and marketing programs funded herein, said office shall report to the house and senate committees on ways and means the number of companies contacted by said office, responding to said advertising and relocating to the commonwealth for each program conducted and funded herein; provided further, that not less than \$125,000 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 1999; provided further, that not less than \$350,000 shall be obligated to the Western Massachusetts Precision Institute for year one of the three year program to expand an existing machinist training program and extended services into central Massachusetts; and provided further, that said office shall expend not less than \$50,000 to assist the town of Newbury in developing alternative uses for Byfield elementary school . . . . . \$4,276,484

7007-0350 For the purpose of a state matching grant to the Massachusetts Manufacturing Partnership upon its receipt of federal funds from the National Institute of Standards and Technology of the Department of Commerce, 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; and provided further, that said partnership shall provide written notification to the house and senate committees on ways and

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	means within seven to ten days of receiving confirmation of all federal funding commitments . . . . .	\$675,000
	General Fund . . . . .	93.14%
	Economic Development Fund . . . . .	6.86%
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
	General Fund . . . . .	93.14%
	Economic Development Fund . . . . .	6.86%
7007-0515	For the operation of the Devens Enterprise Commission . . . . .	\$275,540
	General Fund . . . . .	93.14%
	Economic Development Fund . . . . .	6.86%
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 25 per cent 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 not less \$450,000 shall be expended for the operation of the Massachusetts film office; 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 \$200,000 shall be expended for the Baystate games, so-called; provided further, that not less than \$200,000 shall be expended for the expenses of the Massachusetts international trade council; provided further, that not less than \$250,000 shall be expended for costs incurred by the Massachusetts Sports Partnership, Inc; and provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation . . . . .	\$10,920,000
	Massachusetts Tourism Fund . . . . .	100.0%
7007-1000	For assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; provided that, notwithstanding the provisions of any general or special law, regulation or rule to the contrary, each of said councils may expend an amount not to exceed 20 per cent of the grant it receives herein for the cost of administrative services . . . . .	\$5,187,000
	Massachusetts Tourism Fund . . . . .	100.0%
7007-1200	For a program to create and maintain a more favorable and responsive environment for the formation, growth, attraction and retention of technology-intensive industry for the commonwealth through the support of activities of clusters of technology-intensive organizations; provided, that any portfolio of such clusters shall include firms and universities concerned with federal technology funding and medical device manufacturing; provided further, that clusters may be characterized by technological or market focus, geographic proximity, or other shared interests; provided, further that the provision of support by the corporation to such clusters shall be deemed to be the exercise of an essential governmental function and shall be intended to (1) foster increased collaboration among cluster organizations, (2) facilitate improved communications between the commonwealth and cluster organizations, (3) identify and respond to challenges and opportunities related to the continued growth and development of the targeted clusters in Massachusetts, (4) enhance the competitive position of cluster firms, (5) reduce the costs of doing business in the commonwealth	

through one or more purchasing cooperatives, and (6) generally improve the perception of cluster firms of the value and benefits of doing business in the commonwealth; provided further, that amounts appropriated herein shall be expended to the Massachusetts Technology Park Corporation to be held and applied thereby and administered 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 the executive director shall file a report with the house 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 by March 15, 1998; and provided further, that said collaborative shall submit a five year strategic plan to the house and senate committees on ways and means no later than December 1, 1997 ..... \$900,000

General Fund ..... 93.14%

Economic Development Fund ..... 6.86%

7007-1300 For operation and administration of the Massachusetts international trade council; provided, that not less than \$165,000 shall be expended for an international trade assistance center in Fall River ..... \$819,000

Massachusetts Tourism Fund ..... 100.0%

7007-1500 For the operation and administration of the state office of minority and women business assistance ..... \$541,320

*Federal Appropriations*

7007-0002 For the purposes of a federally funded grant entitled, Massachusetts Fisheries Initiative ..... \$558,000

7007-0211 For the purposes of a federally funded grant entitled, Massachusetts Modernization Partnership ..... \$2,923,440

7007-7000 For the purposes of a federally funded grant entitled, Planning Assistance - Department of Commerce Development ..... \$66,313

7007-9007 For the purposes of a federally funded grant entitled, Urban Enterprise Program ..... \$3,000,000

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*Division of Energy Resources*

*State Appropriations*

7007-0600	For the operation and administration of the division of energy resources . . . . .	\$565,514
7007-0700	For the residential conservation service program pursuant to chapter 465 of the acts of 1980, and the commercial and apartment conservation service program pursuant to section 11A of chapter 25A of the General Laws . . . . .	\$202,344

*Federal Appropriations*

7007-9720	For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program . . . . .	\$22,725
7007-9743	For the purposes of a federally funded grant entitled, State Energy Plan . . . . .	\$708,283
7007-9757	For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program . . . . .	\$29,956

*Department of Education*

*State Appropriations*

7010-0005	For the operation of the department of education; provided, that not less than \$50,000 shall be expended for staff and support services for the education reform and review commission established pursuant to the provisions of chapter 71 of the acts of 1993; and provided further, that no local education authority shall expend any funds of the commonwealth, distributed, allocated, or obligated by the department, for the compensation of the costs of any consultant services designed to influence, interpret, or otherwise alter the purpose or intent of said chapter 71 . . . . .	\$8,893,049
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 71B 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 1977; and provided further, that the division of elementary,	

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	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 19A of chapter 15A of the General Laws; provided, that not less than \$300,000 shall be expended for grants to new teachers; provided further, that said teachers shall have graduated in the top 15 per cent of their undergraduate class; and provided further, that said grants shall not exceed \$1,800 per teacher . . . . .	\$600,000
	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 89 of chapter 71 of the General Laws; 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 sections 37I and 37J of chapter 71 of the General Laws; provided, that any payment made under this appropriation shall be deposited with the treasurer of such city, town, or regional school district and held 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%



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7010-0043	For grants for the equal education improvement fund for cities, towns, or regional school districts pursuant to the provisions of section 1I of chapter 15 of the General Laws; provided, that notwithstanding the provisions of said section 1I or section 37D of chapter 71 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 appropriation herein	\$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 per centage match required on an individual grant basis	\$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	\$2,057,621
	Local Aid Fund	100.0%

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7028-0031	For the expenses of school age children in institutional schools pursuant to section 12 of chapter 71B of the General Laws; provided, that the department is authorized to provide special education services to eligible inmates in county houses of correction .....	\$8,803,098
	Local Aid Fund .....	100.0%
7028-0302	For the educational expenses of certain school aged children with special needs attending schools pursuant to the provisions of section 10 of chapter 71B 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 .....	\$3,829,424
	Local Aid Fund .....	100.0%
7030-1000	For grants to 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 54 of chapter 15 of the General Laws; provided, that any payment made under any such grant 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 54, school districts and head start agencies that served as lead agencies in fiscal year 1997 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 1995 such lead agency shall serve as lead agency to submit proposals pursuant to said section 54; provided further, that in addition to services	

provided by Head Start pursuant to this item in fiscal year 1997, not less than an additional \$2,000,000 shall be made available for services provided by Head Start agencies pursuant to the provisions of said section 54, in fiscal year 1998; provided further, that the department shall not enter into any grants 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 60 of the acts of 1994 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 60 shall be for full-day, full-year care that meets the needs of working parents; provided further, that \$250,000 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; provided further, that in addition to funds provided to family networks, so called, pursuant to this item in fiscal year 1997, not more than an additional \$1,000,000 shall be made available for family networks; provided further, that not less than \$1,000,000 shall be expended for early intervention individual tutorial literacy programs designed as a pre-special education referral and short term intervention for children who are at risk of failing to read in the first grade; and provided further, that said programs shall be research based with proven long term results, including identifying students in need of additional help no later than mid-first grade, providing ongoing training and support to program teachers, and including ongoing documentation and evaluation of results. . . \$65,000,000

Local Aid Fund ..... 100.0%

7030-1001 For the expansion of the Hilldale Avenue Head Start Site in the city of Haverhill ..... \$50,000

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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 25 per cent of the funds available for drop out prevention programs shall be awarded to school districts that demonstrate a marked increase in the per centage 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 59C of chapter 71 of the General Laws; provided further, that \$1,475,988 shall be allocated to basic skills remediation programs for students in grades one through nine; and provided further, that \$89,248 be earmarked for the expansion of the Boston-based comprehensive school age parenting program, inc. to accommodate an increased caseload pursuant to chapter 5 of the acts of 1995 .....	\$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 per cent of the amount appropriated herein shall be expended for administrative costs; provided further, that \$1,400,000 shall be expended on the school linked services program; provided further, that the com-	



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	missioner 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 no later than October 15, 1997; provided further, that no more than \$500,000 shall be expended for teen dating violence prevention; and provided further, that not less than \$37,500 shall be expended for the North Quabbin Domestic Violence Prevention Program .....	\$11,139,503
	Health Protection Fund .....	100.0%
7035-0002	For adult learning centers to strengthen basic educational attainment in reading, writing, and mathematics; provided, that not less than \$100,000 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; provided further, that \$30,000 shall be expended for the Attleboro Literacy Center; provided further, that \$30,000 shall be expended for the Valley Opportunity Council in the Pioneer Valley; and provided further, that \$150,000 shall be expended for the Methuen Adult Learning Center .....	\$19,545,465
	Local Aid Fund .....	96.64%
	Commonwealth Economic Development Fund ..	3.36%
7035-0003	For allocation to Skill Training Innovations, Inc. to develop a Skill Training Center in the City of Cambridge to work directly with undertrained workers and interested businesses .....	\$150,000
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 1I of chapter 15 of the General Laws, sections 7A, 7B, and 37D of chapter 71 of the General Laws, section 8 of chapter 71A of the General Laws, section 14 of chapter 71B of the General Laws, and section 8A of chapter 74 of the General Laws; provided, that of the amount appropriated herein, not less than \$1,500,000 shall be obligated for the implementation of chapter 663 of the acts of 1983; provided further, that any city, town or regional school district, or independent vocational school	

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which has not accepted the provisions of chapter 663 of the acts of 1993 shall be ineligible for any reimbursement of costs incurred during fiscal year 1997 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 ..... \$28,639,604

Local Aid Fund ..... 100.0%

7051-0015 For the administration of the emergency food assistance program ..... \$488,372

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 645 of the acts of 1948, as amended, 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 said chapter 645 shall not exceed \$10,912,208; provided further, that projects on the fiscal year 1997 priority lists ranked through number ten, 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 committees on ways and means regarding funding commitments pursuant to the provisions of this item ..... \$18,419,128

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 645 of the acts 1948, as amended, for first annual payments on school projects; provided, that the aggregate

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	amount of first annual estimated payments for school projects approved by the board of education under the provisions of said chapter 645 in the fiscal year ending June 30, 1998 shall not exceed \$23,160,145; provided further, that projects on the fiscal year 1997 priority lists ranked through number 122, 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 on ways and means regarding funding commitments pursuant to the provisions of this item .....	\$14,463,471
	Local Aid Fund .....	100.0%
7052-0005	For grants and reimbursements to cities, towns, regional school districts, and counties under the provisions of chapter 645 of the acts of 1948, as amended, for annual payments on the accounts of school projects for which first annual payments have been made .....	\$177,920,847
	Local Aid Fund .....	100.0%
7052-0006	For grants and reimbursements to cities, towns, regional school districts, and counties under the provisions of chapter 645 of the acts of 1948, 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 645 of the acts of 1948, 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 .....	\$2,000,000
	Local Aid Fund .....	100.0%

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- 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 538 of the acts of 1951, 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 \$300,000 shall be expended for the summer food service outreach program and not less than \$200,000 shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses, prior appropriation continued; provided, that a grant supplement of 15 cents per lunch served and five cents per snack and breakfast served be paid to local summer food service providers . . . . . \$1,077,791  
Local Aid Fund . . . . . 100.0%
- 7053-1940 For a one-time payment to the city of Northampton; provided, that said city is hereby authorized and directed 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, so-called, for a program of payments in lieu of taxes or other compensation to be paid by said school to said city for education costs incurred by said city on behalf of said school; and provided further, that upon submission of said report, an amount not to exceed the appropriation provided herein shall be obligated by the comptroller to said city . . . . . \$535,000  
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 70 and 76 of the General Laws; provided, that notwithstanding the provisions of section 3



of this act, each school district which receives aid from this item in fiscal year 1998, shall expend from this aid not less than \$75 per student on professional development expenditures as defined in regulations of the department of education; provided further, that said \$75 per student shall include \$50 in such aid previously made available in chapter 151 of the acts of 1996; provided further, that \$150,000 of the funds allocated from this item to the city of Lawrence by section 3 shall be transferred to the University of Massachusetts at Lowell for its college preparation program; provided further, that \$26,400,000 shall be transferred from item 7061-9100 and credited to this item; provided further, that said \$26,400,000 shall not be subject to the provisions of paragraph (b) of section 12 of chapter 70 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 \$75 per student in chapter 70 aid, so-called, in fiscal year 1998; provided further, that said aid shall be in addition to the \$75 per student aid authorized and made available in this item of section 2 of chapter 151 of the acts of 1996; 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 . . \$2,262,342,702

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 96 of chapter 71 of the acts of 1993; provided, that said reimbursement 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 7 and 9 of chapter 76 of the General Laws, other than in a home town. . . \$16,585,420

Local Aid Fund . . . . . 100.0%

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- 7061-0011 For a reserve to (1) 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 70 of the General Laws, in conjunction with unanticipated or extraordinary decreases in cherry sheet aid, so-called, for such municipalities; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to section 318; provided further, that the commissioner of the department of revenue shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of said application; (2) meet expenses associated with extraordinary increases in enrollment calculated on a per centage basis for such municipalities; and (3) to assist regional school districts in offsetting unanticipated funding losses resulting from a member municipality's extraordinary increase or decrease in its minimum required local contribution; provided, however, that priority shall be granted to member municipalities of regional, and vocational regional school districts; 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; and 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 1999. . . \$15,000,000
- 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 71B 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 1, 1997; provided further, that not more than \$5,000,000 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; 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 50 per cent of the cost of any such residential placement; and provided further, that not less than \$162,500 be expended for the costs of borrowing audiotaped textbooks by Massachusetts special needs students whose disabilities include, but are not limited to: blindness, visual impairments, learning disabilities such as dyslexia, or physical disabilities such as cerebral palsy; that limit the use of standard print; and an outreach program geared toward special education teachers, students and parents regarding the services of this program. . . \$47,681,804

Local Aid Fund . . . . . 100.0%

7061-0015 For the purpose of a loan program for unanticipated special education expenses of local education authorities; provided, that said program shall provide temporary relief in the form of three year loans to any such authority obligated to pay the cost of unbudgeted services for children determined eligible for services pursuant to chapter 71B of the General Laws; provided further, that no such loan shall be approved unless the cost of said unbudgeted services exceed four times the average per pupil education costs of any such authority or when the total unanticipated special education costs for such an authority are determined to be excessive by the department; provided further, that said department shall establish the repayment terms for any loan funded pursuant to this item; and provided further, that an authority shall demonstrate to the satisfaction of the department that said authority was unable to anticipate the cost of said services . . . . . \$500,000

Local Aid Fund . . . . . 100.0%

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7061-9000	For fiscal year 1998 reimbursements to certain cities, towns, and regional school districts for a school choice transportation reimbursement program pursuant to subsection (i) of section 12B of chapter 76 of the General Laws . . . . .	\$500,000
	Local Aid Fund . . . . .	100.0%
7061-9010	For fiscal year 1998 reimbursements to certain cities, towns, and regional school districts pursuant to section 19 of chapter 267 of the acts of 1995 . . . . .	\$1,580,198
	Local Aid Fund . . . . .	100.0%
7061-9100	For professional development; provided, that \$26,400,000 shall be transferred to item 7061-0008 in section 2 of this act for the purposes of professional development; provided further, that said \$26,400,000 shall not be subject to the provisions of subsection (b) of section 12 of chapter 70 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 \$200,000 shall be expended for the writing project at the University of Massachusetts at Amherst and at Boston for the professional development of teachers . . . . .	\$26,600,000
	Local Aid Fund . . . . .	100.0%
7061-9200	For the education technology 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 1, 1997; provided further, that \$60,000 shall be expended on the Pentucket regional schools for the purpose of creating technology matching partnerships; and provided further, that \$150,000 shall be expended for the Hopkinton Technology Project . . . . .	\$952,686
	Local Aid Fund . . . . .	100.0%
7061-9400	For student and school assessment and 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 or work samples, projects and shall facilitate authentic and direct gauges of student performance; provided further, that said portfolio assessments, shall not replace the statewide standardized assessment; based on the curriculum frameworks; provided further, that all school assessments 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 1 of section 1L of chapter 69 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	\$10,700,000
	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	\$1,238,000
	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 \$250,000 shall be expended for a pilot program in the city of Fall River on preventing violence among youths; provided further, that not less than \$50,000 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 133 of the acts of 1989; provided further, that \$250,000 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 \$775,000 may be expended on after school programs; provided further, that no funds from this item may be expended for the educational alternatives for chronically disruptive stu-	

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	dents program; provided further, that \$2,250,000 shall be expended for voluntary in-school and after school service programs administered by the Massachusetts National and Community Service Commission; and provided further, that \$200,000 shall be expended for a violence prevention task force and for grants for violence prevention initiatives. . . .	\$3,775,000
	Local Aid Fund . . . . .	100.0%
7061-9612	For the school of excellence program at the Worcester Polytechnic Institute; provided, that every effort shall 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, \$378,000 shall be obligated for professional development activities at the school of excellence program at Worcester Polytechnic Institute, including salary and benefits for master teachers and visiting scholars, so-called; 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 1, 1997; and provided further, that not less than \$150,000 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%
7061-9617	For the abstinence-based teen pregnancy prevention program, so-called, to prevent teen pregnancy in the cities of Lawrence, North Adams, Pittsfield, and the town of Orange; provided, that not less than \$80,000 shall be expended for said program in the city of Pittsfield; and provided further, that the funds appropriated herein shall	

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	be transferred to the department of public health to administer said program .....	\$220,000
	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 110 of chapter 5 of the acts of 1995; provided, that \$2,000,000 shall be transferred from this item to item 4130-3400 .....	\$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 1996 to 1997 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 item shall be in addition to any federal funds available for said program; provided further, that the department of education shall establish criteria for the purpose of identifying children enrolled in a public school in the commonwealth in grades kindergarten through 12 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%
7061-9625	For professional standards for teachers, administration preparation and development, including professional development and recertification of administrators, and the development and monitoring of professional development	

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	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 for the purposes of providing comprehensive youthbuild services to economically disadvantaged young adults in the cities of Boston, Cambridge, Fitchburg, Lawrence, Lowell, and New Bedford .....	\$750,000
	Local Aid Fund .....	100.0%
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, prior appropriation continued.	
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 no later than September 1, 1997; and provided further, that \$5,000 shall be expended for the purchase of materials and for the department to conduct training for teachers and staff to identify and serve students with scotopic sensitivity Irlen syndrome .....	\$200,000

*Federal Appropriations*

7010-0013	For the purposes of a federally funded grant entitled, Administration-Desegregation Plans for Massachusetts Public Schools .....	\$115,000
7010-2000	For the purposes of a federally funded grant entitled, Goals 2000 - Distribution .....	\$5,848,200
7010-2001	For the purposes of a federally funded grant entitled, Goals 2000 - Administration .....	\$600,000
7010-6610	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development-Administration .....	\$146,600
7010-6611	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development-Distribution .....	\$190,000
7010-8801	For the purposes of a federally funded grant entitled, Technology Literacy - Distribution .....	\$3,500,000
7010-8802	For the purposes of a federally funded grant entitled, Technology Literacy - Administrative .....	\$200,000



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7010-9093	For the purposes of a federally funded grant entitled, Partnerships Advancing Learning of Math and Science - Administration .....	\$325,000
7010-9094	For the purposes of a federally funded grant entitled, Partnerships Advancing Learning of Math and Science - Distribution .....	\$1,240,000
7010-9103	For the purposes of a federally funded grant entitled, Math and Science Curriculum Frameworks for Massachusetts .....	\$471,500
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 .....	\$13,100
7010-9732	For the purposes of a federally funded grant entitled, Chapter II Education Consolidation and Improvement Act - Administration .....	\$142,666
7027-9116	For the purposes of a federally funded grant entitled, Occupational Education - Distribution .....	\$17,000,000
7027-9122	For the purposes of a federally funded grant entitled, Consumer and Homemaking .....	\$40,000
7027-9123	For the purposes of a federally funded grant entitled, Technical Preparation .....	\$2,000,000
7027-9126	For the purposes of a federally funded grant entitled, Occupational Education - Administration .....	\$1,850,000
7028-0601	For the purposes of a federally funded grant entitled, Education of Handicapped - Administration .....	\$2,452,831
7028-9125	For the purposes of a federally funded grant entitled, Transition Services for Youth with Disabilities - Administration .....	\$523,133
7028-9500	For the purposes of a federally funded grant entitled, Special Education for Culturally and Linguistically Diverse Exceptional Students .....	\$188,700
7030-0191	For the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs by S.E.A.S .....	\$95,895
7030-9780	For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Administration .....	\$200,000

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7030-9736	For the purposes of a federally funded grant entitled, Chapter Eleven Block Grant - Distribution .....	\$6,000,000
7030-9790	For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Distribution .....	\$3,500,000
7032-0217	For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program - Distribution .....	\$576,194
7032-0227	For the purposes of a federally funded grant entitled, Drug Free Schools - Administration .....	\$537,419
7032-0228	For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program .....	\$650,000
7032-0230	For the purposes of a federal grant entitled, Drug Free Schools - Distribution .....	\$6,219,000
7032-0402	For the purposes of a federally funded grant entitled, Local Education Agencies Education of Children of Low Income Families - Administration .....	\$980,000
7032-0403	For the purposes of a federally funded grant entitled, Chapter I - Administration .....	\$197,000
7032-9131	For the purposes of a federally funded grant entitled, Foreign Language Assistance - Administration .....	\$28,000
7033-9401	For the purposes of a federally funded grant entitled, Christa McAuliffe - Administration .....	\$400
7033-9402	For the purposes of a federally funded grant entitled, Christa McAuliffe - Distribution .....	\$40,000
7035-0013	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution .....	\$3,692,129
7035-0116	For the purposes of a federally funded grant entitled, Chapter I, Education Consolidation and Improvement Act - Distribution .....	\$127,240,560
7035-0126	For the purposes of a federally funded grant entitled, Neglected and Delinquent Children .....	\$90,969
7035-0136	For the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions .....	\$130,000
7035-0146	For the purposes of a federally funded grant entitled, Migrant Education .....	\$3,003,000
7035-0151	For the purposes of a federally funded grant entitled, Homeless Children Youth Exemplary Grant .....	\$408,600

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7035-0156	For the purposes of a federal grant entitled, Chapter I Capital Expenses for Private Schools .....	\$1,454,000
7035-0157	For the purposes of a federal grant entitled, Chapter I Program Improvement .....	\$188,000
7035-0158	For the purposes of a federally funded grant entitled, Massachusetts Educational Program for Homeless Children .....	\$73,695
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution .....	\$1,450,000
7035-0167	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Administration .....	\$85,859
7035-0316	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution .....	\$64,405,000
7035-0713	For the purposes of a federally funded grant entitled, Early Childhood Incentive - Administration .....	\$640,000
7035-0716	For the purposes of a federally funded grant entitled, Preschool Incentive - Distribution .....	\$7,535,000
7035-0718	For the purposes of a federally funded grant entitled, Preschool Incentive - Discretionary .....	\$1,191,406
7038-0002	For the purposes of a federally funded grant entitled, Adult Basic Education - Administration .....	\$774,563
7038-0110	For the purposes of a federally funded grant entitled, Adult Education for the Homeless - Administrative Overhead .....	\$500,000
7038-0106	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution .....	\$3,500,000
7038-0109	For the purposes of a federally funded grant entitled, Adult Education for the Homeless .....	\$14,400
7038-0150	For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Administration .....	\$252,000
7038-0151	For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Distribution .....	\$800,000
7038-0160	For the purposes of a federally funded grant entitled, Even Start Statewide Family Literacy .....	\$8,000
7038-9003	For the purposes of a federally funded grant entitled, CNCS School Based - Administration .....	\$15,000
7038-9004	For the purposes of a federally funded grant entitled, Massachusetts Plan for Community Service - Distribution. ....	\$450,000

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7038-9005	For the purposes of a federally funded grant entitled, Learn and Serve America - School Based Training .....	\$60,000
7038-9103	For the purposes of a federally funded grant entitled, CNCS Higher Education - Distribution .....	\$6,000
7038-9203	For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Administration .....	\$28,600
7038-9204	For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Distribution .....	\$6,050,000
7038-9205	For the purposes of a federally funded grant entitled, Americorps-Training .....	\$216,000
7038-9404	For the purposes of a federally funded grant entitled, Learn and Serve America Community Based Training - Administration .....	\$161,000
7038-9724	For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Administration .....	\$20,000
7038-9746	For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Distribution. ...	\$1,000,860
7053-2105	For the purposes of a federally funded grant entitled, Special Food Distribution Cash .....	\$604,000
7053-2111	For the purposes of a federally funded grant entitled, Special Milk Program .....	\$586,000
7053-2112	For the purposes of a federally funded grant entitled, School Lunch, Section 11 - Special Assistance .....	\$56,494,000
7053-2113	For the purposes of a federally funded grant entitled, Community School Lunch Program .....	\$13,860,000
7053-2114	For the purposes of a federally funded grant entitled, School Breakfast Program .....	\$15,990,000
7053-2117	For the purposes of a federally funded grant entitled, Child Care Food Program .....	\$37,600,000
7053-2118	For the purposes of a federally funded grant entitled, School Food Service-Management and Related Activities .....	\$86,100
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance .....	\$904,000
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children .....	\$3,505,400



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7062-0008	For the purposes of a federally funded grant entitled, Nutrition Program - Administration .....	\$2,348,670
7062-0016	For the purposes of a federally funded grant entitled, Charter Schools - Administrative .....	\$300,000
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools - Distribution .....	\$1,000,000
7062-0018	For the purposes of a federally funded grant, entitled, Cooperative Demonstration (School to Work) .....	\$4,000,000

*Board of Higher Education**State Appropriations*

7066-0000	For the operation of the board of higher education .....	\$2,469,736
7066-0005	For the commonwealth's share for the cost of the compact for education .....	\$66,400
7066-0009	For the New England board of higher education .....	\$631,440
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 said board shall report quarterly to the house and senate committees on ways and means and the joint committee on education, arts and humanities, on said campus grant proposals and awards, including, but not limited to, a description of each proposal, its costs, the amount awarded, and projected outcomes; provided further, that notwithstanding the provisions of any general or special law to the contrary, said board may allocate funds from this item to other items of appropriation; and provided further, that said board shall submit an allocation plan to the house and senate committees on ways and means 10 days prior to any allocation of funds from this item .....	\$6,000,000
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; provided, that the board of higher education is hereby authorized and directed to conduct an independent audit review of said program; and provided further, that said audit shall be submitted to the house and senate committees on ways and means no later than January 15, 1998 . . . . . \$4,761,741

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 \$12,600,000 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 \$10,000,000 shall be made available for the no-interest loan program pursuant to clause (cc) of section 9 of chapter 15A of the General Laws; provided further, that of said \$10,000,000, not more than \$775,000 may be spent for the administration of said no-interest loan program; provided further, that \$4,000,000 shall be expended for the part-time student grant program; provided further, that of the sum appropriated herein, not less than \$1,000,000 shall be obligated for the purposes of the Massachusetts plan, pursuant to section 5C of chapter 15C of the General Laws; provided further, that the Massachusetts state scholarship office is authorized and directed to expend not less than \$12,000,000 to provide for matching scholarship grants to needy Massachusetts students at participating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; provided further, that all said aforementioned financial assistance shall be distributed to students demonstrating the greatest need as determined by an eligibility index used by the state

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scholarship office; provided further, that students awarded full or partial scholarships under the Christian A. Herter memorial scholarship program, as established in section 16 of chapter 15A 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 16 of said chapter 15A; 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 said chancellor shall deem necessary; and provided further, that not more than \$1,679,193 shall be expended on the administration of the scholarship program ..... \$73,743,250

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; provided further, that prior year costs may be paid from this item; and provided further, that not more than \$4,675,000 shall be expended until Tufts school of veterinary medicine files with the house and senate committees on ways and means no later than January 20, 1998, a report detailing its plan to increase, by the fall semester of 1998, the proportion of first year students residing in Massachusetts to 51 per cent of the class population, and in addition, a plan providing for tuition subsidies to said resident students ..... \$4,825,000

*University of Massachusetts*

7100-0200 For the operation of the University of Massachusetts; provided, that notwithstanding the provisions of any 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 45 days of the passage of this act; provided further, that the board of

trustees in conjunction with the state health education center at the University of Massachusetts Medical Center shall maintain learning contracts for students admitted on or after the fall of 1978 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 \$795,619 shall be expended for the purposes of the area health education centers program, also known as AHEC; provided further, that not less than \$136,816 shall be expended for the purpose of the state health education center at the medical center; provided further, that not less than \$275,000 shall be expended for the analysis of any narcotic drug synthetic substitute, poison, drug, medicine or chemical at the University of Massachusetts Medical School in order to support the law enforcement efforts of the district attorney and the police departments of the cities and towns of the middle district; provided further, that not less than \$250,000 shall be expended for the purpose of the Paul E. Tsongas Industrial Historical Center at the University of Massachusetts at Lowell; provided further, that not less \$150,000 shall be expended for a college preparation program at the university of Massachusetts at Lowell; provided further, that not less than \$69,566 shall be expended for the Center for Rural Massachusetts at Amherst; provided further, that not less than \$621,000 shall 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 \$499,019 shall be expended for the purposes of the William Joiner Center; provided further, that not less than \$368,287 shall be expended for the purposes of the Mauricio Gaston Institute of Latino Community Development and Public Policy; provided further, that not less than \$299,284 shall be expended for the purposes of research and analytical studies at the Monroe Trotter



Institute; provided further, that not less than \$200,000 shall be expended for the purposes of the Institute for Asian-American studies; provided further, that not less than \$75,000 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 \$628,834 shall be expended for the expense of a gerontology institute; provided further, that not less than \$156,663 shall be expended for the endowment of a chair named in honor of the late Frank Manning; provided further, that not less than \$637,010 shall be expended for the physical education department at the University of Massachusetts at Boston; provided further, that \$250,000 shall be expended for the Institute for Policy Research in Family and Community Violence at the University of Massachusetts at Boston; provided further, that the sum expended for Umass Extension in fiscal year 1998 shall not be reduced except in proportion to adjustments consistent with university budget adjustments and policies affecting comparable academic outreach programs of the University of Massachusetts at Amherst; provided further, that such funds shall be expended in accordance with a plan reviewed and recommended by the Umass Extension Board of Public Overseers established pursuant to this act; provided further, that not less than \$35,000 shall be expended for the continuing education program in Attleborough operated by the University of Massachusetts at Dartmouth; provided further, that not less than \$443,200 shall 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 \$300,000 shall be expended for the John W. McCormack Institute; provided further, that not less than \$179,635 shall be expended for the Center for Women in Politics and Public Policy at the John W.

McCormack Institute of Public Affairs; provided further, that \$200,000 shall be obligated for the University of Massachusetts Economic Project, so-called; provided further, that not less than \$2,000,000 shall be expended for the emerging technology centers, pursuant to sections 38 through 42, inclusive, of chapter 75 of the General Laws; provided further, that not less than \$380,000 shall 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 \$50,000 shall be obligated for rural development councils; provided further, that \$110,000 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 \$350,000 shall be expended for a satellite medical examiners office; provided further, that \$500,000 shall be expended for the Center for Portuguese Studies at the University of Massachusetts at Dartmouth; provided further, that \$100,000 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; provided further, that \$50,000 shall be expended for the University of Massachusetts Boston Pension Assistance Project; provided further, that not less than \$80,000 shall be expended on the model program for artificial reef construction and development with such monies to be administered by the Division of Marine Fisheries of the Department of Fisheries, Wildlife, and Environmental Law Enforcement; provided further, that not more than \$250,000 shall be provided to the Springfield Office of Economic Development for the participation of said city in the collaborative biomedical research program jointly sponsored by Bay State Medical Center and the University of Massachusetts at Amherst; provided further, that not more than \$60,000 shall 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 implementing any recommendations; 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 31, 1997; provided further, that it is hereby declared to be the intention of the general court that no additional earmarks, including increases to those items currently earmarked within this appropriation, shall be granted in fiscal year 1999 or in any fiscal year thereafter; provided further, that each center, program, and study earmarked within this appropriation shall submit to the board of trustees of the University of Massachusetts and to the house and senate committees on ways and means no later than January 20, 1998, a report which includes a programatic description, a spending plan detailing the total program budget including all funding sources, the number of students served by the program, and an explanation of how the program fulfills the mission of said university; 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 . . . . . \$403,291,592

7100-0300 For the operation of the toxics use reduction institute program at the University of Massachusetts at Lowell, in accordance with the provisions of chapter 21I of the General Laws; provided, that not less than \$200,000 shall be obligated for programs that train business, industry, higher education, and medical and high school laboratory personnel to reduce toxic waste at the source utilizing the Microscale chemistry technology . . . . . \$1,762,965

Toxics Use Reduction Fund . . . . . 100.0%

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7100-0400	For the University of Massachusetts Lowell's current and foreseeable obligation related to the commonwealth's ownership and the university's operation of the Wannalancit Complex .....	\$115,000
	University of Massachusetts Lowell Wannalancit Complex Building Management Fund .....	100.0%

*State Colleges*

7109-0100	For Bridgewater state college .....	\$26,526,138
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 and initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts .....	\$613,000
7110-0100	For Fitchburg state college .....	\$21,616,689
7112-0100	For Framingham state college; provided, that not less than \$400,000 shall be expended for the Christa McAuliffe Center; provided further, that not less than \$250,000 shall be expended for the operation of the commonwealth's global education centers; and provided further, that not less than \$200,000 shall be expended for the regional economic research center .....	\$17,971,055
7113-0100	For North Adams state college; provided, that not less than \$12,500 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 .....	\$11,501,809
7114-0100	For Salem state college; provided, that a sum of not less than \$98,200 shall be expended for the aquaculture program at said college established pursuant to section 274 of chapter 38 of the acts of 1995 .....	\$27,852,380
7114-0101	For a reserve for operating and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem .....	\$618,471
7114-0102	For one-time capital expenses at the cat cove marine research laboratory, so-called, for the aquaculture program at Salem	



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	State College, including but not limited to the replacement of roofing, fume hoods, saltwater header tanks and heating, ventilation and air conditioning systems, provision of site lighting, paving of parking lots, upgrading of electric service and building plumbing, minor interior renovations, the repair of tidal gates and retaining walls, and compliance with the Americans With Disabilities Act .....	\$822,000
7115-0100	For Westfield state college .....	\$17,485,493
7116-0100	For Worcester state college; provided, that funds may be expended for the creation of an allied health center at Worcester state college .....	\$17,723,320
7117-0100	For the Massachusetts college of art; provided, that funds may be expended for the purpose of compliance with the Americans with Disabilities Act .....	\$11,130,842
7118-0100	For the Massachusetts maritime academy; provided, that \$100,000 shall be expended for a ship building program in conjunction with the revitalization of the Fore River Shipyard .....	\$9,560,294
7119-0100	For a health and welfare reserve for eligible personnel employed at the state colleges .....	\$1,307,052

### *Community Colleges*

7502-0100	For Berkshire community college .....	\$7,727,844
7503-0100	For Bristol community college; provided, that \$60,000 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 such 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 .....	\$11,187,330
7504-0100	For Cape Cod community college .....	\$8,665,291
7504-0101	For the operation of an environmental technology, education, and job training partnership through the Cape Cod community college; provided, that said college shall coordinate said partnership with the Massachusetts maritime academy and the university of Massachusetts at Dartmouth; provided further, that said initiative shall be conducted at the Massachusetts military reservation, or at any site on	

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	Cape Cod determined by said college to be suitable 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 local applicants; and 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 not less than \$195,000 shall be obligated for the heritage bank building acquired by the Greenfield community college foundation .....	\$7,164,764
7506-0100	For Holyoke community college .....	\$12,914,848
7507-0100	For Massachusetts Bay community college .....	\$10,630,140
7508-0100	For Massasoit community college; provided, that not less than \$274,700 shall be expended for the operation of Christo's II Culinary Arts Center .....	\$15,872,659
7509-0100	For Mount Wachusett community college; provided, that \$100,000 shall be expended for the operation of the Vietnam Memorial Community Fitness and Wellness Center at Mount Wachusett community college; and provided further, that \$200,000 shall be expended for the Wetmore Wood Technology center at Mount Wachusett community college .....	\$8,700,043
7510-0100	For Northern Essex community college .....	\$14,413,071
7511-0100	For North Shore community college .....	\$15,389,905
7511-0101	For North Shore community college; provided, that said college may expend an amount not to exceed \$300,000 for site preparation indemnifying the commonwealth from liability by including the removal of hazardous material, grading, and landscaping, of the 4.5 acres of land at North Shore community college, Lynn campus .....	\$300,000
7512-0100	For Quinsigamond community college .....	\$10,427,093
7514-0100	For Springfield technical community college .....	\$18,012,257
7514-0101	For a reserve for the operation and maintenance expenses incurred by Springfield technical community college,	

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	associated with the acquisition of the Digital property so-called; provided, that said college may expend revenues in an amount not to exceed \$575,000 received from rent, utility, and other charges for the operation and maintenance of said property .....	\$606,920
7514-0102	For the Massachusetts Center for Telecommunications and Information Technology through the Springfield technical community college assistance corporation, as established by chapter 273 of the acts of 1994; provided, that the amount appropriated herein shall include, but not be limited to, operating and maintaining cable television programming, distance learning curricula, telecommunications-intensive company facilities, and a small business incubator, prior appropriation continued.	
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 1, 1998; 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
7515-0100	For Roxbury community college .....	\$8,979,803
7515-0120	For the operation of the Reggie Lewis Track and Athletic Center at Roxbury community college .....	\$1,011,300
7515-0121	For the Reggie Lewis Track and Athletic Center at Roxbury community college; provided, that said college may expend an amount not to exceed \$247,100 received from fees, rentals, and facility expenses associated with the running and operation of national track meets, high school track meets, high school dual meets, Roxbury community college athletic events, other special athletic events,	

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conferences, meetings, and programs; provided further, that only expenses for contracted services associated with the aforementioned events shall be funded from this item; and provided further, that all year end balances associated with the Reggie Lewis Track and Athletic Center be, on an annual basis, transferred to the Reggie Lewis Track and Athletic Center Building Fund established by section 2CC of chapter 29 of the General Laws . . . . . \$247,100

Reggie Lewis Track and Athletic Center Fund . 100.0%

7516-0100 For Middlesex community college . . . . . \$14,562,263  
7518-0100 For Bunker Hill community college; provided, that \$102,000 shall be obligated for the life focus center . . . . . \$13,993,094  
7520-0423 For a health and welfare reserve for eligible personnel employed at the community colleges . . . . . \$1,388,317

*Federal Appropriations*

7027-9123 For the purposes of a federally funded grant entitled, Technical Preparation-Board of Higher Education . . . . . \$2,135,200  
7035-0316 For the purposes of a federally funded grant entitled, Education of Handicapped Distribution-Bristol Community College . . . . . \$56,300,000  
7038-0151 For the purposes of a federally funded grant entitled, National Workplace Literacy Program Distribution-Bristol Community College . . . . . \$804,000  
7038-0195 For the purposes of a federally funded grant entitled, State Literacy Resource Centers-Bristol Community College . . . . . \$111,900  
7038-0197 For the purposes of a federally funded grant entitled, Interagency Staff Development-Bristol Community College . . . . . \$195,000  
7066-6092 For the purposes of a federally funded grant entitled, The Dwight D. Eisenhower Mathematics, Science and Education Act . . . . . \$885,538  
7110-6019 For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits-Fitchburg State College . . . . . \$84,000  
7110-6021 For the purposes of a federally funded grant entitled, Project Enable Payroll and Benefits-Fitchburg State College . . . . . \$73,000  
7113-9740 For the purposes of a federally funded grant entitled, Substance Abuse Prevention Project-North Adams State College . . . . . \$200,000



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7114-9714	For the purposes of a federally funded grant entitled, Special Programs for Disadvantaged Students-Salem State College. . . . .	\$279,076
7114-9746	For the purposes of a federally funded grant entitled, U.S. Department of Education Upward Bound Program-Salem State College . . . . .	\$10,079,500
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-Bristol Community College . . . . .	\$292,659
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program-Bristol Community College . . . . .	\$259,504
7505-0560	For the purposes of a federally funded grant entitled, Title III - Strengthening Institutions-Greenfield Community College . . . . .	\$6,240
7505-0590	For the purposes of a federally funded grant entitled, Cops Universal Hiring-Greenfield Community College . . . . .	\$37,168
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-Mount Wachusett Community College . . . . .	\$245,180
7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College . . . . .	\$208,457
7510-9731	For the purposes of a federally funded grant entitled, Special Services - Northern Essex Community College . . . . .	\$225,000
7510-9734	For the purposes of a federally funded grant entitled, Federal Cooperative Education Grant - Northern Essex Community College . . . . .	\$225,000
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - North Shore Community College . . . . .	\$328,280
7511-9713	For the purposes of a federally funded grant entitled, IAP Strengthening Institutions Program-North Shore Community College . . . . .	\$288,764
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound - North Shore Community College . . . . .	\$295,895
7514-9720	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-Springfield Technical Community College . . . . .	\$186,108
7518-9746	For the purposes of a federally funded grant entitled, Student Support Services-Bunker Hill Community College . . . . .	\$179,301

EXECUTIVE OFFICE OF PUBLIC SAFETY

*Office of the Secretary*

8000-0000	For the office of the secretary .....	\$559,138
	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, that no funds shall be awarded to the department of state police; provided further, that not more than \$75,000 shall be provided for the safe city program, so-called, in the city of Lynn; provided further, that an amount not less than \$75,000 shall be provided for community policing in the city of Quincy; provided further, that grants shall be awarded by the executive office of public safety to the municipalities of Abington, Agawam, Athol, Attleborough, Avon, Bedford, Billerica, Boston, Braintree, Brockton, Burlington, Cambridge, Chelsea, Chicopee, Dedham, Fall River, Fitchburg, Framingham, Haverhill, Holbrook, Holyoke, Lawrence, Lowell, Lynn, Malden, Medford, Methuen, Milton, Montague, Needham, New Bedford, Newton, North Andover, North Attleborough, Northfield, Orange, Pittsfield, Plainville, Quincy, Randolph, Reading, Revere, Rockland, Somerville, Springfield, Stoneham, Turners Falls, Waltham, Weymouth, Winchester and Worcester in an amount not less than the amount of the grant or grants received in fiscal year 1997, but in no circumstance should any listed communities receive less than \$40,000; provided further, that any community listed herein which received a grant of not more than \$40,000 in fiscal year 1997 shall be eligible to compete for additional community policing grant awards through the competitive application process administered by the executive office of public safety; 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 \$40,000 shall be provided for the community safety activities of the North Cambridge Crime Task Force; provided further, that an amount of not less than \$1,000,000 shall be made available to the city of Boston to be in addition to the grant amount in fiscal year 1997; provided further, that \$250,000 of said \$1,000,000 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; provided further, that not less than \$20,000 shall be expended for an internship program for the purpose of staffing Lowell police department substations; and provided further, that not less than \$5,000 be expended for equipment for the Lowell police Pawtucketville substation; and provided further, that not later than September 15, 1997, 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 . . . . . \$17,660,000

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 18F of chapter 6A of the General Laws. . . . . \$300,000

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 . . . . . \$16,603,726

Local Aid Fund . . . . . 100.0%

8000-0101 The office of the secretary is hereby authorized to expend up to a maximum of \$30,000 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 38 . . . . . \$3,290,764

Local Aid Fund . . . . . 50.0%

General Fund . . . . . 50.0%

*Criminal History Systems Board*

- 8000-0110 For the criminal history systems board; provided, that said board is hereby directed to collect \$500,000 in revenue from record check fees for the purpose of implementing the provisions of chapter 319 of the acts of 1990; provided further, that \$75,000 shall be expended for the purpose of enabling local housing authorities access to criminal offense information when qualifying applicants for state-assisted housing ..... \$5,033,046
- Highway Fund ..... 50.0%
- Local Aid Fund ..... 50.0%
- 8000-0125 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 said board shall complete the classification of persons not later than June 30, 1998 pursuant to chapter 239 of the acts of 1996 ..... \$554,621
- Local Aid Fund ..... 100%
- 8000-0126 The criminal history systems board is hereby authorized to expend an amount not to exceed \$300,000 for the administration of criminal record information checks, from fees collected for providing said checks; provided, that no costs in the AA subsidiary, so-called, shall be charged to this item; provided further, 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 the revenues generated from said fees in fiscal year 1998 exceed the total revenues generated from said fees in fiscal year 1997; 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 payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$300,000



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*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 93 to 100, inclusive, of chapter 143 of the General Laws . . . . .	\$364,998
8000-0161	For the registration and licensing of home improvement contractors pursuant to chapter 142A of the General Laws. . . . .	\$106,643
8000-0167	The board of building regulations and standards is hereby authorized to collect and expend an amount not to exceed \$40,000 for the purposes of providing state building code training and courses for instruction; provided, that said board may charge fees for the classes and education materials associated with administering training; provided further, that no costs in the AA subsidiary, so-called, shall be charged to this item; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . . .	\$40,000

*Architectural Access Board*

8000-0500	For the architectural access board . . . . .	\$207,319
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*State Police*

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 40 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 not less than five officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the Metropolitan District Commission to provide police coverage on commission	
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properties and parkways; provided further, that of the total amount appropriated herein, \$331,000 shall be allocated to the division of human resources through an interagency agreement for the purposes of conducting an open competitive examination for recruits; provided further, that \$75,000 shall be expended on an apparatus to be operated by Troop C; provided further, that no less than \$15,000 shall be placed in a reserve fund to reimburse the city of Springfield arson and bomb squad for services performed at the request of the department of state police; provided further, that the department shall train as many uniformed members of the state police as necessary to attain and maintain a complement of not less than six explosives technicians; 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 . . . . . \$112,071,294

Highway Fund . . . . . 88.2%  
Local Aid Fund . . . . . 09.5%  
General Fund . . . . . 02.3%

8100-0001 For the purchase of state police cruisers . . . . . \$5,000,000

Highway Fund . . . . . 100.0%

8100-0006 For private police details; provided, that the department is hereby authorized to expend up to \$12,150,000 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 1998 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 1998 . . . . . \$12,150,000

8100-0007 For overtime of state police officers; provided, that not more than \$290,533 shall be expended at the direction of the

district attorney for the Suffolk district; provided further, that not more than \$407,123 shall be expended at the direction of the district attorney for the northern district; provided further, that not more than \$387,660 shall be expended at the direction of the district attorney for the eastern district; provided further, that not more than \$312,454 shall be expended at the direction of the district attorney for the middle district; provided further, that not more than \$244,115 shall be expended at the direction of the district attorney for the Hampden district; provided further, that not more than \$142,171 shall be expended at the direction of the district attorney for the northwestern district; provided further, that not more than \$354,080 shall be expended at the direction of the district attorney for the Norfolk district; provided further, that not more than \$269,240 shall be expended at the direction of the district attorney for the Plymouth district; provided further, that not more than \$174,998 shall be expended at the direction of the district attorney for the Bristol district; provided further, that not more than \$208,611 shall be expended at the direction of the district attorney for the Cape and Islands district; provided further, that not more than \$78,448 shall be expended at the direction of the district attorney for the Berkshire district; provided further, that not more than \$493,294 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 of state police; 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 . . . . . \$11,871,898

Highway Fund . . . . . 88.2%  
Local Aid Fund . . . . . 9.5%  
General Fund . . . . . 2.3%

8100-0009 For the career incentive salary increases for the state police officers known as the Quinn bill, so-called . . . . . \$14,540,903

Highway Fund . . . . . 100.0%

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- 8100-0011 The department of state police is hereby authorized to expend an amount not to exceed \$1,150,000 for certain police activities provided pursuant to agreements authorized in this item; provided, that for fiscal year 1998, the colonel of the state police is hereby authorized to enter into agreements with the commanding officer or other person in charge of a military reservation of the United States located in the commonwealth or the Land Bank, established in chapter 212 of the acts of 1975 to provide certain services; provided further, that said agreements shall fix the responsibilities pertaining to the operation and maintenance of said police services, including but not limited to: (1) provisions governing payment to the department for the cost of regular salaries, overtime, retirement, and other employee benefits; and (2) provisions governing payment to the department for the cost of furnishings and equipment necessary to provide such police services; provided, further, that the department is authorized to charge any of the recipients of police services for the services, as authorized by this item; provided further, that the department is authorized to retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purposes 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 . . . . . \$1,150,000
- Highway Fund . . . . . 100.0%
- 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, that the secretary of public safety is directed to provide a criminalist who will be situated at said crime laboratory located in Agawam . . . . . \$1,878,812
- Highway Fund . . . . . 88.2%
- Local Aid Fund . . . . . 9.5%
- General Fund . . . . . 2.3%



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8100-0150	For the administration and operation of an automated finger-print 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 .....	\$450,061
	Highway Fund .....	100.0%
8100-0201	The department of state police is hereby authorized and directed to expend up to \$1,050,000 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 15, 1998 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 15 per cent 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 appropria-	

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tion in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; 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 . . . . . \$1,941,353

Highway Fund . . . . . 88.2%  
Local Aid Fund . . . . . 9.5%  
General Fund . . . . . 2.3%

*Federal Appropriations*

- 8100-0058 For the purposes of a federally funded grant entitled, Cops Ahead Community Policing . . . . . \$1,836,129
- 8100-0059 For the purposes of a federally funded grant entitled, Cops More . . . . . \$225,000
- 8100-2058 For the purposes of a federally funded grant entitled, N.E.S.P.A.C. - Regional Investigation . . . . . \$1,520,249
- 8100-9706 For the purposes of a federally funded grant entitled, Cannabis Eradicate/Controlled Substance Prosecution DEA Agreement 21 . . . . . \$57,000
- 8100-9707 For the purposes of a federally funded grant entitled, Community Policing to Combat Domestic Violence . . . . . \$196,070
- 8100-9709 For the purposes of a federally funded grant entitled, Drug Fire Program . . . . . \$77,000

*Criminal Justice Training Council*

- 8200-0200 For the operation of programs conducted by the Massachusetts criminal justice training council; provided, that the criminal justice training council shall train only as many recruits as the appropriation herein allows, while still providing in-service training . . . . . \$3,054,699
- Local Aid Fund . . . . . 100.0%

*Department of Public Safety**State Appropriations*

- 8311-1000 For the administration of the department and the implementation of chapter 485 of the acts of 1991; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of the department of public safety ..... \$638,212
- 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 31 of the General Laws; provided further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of the department of public safety ..... \$6,813,615
- 8315-1000 For the administrative costs of the division of inspections; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of the department of public safety; provided further, that the expenses of the state boxing commission shall be paid from this item; provided further, that not less than \$30,000 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 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 \$100; 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 1, 1997, 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 143 and 146 of the General Laws ..... \$989,611

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- 8315-1002 For the salaries of department of public safety inspectors, including building inspectors, district engineering inspectors, and elevator inspectors; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of the department of public safety; 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 1995; and provided further, that this item shall fund 59 1/2 full time equivalent state employees ..... \$2,618,675
- 8315-1003 For the salaries of the commissioner and deputy commissioner of public safety, provided, that no funds shall be expended from this item until all inspector positions referenced in item 8315-1002 are filled or posted to be filled ..... \$139,870

*Department of Fire Services*

- 8324-1000 For the fire prevention program; provided, that \$100,000 shall be expended for a Suffolk county based arson prevention program; provided further, that of the amount appropriated herein \$911,902 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 per cent 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 14 of chapter 22 of the General Laws, shall be paid from this item; provided further, that the expenses of the fire safety commission shall be paid from this item; and provided further, not less than \$100,000 be appropriated for a Western Mass Office for the State Fire Marshall at the former Northampton State Hospital ..... \$1,308,738



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8324-1500 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 \$3,456,029 dollars per fiscal year; provided further, that of the amount appropriated herein, not more than \$500,000 shall be expended for the purchase of two fire apparatus to be used in firefighting training courses conducted by the Massachusetts firefighting academy; provided further, that not less than \$48,992 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 30 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 ..... \$3,456,029  
Local Aid Fund ..... 100.0%

*Registry of Motor Vehicles*

*State Appropriations*

8400-0001 For the administration and operation of the registry of motor vehicles, including the Title division and including all rent and related parking and utility expenses of said registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar, and the director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the division

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of information technology systems and pursuant to schedules by said office; provided further, that 40 per cent 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 183 of chapter 6 of the General Laws; provided further, that the registry shall operate an office in Fall River; 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 30 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, provided further, that the registry of motor vehicles shall have an employee or other such person answering all initial incoming telephone calls at the customer phone information center between the hours of 9:00 a.m. and 5:00 p.m. .... \$38,309,950

Highway Fund ..... 100.0%

8400-0024 Notwithstanding the provisions of section 2 of chapter 280 of the General Laws, the registry of motor vehicles is hereby authorized to expend revenue collected up to a maximum of \$2,300,000 pursuant to chapter 90C 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 2 of said chapter 280, and shall not affect or alter the amounts of payments to cities and towns pursuant to said section 2 of said chapter 280 ..... \$2,300,000

8400-0033 The registry of motor vehicles is hereby authorized to expend revenues collected up to a maximum of \$3,500,000 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 40 per cent 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 183 of chapter 6 of the General Laws . . . . .	\$3,500,000
8400-0100	For the safe driver insurance plan program authorized by chapter 6 of the General Laws, including the rent and related parking and utility expenses of the merit rating board; 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 90C of the General Laws . . . . .	\$7,077,576
	Highway Fund . . . . .	100.0%
8400-7777	For costs associated with printing expenses and supplies of the registry of motor vehicles; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the EE subsidiary, so-called; provided further, that after said date, the registrar of motor vehicles, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said EE subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if said 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 said registry of motor vehicles for costs associated with printing expenses and supplies does not exceed the amount appropriated herein; (2) that the depart-	

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ment does not require any supplemental appropriations in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for costs associated with printing expenses and supplies in any of its other items of appropriation; provided further, that said 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 in a subsidiary which is not explicitly referenced herein ..... \$582,653

Highway Fund ..... 100.0%

*Federal Appropriation*

8400-0095 For the purposes of a federally funded grant entitled,  
Interstate 95 Corridor Grant ..... \$200,000

*Committee on Criminal Justice*

*State Appropriations*

8600-0001 For the administration of the committee on criminal justice ..... \$281,347

8600-0060 For the purchase and distribution of sexual assault evidence  
collection kits ..... \$25,000

*Federal Appropriations*

8600-0002 For the purposes of a federally funded grant entitled, Juvenile  
Justice Delinquency and Prevention Act Planning ..... \$119,560

8600-0003 For the purposes of a federally funded grant entitled, Juvenile  
Justice Delinquency and Prevention Act ..... \$1,076,040

8600-0008 For the purposes of a federally funded grant entitled, Drug-  
Free Schools and Communities Act of 1986 ..... 1,662,187

8600-0009 For the purposes of a federally funded grant entitled,  
Narcotics Control Assistance ..... \$9,797,436

8600-0010 For the purpose of a federally funded grant entitled, Statistical  
Analysis Center ..... \$49,991

8600-0015 For the purposes of a federally funded grant entitled, Weed  
and Seed for Chelsea ..... \$200,000

8600-0019 For the purposes of a federally funded grant entitled, Title V  
Delinquency Prevention ..... \$388,000



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8600-0020	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program . . . . .	\$2,892,750
8600-0021	For the purposes of a federally funded grant entitled, Challenge Grants Program Title V Delinquency Prevention. . . . .	\$192,000
8600-0023	For the purposes of a federally funded grant entitled, National Criminal History Improvement Program . . . . .	\$1,324,041
8600-0024	For the purposes of a federally funded grant entitled, State Prisoner Residential Substance Abuse . . . . .	\$355,242
8600-0025	For the purposes of a federally funded grant entitled, Local Law Enforcement Block Grant . . . . .	\$652,054

*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 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades, so-called . . . . .	\$6,186,839
	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 \$185,000 accrued from fees for the non-military rental or use of armories for the costs of utilities and maintenance; provided, that the state quartermaster may expend an amount not to exceed \$55,000 for salaries, subsistence, quarters, and associated costs for national guard soldiers ordered to perform state missions pursuant to the provisions of chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or non-governmental entity to defray such expenses . . . . .	\$240,000

*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	
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	federal authorities; provided further, that not less than \$22,000 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 \$75,000 shall be made available for the federal emergency management agency multi-hazard program, so-called; provided, however, that there is at least a 100 per cent match by the federal government; and, provided further, that the agency shall, prior to June 30, 1998, develop a hazard mitigation strategy for the commonwealth consistent with the national mitigation strategy prepared by the federal emergency management agency .....	\$742,508
	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 .....	\$385,555
	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 2B of chapter 639 of the acts of 1950, as added by section 24 of chapter 796 of the acts of 1979, include communities located within the com-	

monwealth 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 . . . . . \$265,016

*Federal Appropriations*

8800-0003	For the purposes of a federally funded grant entitled, Emergency Management Assistance - Personnel and Administrative Expenses . . . . .	\$891,078
8800-0004	For the purposes of a federally funded grant entitled, Emergency Management Assistance - Distribution to Cities and Towns . . . . .	\$676,200
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 . . . . .	\$206,109
8800-0007	For the purposes of a federally funded grant entitled, Radiological Defense Officer . . . . .	\$57,107
8800-0008	For the purposes of a federally funded grant entitled, Population Protection Planning Program . . . . .	\$208,994
8800-0009	For the purposes of a federally funded grant, entitled, Emergency Management Training - State/Local Personnel. . . . .	\$112,832
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
8800-0025	For the purposes of a federally funded grant entitled, Hurricane Bob - Public Assistance . . . . .	\$350,000
8800-0026	For the purposes of a federally funded grant entitled, Coastal Storm - Public Assistance Major Coastal Storm 10/30/91 - 11/02/91 . . . . .	\$400,000
8800-0039	For the purposes of a federally funded grant entitled, Urban Search and Rescue . . . . .	\$32,000
8800-0040	For the purposes of a federally funded grant entitled, Winter Coastal Storm 12/11/92 - 12/13/92 Public Assistance . . . . .	\$1,500,000

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8800-0042	For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act .....	\$110,000
8800-0043	For the purposes of a federally funded grant entitled, Hurricane Preparedness .....	\$46,430
8800-0044	For the purposes of a federally funded grant entitled, Counter Terrorism Preparedness .....	\$25,000
8800-0054	For the purposes of a federally funded grant entitled, Flood Disaster of 10/26/96 .....	\$39,960,619

*Governor's Highway Safety Bureau**State Appropriations*

8850-0001	For the highway safety program to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402 (d) of the governor's highway transportation act of 1998 .....	\$220,115
	Highway Fund .....	50.0%
	Motorcycle Safety Fund .....	50.0%
8850-0015	For the expenses of the motorcycle safety program .....	\$168,892
	Motorcycle Safety Fund .....	100.0%

*Federal Appropriation*

8850-0004	For the purposes of a federally funded grant entitled, State Agency Programs .....	\$3,400,000
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*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 1998 shall contain an increase in roll call pay for correctional officers; provided further, that the department shall maintain operations of one 12-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 or alcoholism; and 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 .....	\$244,952,560
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- 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 ..... \$4,004,977
- 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 per centage 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 Massachusetts Correctional Institute, 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 per centages shall be calculated according to the department of correction's inmate population record for July 1 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 the department of correction is authorized to expend \$2,000,000 on mental health professionals above the expenditures for mental health professionals in fiscal year 1997; and 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 \$43,334,070 ..... \$44,333,424
- 8900-0007 For the expenses of the comprehensive offenders employment resources system ..... \$371,524

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- 8900-0009 For educational services of the department; provided, that not more than \$150,000 be made available for a literacy educational pilot program at two correctional facilities, one of which shall be Massachusetts Correctional Institute, Framingham; provided further, that 10 contractual positions, so-called, currently funded in 1998 by the department of correction and six of which were funded previously by the department through Mount Wachusett community college, shall be converted to full time state positions known as 01's, so-called, seven of which shall be converted to education specialists and three to institutional school teacher positions . . . . . 4,281,862
- 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 . . . . . \$2,456,568
- 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 \$3,067,995 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called . . . . . \$3,067,995
- 8900-0015 For correctional residential services; provided, that not less than \$500,000 shall be expended for a contracted low-security residential program for incarcerated expectant mothers; provided further, that not less than \$150,000 shall be obligated for assistance to incarcerated mothers; and provided further, that not less than \$30,000 shall be provided to the Dismas house in Worcester . . . . . \$760,000
- 8900-0016 For the cost of housing state inmates in federal prisons . . . . . \$800,000

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- 8900-0018 For a pilot comprehensive three year youth development program in the city of Springfield designed to prevent violence and antisocial behavior; provided, that a community health center as defined in section 330 of the Public Health Service Act of 1965 which meets the requirements of a federally qualified health center shall be designated the lead agency to implement said program and it shall subcontract with other community based organizations for specific services . . . . . \$330,000
- 8900-8888 For costs associated with electricity, natural gas, and other fuel for buildings of the department of correction; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the GG 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 said GG subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if said 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 said department of correction for costs associated with electricity, natural gas, and other fuel for buildings of the department does not exceed the amount appropriated herein; (2) that the department does not require any supplemental appropriations in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for costs associated with electricity, natural gas, and other fuel for buildings in any of its other items of appropriation; provided further, that said 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 in a subsidiary which is not explicitly referenced herein . . . . . \$9,148,000

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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 15, 1998 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 15 per cent 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 1A and 1B; 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 ..... \$9,609,052

*County Corrections*

8910-0000 For a reserve to fund county correctional programs; provided, that not more than \$385,000 shall be expended for an in-



intermediate sanctions program at the New Bedford district court; provided further, that not less than \$4,900,531 shall be made available to Barnstable county; provided further, that not less than \$3,630,303 shall be made available to Berkshire county; provided further, that not less than \$22,473,767 shall be made available to Bristol county; provided further, that not less than \$775,592 shall be made available to Dukes county; provided further, that not less than \$20,610,564 shall be made available to Essex county; provided further, that not less than \$34,015,834 shall be made available to Hampden county; provided further, that not less than \$6,940,500 shall be made available to Hampshire county; provided further, that not less than \$21,149,200 shall be made available to the Middlesex sheriff; provided further, that not less than \$59,714 shall be made available to Nantucket county; provided further, that not less than \$13,928,823 shall be made available to Norfolk county; provided further, that not less than \$25,188,320 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 3 and 4 of the memorandum of agreement signed May 14, 1992; provided further, that not less than \$63,032,618 shall be made available to Suffolk county; provided further, that not less than \$22,009,212 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 prior 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 247 of chapter 38 of the acts of 1995, all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements 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 including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all vehicles leased, owned or operated by each county sheriff; provided further, that said delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased, and vehicle primary use; provided further, that no sheriff shall purchase any new vehicles or major equipment in fiscal year 1998 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, so-called, 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 30, 1997 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 30, 1998; provided further, that the daily count sheet for county facilities, so-called, compiled by the executive office of public safety, shall be filed with the Massachusetts sheriffs' association not less than monthly; provided further, that all revenues including, but not limited to, revenue received from housing federal prisoners, United States Marshal's, canteen revenues, inmate industries and work-crew revenues shall be tracked and reported quarterly to the house and senate committees on ways and means and the Massachusetts sheriff's association; provided further, that on or before October 15, 1997, each county sheriff shall submit a final spending plan for fiscal year 1998 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 95 per cent of the rate of expenditure for fiscal year 1997, 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 15, 1997; pro-

vided further, that on or before November 15, 1997, the county government finance review board shall have approved final fiscal year 1998 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 December 15, 1997; provided further, that said budgets shall include distribution schedules for the final two quarters of fiscal year 1998, 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 1998, 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 102.5 per cent of the amount expended in fiscal year 1997 for such purposes from own-source revenues, which shall not be less than five per cent of total county revenues including, but not limited to, amounts levied pursuant to sections 30 and 31 of chapter 35 of the General Laws and amounts provided pursuant to sections 11 to 13, inclusive, of chapter 64D of the General Laws; provided further, that in fiscal year 1998, 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 8.75 per cent 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 15, 1998 that all municipalities have appropriated and transferred to their respective county treas-



uries, not less than 102.5 per cent 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 2 and from funds made available from the state lottery fund distribution in section 3; provided further, that on or before August 1, 1998, said commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 1998, notwithstanding the provisions of section 20A of chapter 59 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 6 of chapter 193 of the acts of 1989 on or before July 31, 1998 or which borrowed in fiscal year 1989 under the provisions of section 36A of chapter 35 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 35 of the General Laws and section 12 of chapter 64D of the General Laws, as may be applicable; and provided further, that each sheriff shall continue to report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws . . . . . \$278,387,619  
Local Aid Fund . . . . . 100.0%

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- 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 1998; provided, that said department shall notify the county government finance review board and the comptroller of all such expenses; provided further, that not more than 30 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 2B; 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 2 ..... \$2,400,000
- Local Aid Fund ..... 100.0%
- 8910-0011 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Franklin county; provided, that the spending plan required by this item shall be detailed by subsidiary and in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plan shall be accompanied by a delineation of all personnel employed by such correctional facility; provided further, that said spending plan shall be accompanied by a delineation of all vehicles leased, owned or operated by said sheriff; provided further, that said delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased, and vehicle primary use; provided further, that said sheriff shall not purchase any new vehicles or major equipment in fiscal year 1998 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; provided further, that the daily count sheet for county facilities, so-called, promulgated by the state comptroller pursuant of the pro-

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visions of section 27 of chapter 29 of the General Laws compiled by the executive office of public safety, shall be filed with the Massachusetts sheriffs' association not less than monthly; provided further, that on or before October 15, 1997, said sheriff shall submit a final spending plan for fiscal 1998 to the Massachusetts sheriffs' association, detailing the level of resources deemed necessary for the operation of each correction facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that said sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of said spending plan no later than October 15, 1997; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated herein, and said sheriff shall make all necessary adjustments to ensure that expenditures do not exceed said appropriation; and provided further, that said sheriff shall continue to report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements . . . . . \$5,356,202

*Parole Board*

- 8950-0001 For the administration and operation of the parole board; provided, that not less than \$261,000 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 . . . . . \$13,007,281
- 8950-0002 For the victim and witness assistance program of the parole board, in accordance with the provisions of chapter 258B of the General Laws . . . . . \$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

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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 118E 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 \$37,000 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 \$100,000 to the Lowell Alzheimer's Disease Center to formulate a research and development plan in conjunction with the University of Massachusetts at Lowell; provided further, that said study shall include consideration of the ability of said center to: (1) conduct researches into the causes of and potential cures for Alzheimer's disease and associated forms of dementia; and (2) 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 the possible role of the University of Massachusetts at Lowell in the research phase; and provided further, that said center shall report on the results of said report 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, 1997 ..... \$1,814,924

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 ..... \$235,069

Assisted Living Administrative Fund ..... 100.0%



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- 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 2; and provided further, that no rate increase for managed care services shall be awarded in fiscal year 1998 which would cause a reduction in client services or in the number of clients served . . . . . \$8,435,340
- 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 sliding fees in cases of extreme financial hardship; provided further, that not more than \$4,000,000 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 of elder affairs 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 \$3,000,000 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 item 9110-1630 of section 2 of chapter 164 of the acts of 1988; provided further, that the secretary of elder affairs shall submit said report to the house and senate committees on way s and means and the secretary of administration and finance, no later than two

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- months following the month reported; provided further, that funds appropriated herein which exceed the fiscal year 1997 funding level shall be used to provide a reasonable increase to the per member per month rate and to accommodate expansion of the home care program caseload; 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 ..... \$78,125,086
- 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 2; 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 of elder affairs ..... \$32,978,096
- 9110-1634 The secretariat may expend for the purposes of 9110-1633 an amount not to exceed \$3,000,000 from federal revenues collected pursuant to the provisions of Title XIX of the Social Security Act for case management and personal care and related services provided to Medicaid-eligible home care clients ..... \$3,000,000
- 9110-1660 For congregate and shared housing services for the elderly; provided, that not less than \$50,000 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 1997 shall be established in fiscal year 1998 ..... \$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 1168 of the acts of 1973; 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 \$130 per month; provided further, that not less than \$3,300,000 shall be obligated for

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	the administration of a meals program for elderly persons; provided further, that the executive office of elder affairs shall maximize federal reimbursement for meals funded herein; and provided further, that not less than \$80,000 shall be expended to pay for the cost of the Money Management program for the elderly .....	\$4,639,341
	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 shall be expended in accordance with the distribution schedules for formula and incentive grants established by the secretary; provided further, that said distribution schedules shall be submitted to the house and senate committees on ways and means; and provided further, that not less than \$15,000 shall be obligated for the Massachusetts senior games .....	\$4,800,000
	Local Aid Fund .....	100.0%

LEGISLATURE

Senate

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.	
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 3 of chapter 192 of the acts of 1994, 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
9514-0000	For the office of the senate counsel, prior appropriation continued .....	\$590,000

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9515-0000	For administrative and legislative aides to the senators including the salary of the chaplain of the senate, 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

*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 3 of chapter 192 of the acts of 1994, 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



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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 workers'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

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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 . . . . .	\$374,390
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 . . . . .	\$285,687
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*

9738-0001	For the administration of the office of legislative data processing, prior appropriation continued . . . . .	\$750,000
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

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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. . . . .	\$243,651
9749-0000	For the expenses of the special commission on financial services, established by section 111 of chapter 240 of the acts of 1989; 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 43 of chapter 142 of the acts of 1991; 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.	

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**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 2; provided, that all expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established pursuant to section 2Q of chapter 29 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 1998; 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 1998 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, for commission fees, 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 \$100,000 from such funds received for the costs of such obsolete record destruction; and provided further, that said fees shall be charged on an equitable basis ..... \$100,000

**EXECUTIVE OFFICE FOR 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

*Bureau of State Office Buildings*

- 1102-3333 For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract services purchased in performing renovations



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and related services for agencies occupying state buildings  
or for services rendered to approved entities utilizing state  
facilities ..... \$20,000

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 with said schedule a detailed reason for the prior year deficiency on all chargebacks assessed that exceed \$1,000 including the amount of the chargeback, the item of appropriation and subsidiary charged; and provided further, that the comptroller shall report on a quarterly basis 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 ..... \$5,000,000
- 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 in amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense, or related charges ..... \$10,934,132

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1599-3102 For the cost of the commonwealth's employer contributions for unemployment health insurance; 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 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 . . . . \$1,400,000

*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 \$75 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 . . . . \$750,000

1750-0105 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge, pursuant to section 194, 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 not more than \$709,392 shall be used for the compensation of employees; 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 1999 to the house and senate committees on ways and means by February 14, 1998 ..... \$45,709,392

1750-0106 For the workers' compensation litigation unit, including the costs of personnel ..... \$499,379

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 150E of the General Laws ..... \$10,000

*Division of Operational Services*

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 ..... \$5,186,762

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 1998; 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 . . . . .	\$7,693,370
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 51 of chapter 30 of the General Laws . . . . .	\$1,904,069
1790-0500	For the cost of the commonwealth's data warehouse, in accordance with the policies, procedures and rates approved 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 1998; 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 . . . . .	\$246,000



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 . . . . . \$400,000

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

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- 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 residential support services provided by the department for the purposes of supplementing educational services provided in item 7061-0012, in section 2 . . . . . \$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 . . . . . \$20,000

### *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 . . . . . \$300,000

### *Department of Education*

- 7053-2101 For the costs of USDA commodity foods pursuant to federal law requirements . . . . . \$100,000

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 . . . . . \$200,000

*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 . . . . . \$5,400,000

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 of the General Laws, for the fiscal year ending June 30, 1998, 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 the second paragraph of section 35 of chapter 10 of the General Laws, shall be \$539,665,201 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 1997 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 70 of the General Laws; provided further, that the entire

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**Chap. 43**

amount of the distribution made by this section shall be exempt from the provisions of section 5 of said chapter 70.

Notwithstanding the provisions of any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 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 2 shall be as set forth in the following lists; provided, that the specified amounts to be distributed from item 7061-0008 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under the provisions of sections 3, 6 and 7 of chapter 70 of the General Laws; provided further, that the amounts to be distributed from item 0611-5500 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under section 37 of chapter 21 of the General Laws. No payments to cities, towns, or counties maintaining an agricultural school pursuant to this section shall be made after November 30 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 43 of chapter 44 of the General Laws.

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Abington	5,202,246		1,463,544
Acton	1,303,732	37,368	998,126
Acushnet	3,907,763	30,043	1,128,174
Adams		44,096	1,504,657
Agawam	9,216,376		2,690,888
Alford			11,503
Amesbury	8,040,138		1,468,549
Amherst	4,890,008	280,503	5,658,008
Andover	3,245,005		1,278,344
Arlington	3,828,648	5,652,310	3,299,659
Ashburnham			462,692
Ashby			279,276
Ashfield	64,595		114,248
Ashland	1,258,913	366,937	697,116
Athol		5,507	1,525,265
Attleboro	18,137,050		3,914,570
Auburn	3,069,295		1,199,266
Avon	395,340	504,148	304,657
Ayer	3,817,598	55,642	567,470
Barnstable	3,317,200		1,325,332
Barre	7,526		546,095



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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Becket	11,481	10,797	55,813
Bedford	1,192,555	609,391	550,420
Belchertown	6,161,214		1,059,081
Bellingham	5,766,362		1,417,501
Belmont	1,868,994	1,041,278	1,327,042
Berkley	2,696,700		368,347
Berlin	325,854		171,688
Bernardston			178,262
Beverly	5,009,361	3,086,077	2,903,592
Billerica	10,956,910	2,956,313	2,944,075
Blackstone	23,174		928,567
Blandford			85,751
Bolton			133,739
Boston	144,231,951	206,638,214	45,657,646
Bourne	2,205,575	443,645	789,882
Boxborough	209,610		167,714
Boxford	421,731	45,818	286,030
Boylston	251,070		248,263
Braintree	3,029,287	4,250,822	2,348,545
Brewster	353,734		243,592
Bridgewater	53,982		2,170,412
Brimfield	830,466		252,694
Brockton	75,875,295	5,424,063	12,286,449
Brookfield	1,281,488		346,673
Brookline	3,120,338	4,401,448	2,927,472
Buckland			195,952
Burlington	2,510,308	1,744,603	1,109,563
Cambridge	4,687,819	22,595,349	5,998,617
Canton	1,657,849	1,104,851	1,011,358
Carlisle	348,356	18,534	150,919
Carver	6,914,309		961,655
Charlemont	42,916		109,238
Charlton			893,478
Chatham	246,580		116,574
Chelmsford	4,954,782	3,190,395	2,241,444
Chelsea	28,761,762	4,274,507	3,763,173
Cheshire	114,700		375,418
Chester			115,960

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Chesterfield	49,712		84,392
Chicopee	27,623,443	1,504,526	6,984,956
Chilmark			2,626
Clarksburg	958,722	16,502	269,116
Clinton	6,615,128	220,865	1,552,628
Cohasset	805,459	209,013	318,275
Colrain			152,703
Concord	972,198	483,163	697,218
Conway	417,446		116,543
Cummington	26,877		51,336
Dalton	276,890		707,607
Danvers	2,130,691	1,408,080	1,446,452
Dartmouth	5,500,012		1,813,655
Dedham	2,129,546	1,950,847	1,620,155
Deerfield	476,434		348,322
Dennis			359,968
Dighton			494,548
Douglas	3,481,695		451,335
Dover	161,064		150,834
Dracut	10,034,716		2,381,511
Dudley			1,051,551
Dunstable		37,846	127,515
Duxbury	1,772,672		664,382
East Bridgewater	6,854,737		1,031,601
East Brookfield	9,285		206,696
East Longmeadow	2,696,606		961,763
Eastham	139,280		94,575
Easthampton	6,622,292	137,004	1,945,775
Easton	4,947,229		1,526,909
Edgartown	186,573	35,873	29,765
Egremont			50,218
Erving	182,463	16,548	41,892
Essex	452,194	42,569	169,608
Everett	9,599,986	5,139,628	2,429,264
Fairhaven	5,283,842	492,569	1,481,705
Fall River	68,368,262	2,882,862	16,788,727
Falmouth	2,988,529		919,092
Fitchburg	25,481,119	270,312	5,688,904

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Florida	408,264		35,112
Foxborough	4,616,407		1,137,951
Framingham	4,875,667	5,911,189	4,480,017
Franklin	10,730,831		1,743,541
Freetown	733,726		668,166
Gardner	10,683,056	151,944	2,718,039
Gay Head			1,624
Georgetown	1,981,782	66,691	494,771
Gill			146,558
Gloucester	3,465,642	2,419,911	1,853,268
Goshen	2,250		47,814
Gosnold	1,375	2,469	352
Grafton	3,392,645		1,102,015
Granby	2,142,288		606,969
Granville	512,544		99,035
Great Barrington			580,222
Greenfield	8,041,806		2,199,712
Groton			502,892
Groveland			490,085
Hadley	363,847	174,084	229,120
Halifax	1,816,455		659,032
Hamilton		53,967	453,452
Hampden			439,163
Hancock	47,415	22,195	31,728
Hanover	2,424,176	1,669,092	773,625
Hanson			921,087
Hardwick	75,087	4,062	280,167
Harvard	830,993	69,324	1,429,590
Harwich	788,922		286,231
Hatfield	444,259		237,251
Haverhill	27,313,812	3,149,881	5,395,732
Hawley	12,853	16,264	18,949
Heath			39,467
Hingham	2,313,347	420,485	1,037,888
Hinsdale	33,772		147,895
Holbrook	3,581,893	5,987	1,127,248
Holden			1,181,073
Holland	415,712		120,408

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Holliston	4,279,884	518,826	906,682
Holyoke	50,932,268	763,384	6,781,727
Hopedale	2,626,634		439,951
Hopkinton	1,484,946	151,365	446,933
Hubbardston			205,065
Hudson	4,821,759		1,527,831
Hull	3,423,683	1,747,307	799,971
Huntington			217,645
Ipswich	1,273,809	975,780	760,203
Kingston	1,887,392		635,060
Lakeville	1,215,878		535,664
Lancaster			651,606
Lanesborough	440,131		283,593
Lawrence	79,628,984	239,970	11,754,336
Lee	1,284,378		520,321
Leicester	5,371,849		1,237,139
Lenox	963,092	90,787	450,160
Leominster	21,078,158	14,714	3,744,722
Leverett	214,865		120,975
Lexington	3,173,856		1,192,808
Leyden			46,318
Lincoln	262,080	367,459	356,504
Littleton	773,802	207,535	404,577
Longmeadow	2,546,088		1,016,517
Lowell	80,149,845	7,978,998	12,849,286
Ludlow	7,688,864		2,039,460
Lunenburg	2,580,063		774,884
Lynn	66,801,757	11,926,220	9,810,066
Lynnfield	1,169,700	455,892	564,778
Malden	15,436,062	7,030,168	6,107,500
Manchester	479,998		189,239
Mansfield	5,119,268	912,368	1,008,018
Marblehead	1,544,894	49,583	862,343
Marion	170,230		151,088
Marlborough	2,930,876	3,433,241	2,318,842
Marshfield	8,212,720	255,142	1,526,812
Mashpee	1,118,937		155,890
Mattapoissett	282,718		305,841



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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Maynard	1,498,383	738,519	825,258
Medfield	1,318,499	937,000	649,616
Medford	10,027,171	8,094,393	5,420,348
Medway	3,395,615	235,317	707,727
Melrose	4,326,793	3,402,865	2,373,565
Mendon			262,921
Merrimac			543,168
Methuen	16,548,107	205,147	3,640,879
Middleborough	11,900,078		1,737,497
Middlefield			30,561
Middleton	332,062	159,272	247,812
Milford	9,216,081		2,291,071
Millbury	4,009,532		1,279,844
Millis	1,414,864	403,862	568,639
Millville	5,305		244,250
Milton	1,973,889	1,566,851	1,743,749
Monroe	13,948	17,526	6,115
Monson	4,476,688		922,077
Montague			874,149
Monterey		15,777	28,865
Montgomery			59,666
Mount Washington	6,391	41,886	2,269
Nahant	246,129	157,791	221,358
Nantucket	395,010		52,369
Natick	2,642,789	2,444,348	1,764,270
Needham	2,371,248	259,216	1,196,813
New Ashford	11,920	9,203	5,872
New Bedford	75,944,564	901,313	16,993,220
New Braintree			74,800
New Marlborough			39,318
New Salem			65,997
Newbury			325,066
Newburyport	2,380,390	1,736,621	1,171,203
Newton	6,170,866	1,732,789	3,868,620
Norfolk	2,005,616		646,616
North Adams	11,364,810	233,872	3,242,162
North Andover	2,450,537	151,695	1,323,273
North Attleborough	9,461,765		2,095,317

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
North Brookfield	3,089,278		573,673
North Reading	1,628,323	1,189,787	778,947
Northampton	5,967,203	727,239	2,973,895
Northborough	1,522,779	76,900	754,078
Northbridge	8,170,545	3,865	1,658,116
Northfield			203,738
Norton	6,842,591		1,499,756
Norwell	1,266,854	680,878	499,530
Norwood	2,382,102	3,354,660	1,898,152
Oak Bluffs	145,135		47,608
Oakham	26,842		109,151
Orange	4,615,352	2,661	1,152,627
Orleans	123,815		125,719
Otis			21,448
Oxford	6,510,802		1,527,178
Palmer	6,491,026		1,362,105
Paxton	5,075		320,427
Peabody	10,011,785	3,951,625	3,638,439
Pelham	64,150		101,505
Pembroke	3,721,852		1,195,697
Pepperell			882,228
Peru	37,816		74,955
Petersham	136,255		73,984
Phillipston		5,519	97,624
Pittsfield	23,191,595	1,107,722	5,700,639
Plainfield	11,696		28,071
Plainville	1,011,171		514,694
Plymouth	14,682,650		2,438,738
Plympton	452,865		161,077
Princeton			208,124
Provincetown	184,480	27,912	106,915
Quincy	10,284,564	14,555,556	7,411,021
Randolph	7,840,293	2,297,597	2,606,303
Raynham	375		823,707
Reading	3,439,540	1,931,472	1,564,728
Rehoboth			656,294
Revere	16,860,870	6,712,698	4,227,558
Richmond	253,978		86,178

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Rochester	516,350		288,586
Rockland	7,826,924	496,221	1,728,981
Rockport	720,841		316,174
Rowe	25,065		2,731
Rowley		143,746	309,075
Royalston			94,943
Russell			156,645
Rutland			556,341
Salem	8,047,790	4,151,021	2,831,878
Salisbury			442,591
Sandisfield			22,876
Sandwich	2,577,930	111,247	532,562
Saugus	2,579,206	2,245,040	1,630,002
Savoy	276,028	17,367	73,628
Scituate	2,154,299	1,101,119	1,062,545
Seekonk	2,410,392		888,214
Sharon	2,827,579	78,642	985,235
Sheffield		15,023	159,541
Shelburne			191,564
Sherborn	188,746	26,364	156,848
Shirley	2,663,262	233,500	726,173
Shrewsbury	4,349,972	376,077	1,709,842
Shutesbury	395,175		95,739
Somerset	1,604,703		996,989
Somerville	19,806,676	20,410,649	8,981,563
South Hadley	4,871,460	25,437	1,811,534
Southampton	954,884		405,083
Southborough	547,898		308,298
Southbridge	11,621,344		2,382,795
Southwick			808,769
Spencer	100,895		1,473,434
Springfield	146,358,953	2,302,181	22,529,384
Sterling			478,483
Stockbridge			80,305
Stoneham	1,694,734	2,553,177	1,581,869
Stoughton	7,034,058	129,781	2,409,811
Stow		8,776	295,085
Sturbridge	823,688		497,896

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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Sudbury	1,196,330	807,321	670,965
Sunderland	472,044		324,829
Sutton	2,530,603		547,832
Swampscott	1,262,704	443,359	729,708
Swansea	3,769,339		1,426,343
Taunton	26,713,960		6,529,694
Templeton			854,396
Tewksbury	7,835,954		2,123,701
Tisbury	155,135		73,626
Tolland		12,413	3,848
Topsfield	283,885	318,725	306,845
Townsend			789,637
Truro	117,926		20,940
Tyngsborough	3,906,217		594,375
Tyringham	14,000		10,007
Upton			364,307
Uxbridge	4,816,284		1,021,731
Wakefield	3,052,593	1,809,635	1,757,327
Wales	567,855		161,261
Walpole	3,474,413	1,112,115	1,343,268
Waltham	4,552,101	6,869,270	3,984,641
Ware	4,850,928	19,199	1,179,571
Wareham	8,753,960		1,524,106
Warren			504,423
Warwick		36,354	51,247
Washington	13,748	29,889	49,105
Watertown	1,670,112	5,571,114	2,245,554
Wayland	1,445,599	352,813	528,395
Webster	6,051,454	78,026	1,668,642
Wellesley	1,883,969	121,858	1,025,654
Wellfleet	73,915		43,920
Wendell		32,131	83,263
Wenham		175,913	229,679
West Boylston	979,661	85,259	475,326
West Bridgewater	1,442,475	59,411	470,152
West Brookfield			315,256
West Newbury			210,035
West Springfield	9,244,465		2,331,363



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Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
West Stockbridge			79,666
West Tisbury		229,569	20,252
Westborough	1,593,237	182,536	722,880
Westfield	21,437,874		4,267,923
Westford	2,852,538	1,126,887	963,767
Westhampton	179,179		94,272
Westminster			412,631
Weston	716,783		306,004
Westport	2,473,332		977,713
Westwood	1,312,677	45,632	544,522
Weymouth	14,763,458	3,050,391	5,394,709
Whately	59,458		89,910
Whitman			1,565,934
Wilbraham			900,479
Williamsburg	283,745		227,239
Williamstown	780,285		726,696
Wilmington	2,150,679	1,578,564	981,141
Winchendon	7,800,696	31,919	1,089,766
Winchester	2,102,110	433,387	972,263
Windsor	2,282	35,260	43,510
Winthrop	3,608,636	2,878,558	1,911,612
Woburn	3,009,920	4,513,710	2,304,039
Worcester	102,394,910	14,860,192	21,282,762
Worthington			75,535
Wrentham	2,609,398		715,946
Yarmouth			802,331
<b>Total Aid to Regional Schools</b>	<b>401,134,975</b>		
<b>Total</b>	<b>2,288,742,702</b>	<b>476,315,282</b>	<b>539,665,201</b>

Regional School District	Chapter 70 7061-0008
Acton Boxborough	2,244,542
Adams Cheshire	7,325,670
Amherst Pelham	6,281,307
Ashburnham Westminster	6,845,795
Assabet Valley	2,717,313
Athol Royalston	12,032,447

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Regional School District	7061-0008
Berkshire Hills	2,569,940
Berlin Boylston	708,609
Blackstone Millville	7,587,626
Blackstone Valley	4,684,917
Blue Hills	3,153,421
Bridgewater Raynham	15,209,194
Bristol County	1,271,653
Bristol Plymouth	4,132,389
Cape Cod	1,677,281
Central Berkshire	6,034,653
Chesterfield Goshen	465,197
Concord Carlisle	1,231,758
Dennis Yarmouth	5,175,458
Dighton Rehoboth	7,698,615
Dover Sherborn	931,645
Dudley Charlton	12,067,166
Essex County	3,430,130
Farmington River	283,088
Franklin County	1,879,962
Freetown Lakeville	4,432,109
Frontier	959,166
Gateway	5,763,752
Gill Montague	5,198,747
Greater Fall River	8,713,956
Greater Lawrence	10,188,622
Greater Lowell	13,328,887
Greater New Bedford	13,292,907
Groton Dunstable	4,647,946
Hamilton Wenham	2,451,748
Hampden Wilbraham	6,874,852
Hampshire	1,586,817
Hawlemont	511,931
King Philip	3,615,433
Lincoln Sudbury	1,497,152
Ralph C. Mahar	3,084,543
Marthas Vineyard	625,765
Masconomet	1,877,444
Mendon Upton	3,254,956

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	Chapter 70
Regional School District	7061-0008
Minuteman	2,205,353
Mohawk Trail	5,986,951
Montachusett	5,481,754
Mount Greylock	1,686,980
Narragansett	5,822,883
Nashoba	4,754,244
Nashoba Valley	1,959,378
Nauset	2,703,502
New Salem Wendell	675,060
Norfolk County	640,116
North Middlesex	16,099,431
North Shore	1,321,783
Northhampton Smith	777,192
Northboro Southboro	1,254,844
Northeast Metropolitan	5,045,476
Northern Berkshire	2,593,902
Old Colony	1,944,315
Old Rochester	1,272,251
Pathfinder	1,898,802
Pentucket	8,698,995
Pioneer	3,020,362
Quabbin	9,991,431
Quaboag	6,369,870
Shawsheen Valley	3,122,286
Silver Lake	7,645,116
South Middlesex	2,297,247
South Shore	1,811,192
Southeastern	7,319,578
Southern Berkshire	1,491,657
Southern Worcester	4,167,719
Southwick Tolland	5,591,827
Spencer East Brookfield	9,645,416
Tantasqua	4,041,276
Tri County	2,714,405
Triton	6,472,036
Up-Island	722,979
Upper Cape Cod	1,353,890
Wachusett	13,857,295

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**Chap. 43**

	Chapter 70
Regional School District	7061-0008
Whitman Hanson	15,646,317
Whittier	4,458,404
Worcester Trade	7,024,951
<b>Regional Total</b>	<b>401,134,975</b>

**SECTION 4.** 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.

Item #	Authorized AA Spending	FTE Cap
03200001	\$757,990	7
03200003	\$3,040,729	60
03200010	\$642,692	14
03210001	\$210,920	4
03210100	\$202,216	8
03211500	\$3,248,053	97
03211502	\$6,984,882	139
03211503	\$407,194	10
03211504	\$409,151	10
03212000	\$304,155	8.5
03220100	\$4,990,501	90
03300101	\$7,378,844	75
03300102	\$16,290,956	168
03300103	\$4,184,133	43
03300104	\$389,638	4
03300105	\$1,085,148	11
03300106	\$580,463	6
03300107	\$3,198,979	33
03300300	\$5,728,540	116
03300301	\$2,979,965	213
03300317	\$215,424	5



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Item #	Authorized AA Spending	FTE Cap
03302000	\$1,776,953	50
03302205	\$8,358,441	275
03302410	\$261,950	6
03303200	\$27,308,173	715
03303700	\$279,654	9
03304100	\$1,500,000	0
03310100	\$5,516,426	140
03310600	\$8,485,153	201
03312100	\$430,086	13
03312200	\$247,150	6
03312300	\$1,203,701	30
03312400	\$194,916	4
03312500	\$1,535,145	42
03312600	\$295,965	8
03312700	\$1,498,661	38
03312800	\$335,523	8
03312900	\$3,645,672	98
03313000	\$111,919	2
03313100	\$1,234,860	29
03313200	\$1,239,948	33
03313300	\$3,311,832	101.6
03313400	\$2,032,239	47
03313404	\$135,392	4
03313500	\$1,402,876	33
03320100	\$1,521,791	32
03321100	\$1,772,993	46
03321200	\$962,516	25
03321203	\$927,708	27
03321300	\$642,227	16
03321400	\$1,113,962	31
03321500	\$416,002	10
03321600	\$1,796,852	46
03321700	\$2,339,109	70
03321800	\$2,477,060	67
03321900	\$1,020,420	27
03322000	\$332,346	8
03322100	\$1,837,749	44.6
03322300	\$244,343	6
03322400	\$1,808,945	46
03322500	\$846,013	25

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Item #	Authorized AA Spending	FTE Cap
03322600	\$2,607,391	74
03322700	\$2,439,403	68
03322800	\$1,205,642	30
03322900	\$1,188,344	30
03323000	\$1,065,489	29
03323100	\$436,619	13
03323200	\$874,557	25
03323300	\$1,009,380	25
03323400	\$691,872	16
03323500	\$3,860,696	109
03323600	\$778,737	22
03323700	\$1,556,832	45
03323800	\$523,500	12
03323900	\$3,452,197	92
03324000	\$2,411,367	65.4
03324100	\$925,291	22
03324200	\$1,009,975	25
03324300	\$815,145	19
03324400	\$2,069,164	55
03324500	\$1,461,051	40
03324600	\$3,368,904	88
03324700	\$2,046,936	52
03324800	\$1,185,730	30
03324900	\$1,965,816	49
03325000	\$1,209,093	31
03325100	\$192,274	4
03325200	\$1,993,845	52
03325300	\$4,355,252	113
03325400	\$1,256,959	36
03325500	\$1,739,370	41.5
03325600	\$955,512	19
03325700	\$2,840,360	79
03325800	\$1,571,114	43
03325900	\$1,703,595	43
03326000	\$1,433,264	37
03326100	\$1,246,985	27
03326200	\$893,771	20
03326300	\$1,890,567	51
03326400	\$4,263,480	116
03326500	\$1,666,980	45

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Item #	Authorized AA Spending	FTE Cap
03326600	\$3,935,785	92
03326700	\$1,008,332	23
03326800	\$1,933,352	49
03326900	\$3,661,770	102
03327000	\$1,165,486	31
03327100	\$697,732	18
03327200	\$162,370	3
03327300	\$883,662	24
03327400	\$926,751	27
03327500	\$611,751	16
03327600	\$1,082,836	31
03327700	\$710,218	15
03327800	\$926,433	25
03327900	\$735,702	19
03330002	\$1,063,716	25
03330100	\$1,088,610	29
03330200	\$606,324	14.7
03330300	\$1,949,306	48
03330400	\$204,024	4
03330500	\$2,132,629	59
03330600	\$582,290	17
03330700	\$2,187,109	64
03330800	\$759,669	20
03330900	\$3,894,056	117
03330911	\$239,291	6
03331000	\$138,344	2
03331100	\$2,598,158	71
03331111	\$144,458	3
03331200	\$1,930,861	54
03331300	\$3,115,729	87
03331400	\$2,068,837	55
03340001	\$2,354,832	61
03350001	\$7,230,407	183.2
03360002	\$128,160	2
03360100	\$915,257	23
03360200	\$471,480	12
03360300	\$446,676	11
03360400	\$661,724	20
03360500	\$402,996	10
03370002	\$542,431	10

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**Chap. 43**

Item #	Authorized AA Spending	FTE Cap
03370003	\$12,202,687	339
03370100	\$3,573,182	84
03370200	\$2,223,667	52
03370300	\$1,305,772	34
03370400	\$1,210,388	32
03370500	\$1,578,713	37
03391001	\$4,433,935	164
03392100	\$1,215,095	32
03400100	\$9,516,369	300
03400200	\$7,422,541	214
03400300	\$5,205,700	136
03400400	\$5,542,957	142
03400500	\$4,663,540	117
03400600	\$2,523,164	68
03400700	\$4,825,490	118
03400800	\$4,357,028	109
03400900	\$4,139,093	103
03401000	\$2,029,380	53
03401100	\$1,614,250	43
03402100	\$218,496	5
05110000	\$5,759,938	170
05110200	\$470,476	15.4
05110220	\$63,800	2
05110230	\$161,546	3.8
05110250	\$331,009	10.6
05110260	\$161,824	4.1
05170000	\$330,414	9
05210000	\$461,832	17
05210001	\$440,163	12.1
05240000	\$81,640	2
05260100	\$712,815	21
05270100	\$12,500	0
05280100	\$34,490	1
05401100	\$ -	10
06100000	\$4,454,890	99.4
06300000	\$67,600	1
06400000	\$18,729,701	429
06400300	\$970,362	25
07100000	\$11,590,654	324
07100100	\$668,252	18



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Item #	Authorized AA Spending	FTE Cap
08100000	\$14,251,149	342
08100014	\$695,453	15.8
08100021	\$1,083,639	27.8
08100045	\$2,228,220	52.7
08100201	\$714,480	17.65
08100338	\$220,000	6
08100399	\$327,855	8
08400100	\$246,999	6
08400101	\$27,259	1
09000100	\$1,175,370	25.3
09100200	\$1,526,648	34
09200300	\$616,067	15.9
10000001	\$5,184,409	111
11001100	\$1,088,031	19.3
11001101	\$120,000	3
11001103	\$173,185	3
11001140	\$1,643,258	39.3
11012100	\$1,941,474	38
11023210	\$4,100,533	138.2
11023301	\$2,254,446	66
11072400	\$441,437	11
11072501	\$1,135,225	26.93
11081011	\$395,866	5
11085100	\$1,844,284	46.9
11101000	\$504,513	10.6
11204005	\$708,303	20
11505100	\$1,042,120	23
11505104	\$ -	18
12010100	\$69,313,543	1490
12010130	\$ -	85
12010160	\$29,506,930	764
12310100	\$4,319,475	95
12320000	\$341,351	8
12320200	\$363,639	8
13101000	\$1,262,902	26
14100010	\$1,455,030	35
17500100	\$4,162,188	88
17500105	\$ 0	21
17500106	\$ 0	7.6
17500111	\$261,620	4

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Item #	Authorized AA Spending	FTE Cap
17500200	\$255,000	5
17750100	\$2,829,070	58.4
17900100	\$6,665,607	141
17900600	\$319,841	7
20000100	\$1,814,497	38.62
20100100	\$80,194	0
20200100	\$1,263,903	26.5
20600100	\$259,070	4.8
21000005	\$634,880	14
21001000	\$1,287,941	31.18
21002030	\$15,046,076	454.15
21002040	\$1,000,000	14
21003010	\$3,302,547	0
21003011	\$1,218,032	0
22000100	\$20,980,739	434.32
22100100	\$831,213	16.88
22202205	\$1,264,380	23.6
22202207	\$59,851	0
22202208	\$280,042	0
22202209	\$37,396	0
22202210	\$55,602	0
22502000	\$1,142,436	24.8
22608870	\$12,462,964	260.15
22608881	\$184,252	4.5
23000100	\$518,673	10.3
23000101	\$180,280	4
23000104	\$14,909	
23100200	\$4,589,752	128.2
23100500	\$173,638	4
23150100	\$196,996	4
23200100	\$223,340	5.75
23300100	\$3,026,322	79.98
23300120	\$317,266	7
23500100	\$6,933,703	152.5
23500101	\$195,513	5
24101000	\$680,280	19.94
24201400	\$7,012,679	166.5
24400010	\$16,776,031	350
24402000	\$300,001	0
24403000	\$250,000	0

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Item #	Authorized AA Spending	FTE Cap
24404000	\$245,179	1
24404500	\$214,006	1
24405000	\$2,116,148	0
24406000	\$484,907	0
24601000	\$2,354,467	60.6
25110100	\$2,705,105	64
25200100	\$44,010	1
25200300	\$579,994	19
25200900	\$92,955	2
25201000	\$506,090	13
25201100	\$41,435	1
25201200	\$389,538	9
25201300	\$265,000	10
25201400	\$406,284	12
25201500	\$222,468	6
40000100	\$1,732,192	33.8
40000300	\$31,635,130	777.73
40000307	\$1,658,000	53
40000315	\$61,000	0
41000060	\$6,572,145	134.72
41100001	\$558,760	10.94
41101000	\$1,470,349	41.48
41101020	\$360,833	10.85
41102000	\$323,403	8
41104000	\$586,587	43
41201000	\$121,903	2
41203000	\$179,591	4
41204000	\$462,727	11
41205000	\$444,623	12
41206000	\$476,423	11
41250100	\$1,709,939	45.29
41300001	\$281,391	6
41300002	\$306,747	7
41300005	\$5,324,063	136.76
41303000	\$1,083,265	24.1
41800100	\$13,123,483	417.59
41900100	\$10,243,426	322.98
42000010	\$3,140,950	66.64
42000100	\$7,288,280	194.93
42000200	\$4,355,936	144

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Item #	Authorized AA Spending	FTE Cap
42000300	\$10,763,028	334.5
44001000	\$36,363,796	900.3
44001100	\$57,944,072	1650
45100100	\$7,436,319	161.89
45100600	\$2,831,961	65.47
45100616	\$ -	6
45100710	\$5,005,943	92.39
45100750	\$123,290	3
45120103	\$1,175,770	26.3
45120200	\$200,226	5
45131000	\$1,181,434	27.52
45131002	\$70,548	2
45131005	\$391,358	18
45161000	\$4,887,544	132.28
45180100	\$894,555	30
45400900	\$15,493,147	1793.85
45701500	\$38,786	1.6
45801000	\$717,448	14.66
45900902	\$329,506	6.2
48000015	\$30,388,795	725.69
48000025	\$1,957,308	43.5
48000050	\$551,891	18
48001100	\$79,268,032	2208.94
48001101	\$500,000	15
48001500	\$318,627	12
48001997	\$1,636,037	42.8
50110100	\$18,057,167	389.84
50421000	\$1,504,510	45.1
50425000	\$2,457,601	63.37
50460000	\$26,776,987	755.51
50510100	\$47,534,129	1260
50550000	\$3,000,217	61.64
50950000	\$75,446,365	2212.38
59111000	\$4,097,540	83
59112000	\$237,029	5.36
59201000	\$33,721,309	848.04
59202010	\$57,534,119	2110.18
59202040	\$10,362,445	255.31



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Item #	Authorized AA Spending	FTE Cap
59301000	\$ 139,138,392	4654.91
60000100	\$227,499	3.8
60060003	\$315,480	7
60100001	\$34,907,958	830
60101000	\$13,505,817	459
70009101	\$836,807	20
70020100	\$271,070	8
70020101	\$234,182	6.46
70020200	\$998,228	25.3
70020400	\$802,668	17.1
70020500	\$9,661,261	270
70020501	\$292,120	5
70020502	\$3,012,401	40
70020600	\$953,595	19.13
70020700	\$354,253	7
70020800	\$635,273	11.6
70030800	\$706,260	22
70040001	\$45,563	1
70040099	\$4,503,091	103
70060000	\$1,184,089	27
70060010	\$7,867,723	185
70060020	\$5,049,706	115
70060030	\$1,366,168	36.8
70060040	\$4,155,686	115
70060050	\$270,642	6.8
70060060	\$433,480	11
70060065	\$50,000	1.5
70060070	\$4,126,184	97
70060080	\$570,833	15
70060100	\$976,554	22
70060110	\$1,811,745	44
70060130	\$1,387,113	37.7
70060135	\$155,000	5
70070100	\$260,053	5.3
70070300	\$1,854,127	41.69
70070600	\$512,464	10
70070700	\$176,472	4
70070900	\$1,258,262	31.55
70071500	\$485,494	10.9
70100005	\$6,296,569	145.7

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Item #	Authorized AA Spending	FTE Cap
70280031	\$2,351,316	60.77
70660000	\$1,616,904	26
70700031	\$849,402	24.78
70700065	\$610,394	14
71000300	\$632,789	14.65
71091202	\$344,614	10
75040101	\$53,938	1
75150120	\$500,117	17
80000000	\$402,850	8.8
80000020	\$197,618	4
80000105	\$2,154,582	43.98
80000110	\$2,134,115	57.09
80000125	\$442,917	12
80000160	\$307,805	6.54
80000161	\$72,280	2
80000500	\$171,416	4
81000000	\$98,288,076	2353.8
81000007	\$11,871,898	0
81000009	\$14,540,903	0
81000011	\$1,150,000	0
81000100	\$1,626,036	37
81000200	\$450,061	13
81000300	\$73,720	0
82000200	\$1,411,876	35.22
83111000	\$548,912	16.22
83121000	\$6,478,513	131
83151000	\$516,617	13
83151002	\$2,618,675	59.5
83151003	\$139,870	2
83241000	\$927,210	21
83241500	\$901,444	23
84000001	\$20,497,126	774
84000100	\$2,097,105	68.28
86000001	\$246,265	7
87000001	\$2,810,816	91
88000001	\$604,509	31
88000100	\$323,632	8
88000200	\$233,306	5
88500001	\$153,027	0
88500015	\$82,955	2

Item #	Authorized AA Spending	FTE Cap
89000001	\$ 201,119,141	4784
89000002	\$3,549,858	73.49
89000004	\$585,655	12
89000007	\$49,264	1
89000009	\$2,664,942	76.1
89000010	\$598,540	64
89100000	\$75,000	2
89100011	\$3,359,610	87
89500001	\$10,665,033	246.28
89500002	\$164,240	5
91100100	\$1,444,647	29.6
91100102	\$124,790	3

**SECTION 5.** Notwithstanding the provisions of clause Forty-first of section 7 of chapter 4 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 25A of chapter 58 of the General Laws shall use the 1994 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 70 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 25A.

**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 cleanup. Such 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 such projects as may be required; provided, however, that salaries and administrative expenses shall be charged to the accounts funding such project. Such charges shall not

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exceed 2 per cent 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 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 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. Said secretary shall report on the status of each agency, board or division 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 1, 1997.

**SECTION 9.** The second paragraph of section 203 of chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following clause:-

(10) to serve as an advocate, subject to appropriation, and provide an articulate focus for the needs of children and disseminate information to the public regarding children's services and to work in collaboration with the office for children, the department of public health, the department of social services, the department of education and any other state agency which serves the needs of children to promote the development of programs and services for all children, emphasizing programs for children with special needs.

**SECTION 10.** 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 21.

**SECTION 11.** Paragraph (b) 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 last sentence and inserting in place thereof the following sentence:- Within the human



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resources division shall also be the state office of affirmative action, the office of employee relations, the office of dispute resolution and the office of workers' compensation administration.

**SECTION 12.** The first paragraph of section 50 of chapter 7 of the General Laws, as most recently amended by section 3B of chapter 306 of the acts of 1996, is hereby further amended by striking out clauses (k) and (l).

**SECTION 13.** Section 5 of chapter 12A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 3, the words "secretary of administration and finance" and inserting in place thereof, the following words:- chief justice of the supreme judicial court.

**SECTION 14.** Chapter 19 of the General Laws is hereby amended by inserting after section 8 the following section:-

Section 8A. The governor shall appoint a board of trustees for each of the following state hospitals: Medfield, Taunton, Westborough and Worcester. A majority of the members of each such board of trustees shall be consumers and their guardians or family members. Said board shall visit and familiarize itself with its state hospital, and may from time to time make suggestions to the department as to improvements therein, especially such as will make the administration thereof more effective, economical and humane. Said board shall serve without compensation, but each member shall be reimbursed by the commonwealth for all expenses incurred in the performance of his duties.

**SECTION 15.** The second paragraph of section 4B of chapter 19A of the General Laws, as appearing in section 1 of chapter 67 of the acts of 1996, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- ASAP's 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 4, a combination of said home care corporations acting jointly, or by a state agency; provided, however, that said department shall designate at least one ASAP to be operated within the Region 1A Planning and Service Area, as defined by the 1994-1997 State Plan on Aging.

**SECTION 16.** The first paragraph of section 3 of chapter 19C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "chapter", in line 4, following:- ; provided, however, that the commission shall establish written standards for the position of investigator and shall hire investigators whose education and training qualifies them for the position pursuant to the standards established by said commission; and provided further, that the commission shall take such steps as are necessary to ensure that the conduct of each investigator meets or exceeds such standards. For the purposes of determining the standards established under this section, the commission shall confer with the district attorneys and the attorney general.

**SECTION 17.** Said first paragraph of said section 3 of said chapter 19C, as so appearing, is hereby further amended by adding the following clause:-

(i) to establish within the commission a special investigative unit, which shall have sole responsibility for the initial investigation of all reports of abuse received by the commission in connection with which there is an allegation of criminal conduct. The colonel of the state police shall assign not fewer than five state police officers to the special investigative unit.

**SECTION 18.** Clause (b) of section 4 of said chapter 19C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- As determined by the commission, either the commission or said department, subject to the oversight of the commission, shall investigate such abuse as provided in section 5. In all cases where a commission investigation is being conducted, the department shall take reasonable steps to avoid unnecessary unwarranted or counterproductive duplication between any internal investigation or inquiry by the department and the commission's investigation, by utilizing the commission's investigation in lieu of an internal investigation conducted by said department.

**SECTION 19.** Said section 4 of said chapter 19C, as so appearing, is hereby further amended by adding the following paragraph:-

Upon receipt of a report of abuse of a disabled person where the screener, in accordance with written standards established by the commission, determines that the report may contain allegations of criminal conduct, the screener shall immediately refer such report to the special investigative unit which shall conduct an initial evaluation and investigation of the alleged criminal conduct and, upon completion of such evaluation and investigation, shall report the results of such evaluation and investigation to the commissioners who shall, if the special investigative unit has determined that there is reason to believe that a criminal offense has been committed, immediately refer such report, together with any relevant information obtained in such initial investigation, to the attorney general or a district attorney for the county wherein the alleged criminal offense occurred. Upon receipt of such report, the attorney general or district attorney for the county wherein the alleged criminal offense occurred shall contact the commission in order to coordinate the investigation of the matters giving rise to the report. As part of such coordination, the attorney general or the district attorney may request that the commission delay or defer its investigation of the noncriminal matters giving rise to the report; provided, however, that such request shall be granted only where the commission determines that the health and the safety of clients of state agencies or of contract providers shall not be adversely affected thereby and that the commission's or department's ability to conduct a later investigation shall not be unreasonably impaired by such delay or deferral. In all cases including, but not limited to, those in which the commission agrees to delay or defer its investigation, the attorney general or district attorney shall keep the commission informed of the status of the criminal investigation and the commission shall provide to the attorney general or the district attorney any and all information that may be relevant to the criminal investigation. In cases in which the commission agrees to delay or defer its investigation, it shall monitor the progress of the criminal investigation and shall determine, after consultation with such law enforcement agencies, when or whether the commission's investigation should be initiated or resumed.

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**SECTION 20.** Section 5 of said chapter 19C, as most recently amended by section 35 of chapter 450 of the acts of 1996, is hereby further amended by adding the following paragraph:-

(5) Not less than ten days prior to the issuance of a report containing a finding that there is reason to believe that misconduct has occurred, the commission shall provide written notice thereof to the person or persons alleged to have committed such misconduct and afford such person or persons the opportunity to respond in writing prior to the issuance of said report; provided, that, as determined by the commission, such notice of misconduct will not place the alleged victim at risk of further abuse.

**SECTION 21.** Section 7 of said chapter 19C, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

(d) The courts of the commonwealth are hereby authorized to issue warrants for access to a disabled person upon application of the commission or any state or local law enforcement officer, where there is reasonable cause to believe that a disabled person is subject to abuse and access to such disabled person has been denied unreasonably to the commission or such law enforcement officers for the purpose of investigating the allegation of abuse.

**SECTION 22.** Section 1 of chapter 21J of the General Laws is hereby amended by striking out the words "fire services", inserted by section 85 of chapter 151 of the acts of 1996, and inserting in place thereof the following word:- revenue.

**SECTION 23.** Section 2 of said chapter 21J, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 19, 23 and 25, the word "department" and inserting in place thereof, in each instance, the following word:- board.

**SECTION 24.** Said section 2 of said chapter 21J, as so appearing, is hereby further amended by inserting after the word "department" in lines 52 and 58, each time it appears, the following words:- and the board.

**SECTION 25.** Section 4 of said chapter 21J is hereby amended by striking out, in line 10, as so appearing, the word "department" and inserting in place thereof the following word:- board.

**SECTION 26.** Said section 4 of said chapter 21J is hereby further amended by striking out, in line 18, as so appearing, the words "state fire marshal or his designee" and inserting in place thereof the following word:- board.

**SECTION 27.** Said section 4 of said chapter 21J is hereby further amended by striking out, in lines 20 to 24, inclusive, as so appearing, the words ", provided that the amount of reimbursements actually allotted during any fiscal year shall not exceed the cash balance of the fund as of December thirty-first of the calendar year preceding the beginning of the fiscal year in question less the total of the amounts specified in subsection (b), (c), and (d) of this section".

**SECTION 28.** Subclause (A) of clause (1) of paragraph (b) of said section 4 of said chapter 21J, as so appearing, is hereby amended by striking out subparagraphs (i), (ii) and (iii) and inserting in place thereof the following three subparagraphs:-

(i) for the board, \$800,000;



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(ii) for the department, \$200,000; and

(iii) for the department of environmental protection and the department of fire services underground storage tank compliance, \$450,000.

**SECTION 29.** Said paragraph (b) of said section 4 of said chapter 21J, as so appearing, is hereby further amended by striking out clause (2).

**SECTION 30.** Said paragraph (b) of said section 4 of said chapter 21J, as so appearing, is hereby further amended by striking out, in line 58, the number (3) and inserting in place thereof the following number:- (2).

**SECTION 31.** Section 6 of said chapter 21J, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The executive director shall make payments from the fund for any claim approved by a majority vote of the board members, present and voting, and submitted in writing to the department.

**SECTION 32.** Section 7 of said chapter 21J, as so appearing, is hereby amended by inserting after the word "department" in lines 3 and 5, each time it appears, the following words:- or the board.

**SECTION 33.** The first paragraph of section 8 of said chapter 21J, as most recently amended by section 86 of chapter 151 of the acts of 1996, is hereby further amended by striking out the fourth to sixth sentences, inclusive, and inserting in place thereof the following two sentences:- The board shall be comprised of the following members: the commissioner of the department of revenue, or his designee, who shall serve as chairperson; the commissioner of the department of environmental protection, or his designee; the state fire marshal, or his designee; and six 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 Oil Marketers Association of New England, one of whom shall be a representative of the New England Service Station and Automotive Repair Association, one of whom shall be a representative of an institution or organization engaged in the business of insurance, 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. Each member of the board appointed by the governor shall serve a term of three years.

**SECTION 34.** Said section 8 of said chapter 21J is hereby further amended by adding the following paragraph:-

The board shall appoint, and may remove, an executive director, which position shall not be subject to the provisions of chapter 31. The executive director may appoint and remove, from time to time such experts, clerks, and other employees, which positions shall be subject to the provisions of chapter 31, who shall, during regular business hours, work exclusively upon matters pertaining to the board and the administration of the fund. The executive director shall, under the direction of the board, have charge of, direct and supervise all matters relative to the fund and to the business of the board, shall carry out the policies promulgated from time to time by the board and shall perform such other duties as the board shall direct.



**SECTION 35.** Section 10 of said chapter 21J, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 4, the words "state fire marshal" and inserting in place thereof the following word:- board.

**SECTION 36.** Section 12 of said chapter 21J, as so appearing, is hereby amended by inserting after the word "department" in lines 3, 4 and 12, each time it appears, the following words:- or board.

**SECTION 37.** Section 14 of said chapter 21J, as so appearing, is hereby amended by inserting after the word "department", in line 2, the following words:- or board.

**SECTION 38.** Subsection (a) of section 1 of chapter 23 of the General Laws is hereby amended by striking out the first sentence, as amended by section 111 of chapter 151 of the acts of 1996, and inserting in place thereof the following sentence:- Within the executive department, but not within governor's cabinet, as defined in section 17A of chapter 6, there shall be a department of labor and workforce development, in this chapter called the department.

**SECTION 39.** Subsection (a) of section 1 of chapter 23A of the General Laws is hereby amended by striking out the first sentence, as amended by section 6 of chapter 365 of the acts of 1996, and inserting in place thereof the following sentence:- Within the executive department, but not within the governor's cabinet, as defined in section 17A of chapter 6, there shall be a department of economic development, in this chapter called the department, which shall be under the control of a director of economic development, in this chapter called the director.

**SECTION 40.** Chapter 23B of the General Laws is hereby amended by striking out sections 1 and 2, as most recently amended by section 7 of said chapter 365, and inserting in place thereof the following two sections:-

Section 1. Within the executive department, but not within the governor's cabinet, as defined in section 17A of chapter 6, there shall be a department of housing and community development, in this chapter called the department, which shall be under the supervision and control of a director of housing and community development, in this chapter called 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 section 9A of chapter 30 or chapter 31. 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 subsection (b) of section 2; 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, however, 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.

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Section 2. (a) 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 section 9A of chapter 30 or chapter 31. Each associate director shall devote his full time during business hours to the duties of his office.

(b) 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 of 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 41.** The introductory paragraph of section 24B of chapter 23B of the General Laws, as appearing in section 127 of chapter 151 of the acts of 1996, is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the following word:- department.

**SECTION 42.** Said section 24B of said chapter 23B, as so appearing, is hereby further amended by striking out clauses (a) and (b) and inserting in place thereof the following two clauses:-

(a) benefits under this program shall be made available in all communities in the commonwealth which are adversely affected, as determined by the department 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 25 per cent of the total annual water and sewer bill for the household; provided, however, that the department shall establish benefit rates and maximum benefits such that total benefits paid do not exceed the amount appropriated for this benefit.

**SECTION 43.** Subsection (a) of section 1 of chapter 24A of the General Laws is hereby amended by striking out the first sentence, as amended by section 8 of chapter 365 of the acts of 1996, and inserting in place thereof the following sentence:- Within the executive department, but not within the governor's cabinet, as defined in section 17A of chapter 6, there shall be an office of consumer affairs and business regulation, in this chapter called the office.

**SECTION 44.** Section 2 of chapter 28A of the General Laws is hereby amended by striking out, in line 21, as appearing in the 1994 Official Edition, the words "for children" and inserting in place thereof the following words:- of child care services.

**SECTION 45.** Section 3 of said chapter 28A is hereby amended by striking out, in line 1, as so appearing, the words "for children" and inserting in place thereof the following

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words:- of child care services.

**SECTION 46.** Section 4 of chapter 28A of the General Laws is hereby amended by striking out, in lines 2 and 3, as so appearing, the words "serve as an advocate and provide an articulate focus for the needs of children and".

**SECTION 47.** Section 9 of said chapter 28A is hereby amended by striking out, in line 68, as so appearing, the words "for children" and inserting in place thereof the following words:- of child care services.

**SECTION 48.** Section 2U of chapter 29 of the General Laws, as amended by section 158 of chapter 151 of the acts of 1996, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be established and set up on the books of the commonwealth a separate fund to be known as the Ponkapoag Recreational Fund. There shall be credited to such fund revenues generated from fees or any other revenue devices at the Ponkapoag Golf Course in the Blue Hills Reservation in the town of Canton. Such revenues shall be credited in the following manner: (1) the first \$700,000 in revenues shall be deposited in the fund herein established; (2) revenues generated which are in excess of \$700,000, but less than \$1,100,000, shall be credited to the General Fund; (3) revenues generated in excess of \$1,100,000 shall be credited to the fund herein established. Revenues credited to this fund shall be used, subject to appropriation, for capital improvements, equipment, and maintenance of said golf course, including costs of personnel.

**SECTION 49.** Said chapter 29 is hereby further amended by striking out section 2II, inserted by section 62 of chapter 450 of the acts of 1996, and inserting in place thereof the following section:-

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 Recreational Fund. There shall be credited to such fund revenues generated from fees or any other revenue devices at the Leo J. Martin Golf Course in the town of Weston and the city of Newton. Such revenues shall be credited in the following manner: (1) the first \$450,000 in revenues shall be deposited in the fund herein established; (2) revenues generated which are in excess of \$450,000, but less than \$865,000, shall be credited to the General Fund; (3) revenues generated in excess of \$865,000 shall be credited to the fund herein established. Revenues credited to this fund shall be used, subject to appropriation, for capital improvements, equipment, and maintenance of said golf course, including costs of personnel.

**SECTION 50.** Said chapter 29 is hereby further amended by inserting after section 2JJ, inserted by section 8 of chapter 19 of the acts of 1997, the following five sections:-

Section 2KK. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Transitional Aid to Needy Families Fund. There shall be credited to said fund all federal revenues and reimbursements received by the commonwealth pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or any successor federal statute. Amounts credited to said fund shall be available for expenditure subject to appropriation. The comptroller is hereby authorized and directed to transfer the amount of any unexpended balance in any item of appropriation that



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is charged to said fund at the end of the fiscal year to the Caseload Increase Mitigation Fund established pursuant to section 2NN. After making said transfer, any remaining unexpended balance in the Transitional Aid to Needy Families Fund at the end of the fiscal year shall then be transferred to said Caseload Increase Mitigation Fund.

Section 2LL. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Child Care Fund. There shall be credited to said fund all federal revenues and reimbursements pursuant to the Child Care and Development Fund or any successor federal fund, and all revenue directed to said fund by provision of a general appropriation act or any supplemental or deficiency appropriation act. Amounts credited to said fund shall be available for expenditure subject to appropriation.

Section 2MM. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Social Services Program Fund. There shall be credited to said fund all federal revenues and reimbursements pursuant to the Title XX Social Services Block Grant or any successor federal fund and all revenue directed to said fund by provision of a general appropriation act or any supplemental or deficiency appropriation act. Amounts credited to said fund shall be available for expenditure subject to appropriation.

Section 2NN. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Caseload Increase Mitigation Fund. There shall be credited to said fund all revenues or other financing sources directed to said fund by provision of a general appropriation act or any supplemental appropriation act. Amounts credited to said fund shall be available for expenditure, subject to appropriation, only (i) in the event that caseloads in the programs funded pursuant to the provisions of chapter 118 exceed the levels appropriated for such accounts in the general appropriation act or supplemental appropriation acts, (ii) to the extent that such caseloads are projected to exceed the average caseload in the previous fiscal year, or (iii) to accommodate changes in federal funding of the programs authorized by said chapter 118, chapter 5 of the acts of 1995 or regulations promulgated by the department of transitional assistance. No funds shall be expended or otherwise made available from said fund without the approval of the General Court in the general appropriation act or a supplemental appropriation act.

Section 2 OO. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Local Consumer Inspection Fund. There shall be credited to such fund all amounts generated from item pricing fines, so called. Amounts credited to said fund shall be used, subject to appropriation, to provide financial assistance to eligible local or regional agencies for the enforcement by said agencies of the provisions of chapters 41, 94, 95, 96, 97, 98, 99, 100A and 101, and such other rules and regulations that the director of the division of standards shall promulgate. Said director shall determine the criteria for distributing amounts to be awarded to said agencies from said fund. Said fund shall not accrue more than \$300,000 in any fiscal year. Any amounts generated in excess of \$300,000 shall be deposited into the General Fund.

**SECTION 51.** Section 5B of said chapter 29, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 2, the words "September twenty-fifth" and



inserting in place thereof the words:- October 15.

**SECTION 52.** Said section 5B of said chapter 29, as so appearing, is hereby further amended by striking out, in lines 38 to 40, inclusive, the words ", with the advice of the advisory board on revenue resources and the state economy established under the provisions of section thirty-seven A of chapter seven".

**SECTION 53.** Section 13 of said chapter 29 is hereby amended by striking out the first paragraph, as amended by section 50 of chapter 38 of the acts of 1995, and inserting in place thereof the following paragraph:-

That portion of an appropriation for ordinary maintenance representing encumbrances outstanding on the records of the comptroller's office at the close of the fiscal year may be applied to the payment thereof in the two months immediately succeeding such fiscal year; provided, however, that the state budget director at the written request of the spending agency may, prior to the close of said two months, extend for 15 additional days the recorded encumbrances outstanding and the funds reserved therefor, by furnishing the comptroller with a copy of such request and the approval thereof.

**SECTION 54.** 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 55.** The first paragraph of said section 29 of said chapter 29, as so appearing, is hereby amended by adding the following sentence:- Under no circumstance shall such an interchange be allowed if, in the opinion of the budget director, such interchange is projected to result in a deficiency in such appropriation or subsidiary account and a plan to remedy such deficiency has not been adopted by said department, office, commission or institution with the approval of the budget director.

**SECTION 56.** Chapter 30 of the General Laws is hereby amended by inserting after section 46H the following section:-

Section 46I. In addition to his other responsibilities and duties, the personnel administrator shall have the following duties and responsibilities: developing and maintaining information concerning occupational injuries sustained by employees entitled to compensation under the provisions of section 69 of chapter 152, and concerning persons who have applied for or who have been granted disability benefits under the provisions of chapter 32 and requiring reports from the workers' compensation agents and from the retirement boards; and certifying agreements for compensation for the payment of medical or other expenses or fees to or on behalf of injured employees of the commonwealth. No such compensation shall be paid without such certification.

**SECTION 57.** Paragraph (a) of subdivision (7) of section 22 of chapter 32 of the General Laws, as most recently amended by section 8 of chapter 427 of the acts of 1996, is hereby further amended by inserting after the second sentence, the following two sentences:- Said budgets shall not exceed 103 per cent of the prior year operating expenditures; provided, however, that for fiscal year 1998 said budgets shall not exceed 134 per cent of the fiscal year 1997 operating expenditures. In the event that said boards determine that said 103 per cent is not sufficient to fund said operations, said boards shall

submit spending plans detailing all expenditures to the house and senate committees on ways and means for review 45 days prior to adopting a budget in excess of 103 per cent of the prior year expenditure.

**SECTION 58.** Section 22C of chapter 32 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 6 to 10, the words ", that no such funding schedule shall be adopted which would set forth total annual payments in any of its first ten fiscal years which are less in any such year than the total estimated cost of benefits to be paid in such year for such system or for such other assumed liabilities; provided further".

**SECTION 59.** Said section 22C of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 57 and 58, the word "twenty-eight" and inserting in place thereof the following:- eighteen.

**SECTION 60.** Paragraph (f) of section 15 of chapter 33 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- There shall be a full-time deputy state judge advocate who shall receive the same pay and allowances as an officer of the regular service of corresponding grade with corresponding length of service but not exceeding that of colonel.

**SECTION 61.** Chapter 58A of the General Laws is hereby amended by striking out section 10, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 10. At the request of any party made before any evidence is offered, the board shall order that all proceedings in a pending appeal be officially recorded. The board is authorized and directed to employ transcription methods including, without limitation, electronic transcription equipment, for the purpose of recording proceedings before the board. The board may contract for the recording of such proceedings or the transcription of such recording at the expense of the commonwealth in the first instance, but shall collect the cost thereof, from the persons requesting that the proceedings be recorded. In such contract the board may provide that one or more copies of the transcript be supplied to the board without cost to the commonwealth, and may fix the terms and conditions upon which transcripts will be supplied to other persons and agencies by the official recorder. No proceedings shall be recorded or transcribed officially until an amount equal to the cost thereof, as estimated by the clerk, shall have been deposited with him at such times and in such manner as may be provided by the rules of the board. Any excess deposit over the actual cost shall be returned to the depositor by the clerk. If no party requests that the proceedings be recorded, all parties shall be deemed to have waived all rights of appeal to the supreme judicial court upon questions as to the admission or exclusion of evidence, or as to whether a finding was warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by an agreed statement of facts or shown by the report of the board shall not be deemed to be waived. For its own information only, the board may, subject to appropriation, have stenographic notes of hearings taken and may have transcripts thereof prepared in proceedings which are not officially reported at the request of a party.

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**SECTION 62.** Section 3 of chapter 62 of the General Laws is hereby amended by striking out, in line 80, as so appearing, the words "six hundred dollars" and inserting in place thereof the following:- \$1,200.

**SECTION 63.** Section 6 of said chapter 62, as so appearing, is hereby amended by adding the following subsections:-

(h) A taxpayer shall be allowed a credit against the taxes imposed by this chapter if such person qualified for and claimed the earned income credit, so called, allowed under the provisions of section 32 of the Code, as amended and in effect for the taxable year. The credit allowed by this subsection shall equal 10 per cent of the federal credit received by the taxpayer for the taxable year. If other credits allowed under this section are utilized by the taxpayer for the taxable year, the credit afforded by this subsection shall be applied last. If the amount of the credit allowed hereunder exceeds the taxpayer's liability, the commissioner shall treat such excess as an overpayment and shall pay the taxpayer the amount of such excess, without interest.

(i) Any owner of residential property located in the commonwealth who is not a dependent of another taxpayer and who occupies said property as his principal residence, shall be allowed a credit equal to 40 per cent of the expenditures for design and construction expenses for the repair or replacement of a failed cesspool or septic system pursuant to the provisions of Title V as promulgated by the department of environmental protection in 1995. Said expenditures shall be the actual cost to the taxpayer or \$15,000, whichever is less; provided said credit shall be available to eligible taxpayers beginning in the tax year in which the repair or replacement of said cesspool or septic system was completed; provided said credit shall not exceed \$1,500 in any tax year and any excess credit may be applied over the following three subsequent tax years. The amount of any such credit shall be reduced by an amount equal to the total interest subsidy or grant received from the commonwealth, whether directly or indirectly, toward the cost of said expenditures. The department shall promulgate such rules and regulations as are necessary to administer the credit afforded by this subsection, including, but not limited to, a notification system by the commonwealth to recipients of said interest subsidy or grant of the amount of the total subsidy provided by the commonwealth.

**SECTION 64.** Chapter 64G of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following section:-

Section 12. No excise shall be imposed, pursuant to this chapter, upon the transfer of occupancy of any room or rooms in a hotel, lodging house or motel if the occupant is an employee of the United States military traveling on official United States military orders which encompass the date of said occupancy. Each operator shall maintain such records as the commissioner shall require to substantiate exemptions claimed under this section.

**SECTION 65.** Section 2 of chapter 70 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Base aid" and inserting in place thereof the following definition:-

"Base aid", in any fiscal year, the total of base aid, minimum aid and foundation aid of the previous fiscal year; 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 89 of chapter 71 or section 12B of chapter 76 exceeds the amount that had been deducted pursuant to said sections in the previous fiscal year.

**SECTION 66.** Said section 2 of said chapter 70, as so appearing is hereby further amended by striking out the definition of "Foundation gap", 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 12B of chapter 76, charter school reimbursement as defined in section 89 of chapter 71, 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 67.** Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Standard of effort", and inserting in place thereof the following definition:-

"Standard of effort", for any year, shall be the lesser of (1) the gross standard of effort for that year and (2) the foundation budget for the year minus the sum of base aid, minimum aid, school choice reimbursement, as defined in section 12B of chapter 76, charter school reimbursement, as defined in section 89 of chapter 71, 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 68.** Said chapter 70 is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. If in any fiscal year a district's actual expenditure for public education is less than the amount required to be appropriated for public education pursuant to this chapter, the difference, up to 5 per cent of the amount required to be appropriated, shall be spent for public education in the following fiscal year; provided, however, that any unexpended funds, whether appropriated to the school committee account or to town accounts for expenditure to meet public education costs, shall be deemed reappropriated for public education in the following year without further action by the appropriating authority; provided, further, that the amount of state school aid for the following fiscal year shall be reduced by the amount said difference exceeds 5 per cent of the amount required to be appropriated; and provided, further, that in any year in which additional money is required to be spent due to a spending deficiency in the prior year, if a district fails to spend the carried forward amount or under-spends its current year budget by more than 5 per cent of the amount required to be appropriated for that year, state school aid in the following year shall be reduced by the entire difference between those amounts. The board shall promulgate regulations to enforce the provisions of this section.

**SECTION 69.** The fifth paragraph of section 3 of chapter 71B of the General Laws is hereby amended by striking out the words "provided, however, that the division of health



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care finance and policy established by section two of chapter one hundred and 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”, inserted by section 226 of chapter 151 of the acts of 1996.

**SECTION 70.** The tenth paragraph of said section 3 of said chapter 71B of the General Laws is hereby amended by inserting after the word “specialist”, in line 90, as appearing in the 1994 Official Edition, the following words:- ; provided, however, that the division of health care finance and policy established by section 2 of chapter 118G 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 71.** Section 5 of said chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the word "July" and inserting in place thereof the following word:- April.

**SECTION 72.** Said section 5 of said chapter 71B , as so appearing, is hereby further amended by inserting after the word "year", in line 35, the following words:- and, if such move occurs prior to June 30 of said fiscal year, for the subsequent fiscal year.

**SECTION 73.** Subsection (f) of section 12B of chapter 76 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 131, the word "Said" and inserting in place thereof the following words:- Except where the receiving district is a vocational regional school, said.

**SECTION 74.** Said subsection (f) of said section 12B of said chapter 76, as so appearing, is hereby further amended by inserting after the second sentence the following two sentences:- Where the receiving district is a vocational regional school, said tuition amount shall be equal to the actual average per pupil spending amount in the receiving district as determined by the department of education, but not more than the actual statewide average per pupil spending amount in vocational regional school districts as determined by said department. The amount of tuition so charged by a regional vocational school that exceeds the maximum amount that could be charged but for application of the preceding sentence shall be returned to the member communities of the regional vocational district in the year following receipt of the payment in proportion to the assessment levied against each member community.

**SECTION 75.** Section 19C of chapter 78 of the General Laws, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

The board shall establish a comprehensive statewide program of regional library service, consisting of regional library systems, which shall not exceed six, for the purpose of providing reference and research services, interlibrary loan, delivery, and other regional services to public, school, academic, and special libraries in the region. For each regional library system, the board shall designate an administrative agency. For such purpose, there shall be an annual appropriation which the board shall apply in the following manner:.

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**SECTION 76.** Said section 19C of said chapter 78, as so appearing, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) Any regional library system providing service under an approved plan shall be entitled to receive annually in state aid an amount per capita of its served population per square mile of the area served in accordance with the following schedules:

1,000 or over population	\$1.60 per capita
750-999 population	\$1.75 per capita
500-749 population	\$2.07 per capita
Under 500 population	\$2.26 per capita

**SECTION 77.** Said chapter 78 is hereby further amended by striking out section 19D, as so appearing, and inserting in place thereof the following section:-

Section 19D. For each regional library system, the board shall establish a council of members which shall consist of the chief librarian or one trustee to be so designated by the board of trustees or the appropriate administrative authority of each participating library and one designated representative from the participating private school libraries within each school district. The duties and responsibilities of the council of members will be specified in the bylaws of the regional library system as approved by the board of library commissioners.

**SECTION 78.** Said chapter 78 is hereby further amended by inserting after section 19L, as so appearing, the following two sections:-

Section 19M. The board of library commissioners shall establish a statewide advisory council on cooperative library programs. This advisory council shall advise the board with regard to the following: statewide program of service; proposed standards for the delivery of statewide network services; recommendations for statewide priorities for interlibrary cooperation and resource sharing; and the effectiveness of the statewide program of services. The council shall prepare and adopt bylaws for the conduct of business which shall be approved by the board of library commissioners.

Section 19N. The board of library commissioners shall establish such rules and regulations as are necessary and proper for administering sections 19C to 19F, inclusive, and sections 19L and 19M.

**SECTION 79.** Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of chapter 90 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:-

There shall be a surcharge of \$125 on a fine assessed against a defendant convicted by a court of the commonwealth of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances, pursuant to the provisions of this section; provided, however, that moneys collected pursuant to said surcharge shall be deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund established pursuant to the provisions of section 59 of chapter 10. In the discretion of the court, a surcharge assessed pursuant to this section may be reduced or

waived, only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

**SECTION 80.** Paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

There shall be a surcharge of \$125 on a fine assessed against a defendant convicted by a court of the commonwealth of operating a motor vehicle negligently so that the lives or safety of the public might be endangered, pursuant to the provisions of this section; provided, however, that moneys collected pursuant to said surcharge shall be deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund established pursuant to the provisions of section 59 of chapter 10. In the discretion of the court, a surcharge assessed pursuant to this section may be reduced or waived, only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

**SECTION 81.** Section 37 of chapter 92 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

A police officer employed by a city or town in whose boundaries, reservations or boulevards are located shall have all the same powers they have as a police officer of the city or town to enforce the laws of the commonwealth and the rules and regulations of the commission on any bikeway, pathway, park, reservation or other land under the care of the commission.

**SECTION 82.** Section 142M of chapter 111 of the General Laws, as most recently amended by section 2 of chapter 451 of the acts of 1996, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Beginning on January 1, 1998, at least 30 per cent of the commonwealth's motor vehicle fleet, as determined by the commissioner and the registrar, shall be subject to the provisions of this section and shall be subject to an enhanced motor vehicle emissions inspection, conducted biennially. Beginning on July 1, 1998, all of the commonwealth's motor vehicle fleet, as prescribed herein, shall be subject to the provisions of this section and shall be subject to an enhanced motor vehicle emissions inspection, conducted biennially.

**NO SECTION 83.**

**SECTION 84.** Section 6A of chapter 115 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "four", in line 3, the following words:- or any person who served on active duty in the armed forces of the United States for a period of at least 180 days,.



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**SECTION 85.** Section 6B of said chapter 115 is hereby amended by striking out, in lines 18 and 19 and in line 25, as so appearing, the words "five hundred dollars" and inserting in place thereof, in each instance, the following:- \$1,500.

**SECTION 86.** Said section 6B of said chapter 115 is hereby further amended by inserting after the word "legs", in line 23, as so appearing, the following words:- or is otherwise determined to be 100 per cent disabled by the Veterans Administration.

**SECTION 87.** Said section 6B of said chapter 115 is hereby further amended by adding the following paragraph:-

The parents of a deceased member of the armed forces of the United States, whose death occurred as a result of injury sustained or disease contracted during active service in time of war or insurrection or combat, shall be paid the sum of \$1,500 annually in two equal payments on July 1 and January 1. Such payments shall be due and payable from the date of said parents' application.

**SECTION 88.** Subsection (2) of section 9A of chapter 118E, as appearing in section 14 of chapter 203 of the acts of 1996, is hereby amended by striking out clauses (c) and (d) and inserting in place thereof the following two clauses:-

(c) adolescents aged 13 to 17, inclusive, whose financial eligibility as determined by the division does not exceed 133 per cent 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 133 per cent of the federal poverty level but not more than 200 per cent of the poverty level may qualify for partial medical benefits pursuant to the terms and conditions of the demonstration projects;

(d) adults aged 18 to 64, inclusive, whose financial eligibility as determined by the division does not exceed 133 per cent 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.

**SECTION 89.** Said subsection (2) of said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out clause (h) and inserting in place thereof the following clause:-

(h) persons who would be eligible for financial or medical assistance under the foregoing clauses, 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.

**SECTION 90.** Said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out subsection (4) and inserting in place thereof the following subsection:-

(4) The terms and conditions of the demonstration project shall provide that the division may, for any and all beneficiary categories, vary the amount, duration, and scope of medical benefits, establish differing managed care options, and restrict the freedom of



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beneficiaries to choose health care providers.

**SECTION 91.** Paragraph (8) of said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Consistent with the provisions of Title XIX and any waiver authority therein, the division may establish premium and copayment amounts for beneficiaries of MassHealth.

**SECTION 92.** Subsection (8) of section 9B of said chapter 118E, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The division shall establish an allocation method to account separately for the costs of medical benefits incurred by traditional beneficiaries and by expansion beneficiaries.

**SECTION 93.** Paragraph (a) of said section 30 of said chapter 118E, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Payment shall be made to the provider, institution or insurance entity supplying medical services.

**SECTION 94.** Section 31 of chapter 118E of the General Laws, as most recently amended by section 158 of chapter 450 of the acts of 1996, is hereby further amended by adding following subsection:-

(d) The division is also authorized during an individual's lifetime to recover all assistance correctly provided on or after April 1, 1995, if property against which the division has a lien or encumbrance under section 34 is sold. No lien or encumbrance shall be valid against any bona fide purchaser for value or take priority against any subsequent mortgagee for value unless and until it is recorded in the registry of deeds where the property lies.

Repayment shall not be required under this subsection while any of the following relatives lawfully resides in the property: (1) a sibling who had been residing in the property for at least one year immediately prior to the individual being admitted to a nursing facility or other medical institution; or (2) a child who (i) had been residing in the property for at least two years immediately prior to the parent being admitted to a nursing facility or other medical institution; and (ii) establishes to the satisfaction of the division that he provided care which permitted the parent to reside at home during that two year period rather than in an institution; and (iii) has lawfully resided in the property on a continuous basis while the parent has been in the medical institution.

If repayment is not yet required because a relative specified above is still lawfully residing in the property and the individual wishes to sell the property, the purchaser shall take possession subject to the lien or the division shall release the lien if the individual agrees to (1) either set aside sufficient assets to satisfy the lien or give bond to the division with sufficient sureties and (2) repay the division as soon as the specified relative is no longer lawfully residing in the property. Notwithstanding the foregoing or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien.

This subsection shall not limit the division's ability to recover from the individual's estate under subsection (a) or (b) or as otherwise provided under any general or special law.

**SECTION 95.** Section 32 of chapter 118E of the General Laws as amended by section 135 of chapter 38 of the acts of 1995, is hereby further amended by striking out subsections (b) to (e), inclusive and inserting in place thereof the following nine subsections:-

(b) The division may present claims against a decedent's estate as follows: (1) within four months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or (2) within one year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31 do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator shall have an additional 60 days to mail notice to the division under subsection (d)(1).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery for undue hardship.

(g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing four months plus 60 days after approval of the official bond of the executor or administrator.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division under said clause (2) cease to exist. The executor or administrator shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) notice, and upon request by the division, shall provide updated documentation verifying that the circumstances or conditions continue to exist.

If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:

(1) the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim.



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**SECTION 96.** Said chapter 118E is hereby further amended by striking out section 33, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 33. No claim for costs of a nursing facility and other long term care services may be made by the division under section 31 or 32 if the individual receiving medical assistance was permanently institutionalized, had notified the division that he had no intent on returning home, and had on the date of admission to the nursing facility or other medical institution long term care insurance that met the requirements of 211 C.M.R. 65.00.

**SECTION 97.** Clause (b) of the second paragraph of section 2 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 last sentence and inserting in place thereof the following sentence:- 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 and shall also have sole responsibility for determining rates paid for educational assessments conducted or performed by psychologists and other trained certified educational personnel pursuant to the tenth paragraph of section 3 of chapter 71B of the general laws, notwithstanding the provisions of an other special or general law or rule or regulation to the contrary.

**SECTION 98.** Paragraph A of the first paragraph of section 23 of chapter 119 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following two paragraphs:-

The court shall, whenever reasonable and practical, and based upon a determination of the best interests of the child, ensure that children placed in foster care who are separated from siblings who are either in other foster or pre-adoptive homes, or in the homes of parents or extended family members, have access to, and visitation rights with, such siblings throughout the period of placement in the care and custody of the commonwealth, or subsequent to such placements if the children or their siblings are separated through adoption or long-term placements in foster care.

The courts shall determine, at the time of initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive, or adoptive care, that such visitation rights be implemented through a schedule of visitations or supervised visitations to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and other parties who are relevant to the preservation of sibling relationships and visitation rights. Periodic reviews shall be conducted, so as to evaluate the effectiveness and appropriateness of the visitations between siblings placed in care.

**SECTION 99.** Section 26 of said chapter 119, as so appearing, is hereby amended by inserting after the second paragraph the following four paragraphs:-



The court shall, whenever reasonable and practical, and based upon a determination of the best interests of the child, ensure that children placed in foster care who are separated from siblings who are either in other foster or pre-adoptive homes or in the homes of parents or extended family members, have access to, and visitation rights with, such siblings throughout the period of placement in the care and custody of the commonwealth, or subsequent to such placements, if the children or their siblings are separated through adoption or long-term or short-term placements in foster care.

The courts shall determine, at the time of the initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive, or adoptive care, that such visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and the child, if reasonable, and other parties who are relevant to the preservation of sibling relationships and visitation rights.

Periodic reviews shall be conducted, so as to evaluate the effectiveness and appropriateness of the visitations between siblings placed in care.

Any child who has attained the age of 12 years, may request visitation rights with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

**SECTION 100.** Said chapter 119 is hereby further amended by striking out section 33B, inserted by section 277 of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

Section 33B. At the time of placing a child in family home care, but in any event no later than five working days following such placement, the department or any other child-care agency shall determine whether the child has been adjudicated delinquent for a sexual offense or the commission of arson, or has admitted to such behavior, or is the subject of a documented or substantiated report of such behavior. If the department or other agency determines that the child has been so adjudicated, admitted, or found to have engaged in such behavior, it shall immediately refer the child to a qualified diagnostician for evaluation and assessment, including a risk management assessment of the child and a recommendation as to the type of appropriate and safe placement for the child. Such evaluation and assessment shall be completed within not more than ten working days from referral by the department or agency. No delay beyond the time periods in this section by the department shall in itself give rise to any claim of negligence or any other claim for damages. For the purposes of this section, a qualified diagnostician shall mean an individual who possesses specialized training and experience in the evaluation and treatment of sexually abusive youth or arsonists, as appropriate. Pending completion of such evaluation, the department or agency may place the child in an interim setting that is able to provide appropriate safety and security in light of the known risks posed by the child. Such risks shall be disclosed to the caretaker, including an interim safety plan to be implemented by the caretaker.

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If the diagnostician recommends that the placement, including situations in which the child remains at home, should have adequate sex offender or arson specific risk management procedures, the department or agency responsible for placing the child shall prepare and implement a plan to address the safety of the child and other children in the home or residence, and to address the safety of the children in the immediate neighborhood. Such plan must include notification to all adults responsible for supervising the child in the home or residence of the child's behavioral history, including adjudications, if any, and education of all persons living in the home or residence about the known risks attendant to the child's behavior and methods of preventing such behavior, and provision for appropriate treatment for the child who is being placed. Where the department or agency makes a referral of such child to a foster home, residential facility, other agencies or organizations, or individuals for the purpose of receiving custodial services, the department or agency shall disclose the child's behavioral history, including adjudications, if any, to the designated recipient of the referral, prior to placement or at referral.

**SECTION 101.** Said section 57 of said chapter 121B, as appearing in the 1994 official edition, is hereby amended by striking out, in line 40, the words "fifty million dollars" and inserting in place thereof the following figure:- \$50,000,000.

**SECTION 102.** Section 4 of chapter 131 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following clause:-

(16) enter into such contracts as the director, in consultation with the commissioner, deems necessary or appropriate in order to fulfill the responsibilities and mandates of the agency, including, but not limited to, contracts for the cutting and sale of timber on lands managed by the division, and shall deposit monies received from such contracts into the Inland Fisheries and Game Fund pursuant to section 2; provided, however, that it shall be a condition of each contract for the cutting and sale of timber that clear-cutting timber on lands managed by the division is specifically prohibited.

**SECTION 103.** Section 137C of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "county commissioners" and inserting in place thereof the following words:- mayor of a city or selectmen of a town.

**SECTION 104.** Paragraph (f) of section 46 of chapter 151A, as so appearing, is hereby amended by adding the following sentence:- Nothing in this chapter shall prohibit the commissioner from providing information to the division of medical assistance and the secretary of health and human services to support the provision of federal funding under section 1115 of the Social Security Act for programs implemented pursuant to subsection (j) of section 14G.

**SECTION 105.** Section 58A of chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The administrative expenses the commissioner is authorized to make under the preceding paragraph of this section shall be strictly limited to those expenses which are directly related to the operation of programs and activities governed by this chapter, and shall not include expenditures for operation of one-stop career centers, so-called.

**SECTION 106.** Section 69B of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3, 4 and 8, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- personnel administrator.

**SECTION 107.** Said section 69B of said chapter 152, as so appearing, is hereby further amended by striking out, in line 4, the word "commissioner" and inserting in place thereof the following words:- personnel administrator.

**SECTION 108.** Said chapter 152, as so appearing, is hereby further amended by adding the following section:-

Section 87. The board of higher education and the public institutions of higher education may procure insurance for the payment of workers' compensation costs incurred pursuant to this chapter, in accordance with a transition plan established jointly by the board of higher education, the institutions and the workers' compensation unit of the human resources division.

**SECTION 109.** Subsection (f ¼) of section 5 of chapter 161A of the General Laws, as inserted by section 148 of chapter 38 of the acts of 1995, is hereby amended by inserting after the first sentence the following sentence:- The authority shall cooperate with the chief executive officers of each of the cities and towns in the affected areas to determine the appropriate, geographically convenient locations at which such hearings shall be held.

**SECTION 110.** Chapter 166A 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 terms as used in this chapter shall, unless the context requires otherwise, have the following meanings:-

"Community antenna television system" or "CATV system", a facility which receives and amplifies the signals broadcast by one or more television stations and redistributes such signals to subscribing members of the public for a fixed or periodic fee, employing wires or cables passing along, over, under, across, and upon streets, ways, lanes, alleys, parkways, bridges, highways and other public places, including property over which a city or town has an easement or right-of-way, and including facilities which in addition to providing such reception, amplification and redistribution, are also used to originate and distribute program or other material to such subscribers, but excluding any system which serves fewer than 50 subscribers.

"CATV operator" or "Operator", a person operating a CATV system.

"Director", the community antenna television director appointed pursuant to section 2.

"Issuing authority", the city manager of a city have a plan D or E charter, the mayor of any other city, or the board of selectmen of a town.

"Licensee", a person who is issued a license pursuant to section three, such term excluding only television broadcast stations as defined in part 74, subpart K, section 74.1131 of the Federal Communications Commissions' Rules and Regulations and newspaper media and their affiliates in their major circulation areas.



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"Area or areas to be served", may include a municipality or a portion of a municipality in order to reflect within municipal boundaries, the various economic, cultural, geographic and community interests of the citizens residing therein.

**SECTION 111.** Section 2 of said chapter 166A is hereby amended by striking out the first paragraph, as so appearing, and inserting in place thereof the following paragraph:-

There shall be established in the department of public utilities a division of community antenna television which shall consist of a director. The director shall be appointed by the governor, and shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The director shall devote full time during business hours to the duties of the office, and shall be a registered voter in the commonwealth.

**SECTION 112.** Said section 2 of said chapter 166A is hereby further amended by striking out, in lines 10, 13 and 14, as so appearing, the word "commissioner" and inserting in place thereof, in each instance, the following word:- director.

**SECTION 113.** Said section 2 of said chapter 166A is hereby further amended by striking out, in lines 17, 23, 28, 29 and 35, as so appearing, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 114.** Section 2A of said chapter 166A, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 1, 8, 9 and 12, the word "commissioner" and inserting in place thereof, in each instance, the following word:- director.

**SECTION 115.** Said section 2A of said chapter 166A, as so appearing, is hereby further amended by striking out, in line 7, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 116.** Said section 2A of said chapter 166A, as so appearing, is hereby further amended by striking out, in line 10, the word "commissioner's" and inserting in place thereof the following word:- director's.

**SECTION 117.** Section 3 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 6, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 118.** Section 4 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 3, 4, 14 and 27, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 119.** Section 5 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 69 and 70, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 120.** Section 7 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 5, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 121.** Section 8 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 4, 5 and 7, the word "commission" and inserting in place thereof, in each instance, the following word:- division.



**SECTION 122.** Section 10 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 4 and 6, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 123.** Section 11 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 10 and 12, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 124.** Section 12 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 1, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 125.** Section 13 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 4, the word "commission" and inserting in place thereof the following word:- division.

**SECTION 126.** Section 14 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 8, 12, 14, 15, 18, 25, 31, 32 and 35, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 127.** Section 15 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 9, 13, 16, 20, 32, 33, 34, 37, 38, 42, 45 and 47, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 128.** Section 16 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 1, 4 and 7, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 129.** Section 17 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 1, 4, 5 and 9, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

**SECTION 130.** Section 113B of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended adding the following paragraph:-

The safe driver insurance plan made effective on January 1, 1998, and all later plans shall provide that individuals that have been incarcerated pursuant to a criminal conviction shall not be considered to have experienced any incident-free period of driving during any period of incarceration of one year or more. In addition, said plans shall provide that, except as otherwise determined by the commissioner, any such period of incarceration shall be excluded from the five year period within which surchargeable incidents may be considered. In implementing the provisions of this paragraph, the commissioner, for the purposes of determining upward and downward premium adjustments, may adjust the surcharge date of any surchargeable incident in any manner deemed appropriate, including adding any period of incarceration of one year or more to such surcharge date, and may consider surchargeable incidents with surcharge dates prior to the five year period immediately preceding the effective date of the policy. The commissioner of insurance and the secretary of public safety shall develop a system for providing the merit rating board the necessary information to adjust driving records for periods of incarceration in accordance with this paragraph and shall consider periods of incarceration in other jurisdictions to the extent practicable.

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**SECTION 131.** Chapter 210 of the General Laws is hereby amended by inserting after section 7 the following section:-

Section 7A. The court shall, whenever reasonable and practical, and based upon a determination of the best interests of the child, ensure that children who are in the process of being adopted, or who have been the subject of a final decree of adoption, and who are separated from siblings who are either in foster or pre-adoptive homes, or in the homes of parents or extended family members, or who have been adopted by another family, have access to, and visitation rights with, such siblings.

The courts shall determine, at the time of initial placements wherein children and their siblings are separated through placements in foster, pre-adoptive or adoptive care, that such visitation rights be implemented through a schedule of visitations or supervised visitations, to be arranged and monitored through the appropriate public or private agency, and with the participation of the foster, pre-adoptive or adoptive parents, or extended family members, and other parties who are relevant to the preservation of sibling relationships and visitation rights. Periodic review shall be conducted, so as to evaluate the effectiveness and appropriateness of the visitations between siblings placed in care.

Any child who has attained the age of 12 years, may request visitation rights with siblings who have been separated and placed in care or have been adopted in a foster or adoptive home other than where the child resides.

**SECTION 132.** Section 1 of chapter 211B of the General Laws is hereby amended by striking out the word "forty-two", inserted by section 472 of chapter 151 of the acts of 1996, and inserting in place thereof the following:- 44.

**SECTION 133.** Section 2 of said chapter 211B is hereby amended by striking out the word "forty-four", inserted by section 473 of said chapter 151 and inserting in place thereof the following:- 46.

**SECTION 134.** The second paragraph of section 9A of said chapter 211B, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "Chelsea", in line 18, the following words:- , in the municipal court of the Brighton district.

**SECTION 135.** Said second paragraph of said section 9A of said chapter 211B, as so appearing, is hereby further amended by inserting after the fifth sentence the following sentence:- In the probate and family court of Suffolk county one (1) court officer shall be designated by the first justice of said court as chief court officer.

**SECTION 136.** Section 5 of chapter 211F of the General Laws, as appearing in section 9 of chapter 12 of the acts of 1996, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The chief justice shall submit an annual report no later than January 15 of each year, commencing January 15, 1998, 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.

**SECTION 137.** Section 3C of chapter 217 of the General Laws is hereby amended by striking out the word "six", inserted by section 477 of chapter 151 of the acts of 1996, and inserting in place thereof the following:- 7.

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**SECTION 138.** Chapter 217 of the General Laws is hereby amended by striking out section 23A, as amended by section 478 of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

Section 23A. In addition to the first assistant registers of probate provided for in section 23, the first justices of the respective courts of the probate and family court department for the following counties may, with the approval of the chief justice of the probate and family court appoint, and may, with the approval of said chief justice, remove assistant registers with the same powers and duties. Said appointments shall be as follows:

Barnstable, two assistant registers

Berkshire, one assistant register

Bristol, five assistant registers

Essex, three assistant registers

Hampden, three assistant registers

Hampshire, one assistant register

Middlesex, five assistant registers

Norfolk, five assistant registers

Plymouth, three assistant registers

Suffolk, five assistant registers

Worcester, four assistant registers

**SECTION 139.** Section 29F of said chapter 217, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “of six thousand dollars” and inserting in place thereof the following words:- an amount equal to fifteen per cent of the annual salary of the Worcester county register of probate.

**SECTION 140.** Chapter 218 of the General Laws is hereby amended by striking out section 10, as most recently amended by section 481 of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

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 8 of chapter 211B, 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 53. 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 60,000 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 Gardner

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district court of eastern Hampden  
district court of western Hampden  
eastern Hampshire  
district court of Marlborough  
district court of Natick  
first district court of eastern Worcester  
second 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  
central district court of Berkshire  
district court of Franklin  
district court of Holyoke  
district court of Leominster  
district court of central Middlesex  
first northern district court of Middlesex  
district court of western Norfolk  
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  
second district court of Bristol  
fourth district court of Bristol  
district court of Fitchburg  
district court of Hampshire  
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  
district court of Peabody  
third district court of Plymouth

Four assistant clerks with salaries payable by the commonwealth may be appointed in:

municipal court of Brookline  
East Boston district court  
district court of Chelsea  
municipal court of the South Boston district  
first district court of eastern Middlesex  
district court of northern Norfolk  
second district court of Plymouth



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fourth district court of Plymouth

Five assistant clerks with salaries payable by the commonwealth may be appointed in:  
municipal court of the Brighton district

first district court of Bristol

southern district court of Essex

district court of Lawrence

fourth district court of eastern Middlesex

Six assistant clerks with salaries payable by the commonwealth may be appointed in:

third district court of Bristol

municipal court of the Charlestown district

first district court of Essex

central district court of northern Essex

first district court of southern Middlesex

district court of Somerville

municipal court of the West Roxbury district

Seven assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Brockton

district court of Lowell

Eight assistant clerks with salaries payable by the commonwealth may be  
municipal court of the Dorchester District

Nine assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of East Norfolk

central district court of Worcester

Ten assistant clerks with salaries payable by the commonwealth may be appointed in:

third district court of eastern Middlesex

district court of Springfield.

Twelve assistant clerks with salaries payable by the commonwealth may be appointed in:

municipal court of the Roxbury district

One of the 12 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 8 of chapter 211B.

Each assistant clerk appointed prior to January 1, 1987 under the authority of this section and serving continuously in such appointment thereafter shall be entitled to 30 days vacation leave and 30 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 60 and the total amount of sick leave

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so accumulated shall not exceed 180 days; and provided, further, that no additional such days shall be accumulated on or after January 1, 1987 except in accordance with the policies and procedures established by the chief justice for administration and management pursuant to section 8 of chapter 211B. 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 8.

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
- municipal court of the West Roxbury district.

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 102C of chapter 231. 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 141.** The first paragraph of section 57 of said chapter 218, as appearing in the 1994 Official Edition, is hereby amended by striking out, under the caption Franklin and Hampshire Counties the first and second subparagraphs and inserting in place thereof the following four subparagraphs:-

held at Northampton, within the same territorial limits as are prescribed for the criminal jurisdiction of the Northampton division of the district court department, as the chief justice of the juvenile court may determine.

held at Greenfield, within the same territorial limits as are prescribed for the criminal jurisdiction of the Greenfield division of the district court department, as the chief justice of the juvenile court may determine.

held at Orange, within the same territorial limits as are prescribed for the criminal jurisdiction of the Orange division of the district court department, as the chief justice of the juvenile court may determine.

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held at Ware, within the same territorial limits as are prescribed for the criminal jurisdiction of the Ware division of the district court department, as the chief justice of the juvenile court may determine.

**SECTION 142.** Section 58 of said chapter 218 is hereby amended by striking out the fourth paragraph, as most recently amended by section 482 of chapter 151 of the acts of 1996, and inserting in place thereof the following paragraph:-

Each division shall have a clerk, who shall be appointed by the governor, with the advice and consent of the council and who shall hold office during good behavior, subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. The Suffolk county division held at Boston shall have a first assistant clerk and said division shall have seven assistant clerks; the Barnstable county division held at Plymouth shall have a first assistant clerk and said division shall have an assistant clerk; the Bristol county division shall have a first assistant clerk and three assistant clerks; the Franklin and Hampshire counties division shall have an assistant clerk; the Berkshire and Hampden counties division held at North Adams shall have an assistant clerk; the Middlesex county division shall have a first assistant clerk; the Norfolk county division held at Quincy shall have an assistant clerk; and the Worcester county division shall have a first assistant clerk and an assistant clerk. Said first assistant clerks and assistant clerks shall be appointed by the clerks of said courts, with all such appointments subject to approval by the chief justice for administration and management with respect to personnel standards promulgated under section 8 of chapter 211B.

**SECTION 143.** Section 4 of chapter 221 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "Bristol", in line 4, the following word:- , Dukes.

**SECTION 144.** Chapter 221 of the General Laws is hereby amended by striking out section 5, as most recently amended by section 483 of chapter 151 of the acts of 1996, and inserting in place thereof the following paragraph:-

Section 5. In addition to the assistant clerks provided for in section 4, the clerks of the courts for the following counties may, subject to the approval of the chief justice for administration and management as to compliance with personnel standards promulgated pursuant to section 8 of chapter 211B, appoint assistant clerks with the same powers and duties. Said appointments shall be as follows:

Barnstable, one assistant clerk  
Bristol, nine assistant clerks  
Essex, nine assistant clerks  
Hampden, eight assistant clerks  
Norfolk, eight assistant clerks  
Middlesex, 24 assistant clerks  
Plymouth, six assistant clerks  
Worcester, 11 assistant clerks

Suffolk, (a) superior court department, by the clerk of the superior court department for criminal business, twenty assistants; (b) superior court department, by the clerk of the superior court department for civil business, twenty-one assistants; (c) supreme judicial court, by the clerk of the supreme judicial court for said county, a second assistant clerk, designated from his office force and a third assistant clerk, designated from his office force.

**SECTION 145.** Section 94 of chapter 221 of the General Laws, as most recently amended by section 18 of chapter 120 of the acts of 1995, is hereby further amended by striking out the first paragraph under the caption Supreme Judicial Court for Suffolk County, and inserting in place thereof the following paragraph:-

The salary of the clerk of the supreme judicial court for Suffolk county shall be 81.57 per cent of the salary of the chief justice of the supreme judicial court and shall be paid, subject to appropriation, by the commonwealth. The salary of the first assistant clerk of the supreme judicial court for Suffolk county shall be 89.25 per cent of the salary of said clerk and shall be paid, subject to appropriation, by the commonwealth. The salary of the assistant clerks of the supreme judicial court for Suffolk county shall be 78.27 per cent of the salary of said clerk and shall be paid, subject to appropriation, by the commonwealth.

**SECTION 146.** The definition of "Crime" in section 1 of chapter 258C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- Crime shall apply to an act occurring within the commonwealth, and to an act of terrorism, as defined in 18 USC section 2331, occurring outside the United States or territories against a resident of the commonwealth.

**SECTION 147.** Section 3 of chapter 279 of the General Laws, as most recently amended by section 498 of chapter 151 of the acts of 1996, is hereby further amended by adding the following paragraph:-

Notwithstanding any restriction contained in the preceding paragraph, if a probation officer has probable cause to believe that a person, placed under probation supervision or in the custody or care of a probation officer as the result of being convicted of a crime punishable by incarceration, has violated the conditions of his probation, the probation officer may arrest the probationer or may issue a warrant for the temporary custody of the probationer for a period not to exceed 72 hours, during which period the probation officer shall arrange for the appearance of the probationer before the court at the court's next sitting pursuant to the first paragraph of this section. Such warrant shall constitute sufficient authority to a probation officer and to the superintendent, jailer, or any other person in charge of any jail, house of correction, lockup, or place of detention to whom it is exhibited, to hold in temporary custody the probationer detained pursuant thereto.

**SECTION 148.** Section 4 of chapter 775 of the acts of 1975 is hereby amended by inserting after subsection (a) the following subsection:-

(a½) Notwithstanding the provisions of subsection (a), one representative each from the towns of Ludlow, Hampden and Wilbraham shall be entitled to serve as an additional member of the board of directors, to attend the meetings of said board, and to vote on any matters before the board that affect the town represented by said member; provided, that each such additional member shall be elected by a vote of, and serve at the pleasure of, the



board of selectmen of the applicable town.

**SECTION 149.** Paragraph (b) of section 3 of chapter 372 of the acts of 1984, as amended by section 183 of chapter 60 of the acts of 1994, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- All persons appointed by the advisory board, including members initially appointed, shall be appointed to terms of three years with one term to expire in each year; provided, however, that the term which began on July 1, 1996 and is scheduled to expire on June 30, 1998 shall expire on June 30, 1999; provided further, that the term which began on July 1, 1992 and is scheduled to expire on June 30, 1998 shall so expire; and provided, further, that the term which began on July 1, 1994 and is scheduled to expire on June 30, 2000 shall so expire.

**SECTION 150.** Section 2 of chapter 463 of the acts of 1987 is hereby amended by striking out, in line 3, the words "and ending June thirtieth, nineteen hundred and ninety-seven".

**SECTION 151.** Section 5 of chapter 268 of the acts of 1990 is hereby repealed.

**SECTION 152.** The last paragraph of paragraph (d) of section 8 of chapter 372 of the acts of 1984, added by chapter 261 of the acts of 1991, is hereby amended by striking out, in line 4, the words "ten thousand dollars" and inserting in place thereof the following:- \$30,000.

**SECTION 153.** Chapter 490 of the acts of 1993 is hereby amended by striking out section 9, as most recently amended by section 3 of chapter 451 of acts of 1996, and inserting in place thereof the following section:-

*Section 9.* Subsection (c) of section 142M of chapter 111 of the General Laws, added by section 6 of this act, shall take effect on January 1, 1998. Section 8 shall take effect on December 31, 1997.

**SECTION 154.** Item 2260-8870 of section 2 of chapter 60 of the acts of 1994 is hereby amended by striking out, in lines 11 and 12, the words "said one hundred ten thousand dollars over a period of not more than five years" and inserting in place thereof the following words:- said \$110,000 over a period of not more than ten years.

**SECTION 155.** The first sentence of subsection (f) of said section 110 of chapter 5 of the acts of 1995 is hereby amended by inserting after the word "commissioner", in line 5, the following words:- ; provided, however, that any former recipient, whether or not he has received assistance for the 24 month period, who is employed and who meets the financial eligibility requirements established by the department in regulations, shall be eligible to receive transitional child care services for a period of one year following termination of benefits provided pursuant to this section.

**SECTION 156.** The second paragraph of subsection (j) of said section 110 of said chapter 5 is hereby further amended by striking out the second sentence, as amended by section 523 of chapter 151 of the acts of 1996, 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 approved pursuant to subsection (h) or (k) or this subsection.

**SECTION 157.** Paragraph (14) of subsection (1) of said section 110 of said chapter 5 is hereby amended by striking out, in lines 8 and 9, the words "until December thirty-first, nineteen hundred and ninety-six".

**SECTION 158.** The fourth paragraph of section 309 of chapter 38 of the acts of 1995 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Departments receiving allocations pursuant to said item 1599-0033 and 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 and filing said approved plan with the house and senate committees on ways and means; provided, however that said secretary may approve a spending plan which authorizes a department to expend its revenue maximization allocation by means of an interagency service agreement with another state entity, and which otherwise meets the requirements of this section.

**SECTION 158A.** Section 341 of said chapter 38 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Said commission shall report its recommendations to the clerks of the house of representatives and the senate on or before June 30, 1998.

**SECTION 159.** Section 86 of chapter 120 of the acts of 1995, as amended by section 63 of chapter 204 of the acts of 1996, is hereby further amended by inserting after the third sentence the following sentence:- Said special commission is hereby authorized to grant from the amount appropriated for its use a sum not to exceed \$25,000 to repair ancient monuments at the site of Burial hill in the town of Plymouth.

**SECTION 160.** Item 0699-0090 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out the figure "271,379,000" and inserting in place thereof the figure:- 294,379,000.

**SECTION 161.** The third sentence of the second paragraph of section 564 of said chapter 151 is hereby amended by striking out the words "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" and inserting in place thereof the following words:- The regulations shall be effective on, and shall apply to all social workers hired on or after, January 1, 1998, or such earlier time as the collective bargaining representatives of the commonwealth and of the social workers employed by the department have bargained to agreement or impasse, as determined by the board of conciliation and arbitration pursuant to section 9 of chapter 150E of the General Laws, over the impact of such regulations.

**SECTION 162.** The fourth sentence of said second paragraph of said section 564 of said chapter 151 is hereby further amended by striking out the words "nineteen hundred and ninety-seven and nineteen hundred and ninety-eight" and inserting in place thereof the following words:- 1998 and 1999.

**SECTION 163.** Section 75 of chapter 204 of the acts of 1996 is hereby repealed.

**SECTION 164.** Chapter 353 of the acts of 1996 is hereby amended by inserting after section 9 the following section:-

*Section 9A.* Notwithstanding any general or special law to the contrary, an expired determination of need authorization for a long-term care project granted pursuant to section 25C of chapter 111 of the General Laws, within a 25 mile radius of the town of Belchertown shall be transferred by the department of public health to the corporation and shall be implemented within a period to be specified by said department.

**SECTION 165.** The last paragraph of section 64 of chapter 365 of the acts of 1996 is hereby amended by adding the following sentence:- Effective July 1, 1997, the workplace modernization corporation known as the Bay State Skills Corporation/Industrial Services Program shall be known as the Corporation for Business, Work, and Learning; provided, however, that the primary mission of said corporation shall be to serve the needs of working and job-seeking residents of the commonwealth.

**SECTION 166.** Notwithstanding any provision of chapter 7 of the General Laws or chapter 15A of the General Laws to the contrary, any public institution of higher education, as defined in chapter 15A of the General Laws, any community college or community college affiliate as defined in section 10 of chapter 15A of the General Laws and any other college, university or institution of higher education, public or private, located within the commonwealth of Massachusetts shall hereby authorized and empowered to enter, in its own name, into long-term leases not exceeding 30 years for space in any educational facility or center for educational facilities owned by any public or quasi-public agency, entity or educational foundation constructed on that parcel of land owned by the county of Plymouth located at Obery Street, Plymouth, Massachusetts.

**SECTION 167.** Notwithstanding the provisions of section 30 of chapter 29 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 168.** Notwithstanding the provisions of section 17 of chapter 44 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



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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 645 of the acts of 1948 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 169.** Notwithstanding the definition of "Net school spending" in section 2 of chapter 70 of the General Laws, for the purpose of calculating the minimum required local contribution for fiscal year 1998, pursuant to said chapter 70, 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 1994. 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 1994. If there is any conflict between the provisions of this section and the distributions listed in section 3, the provisions of said section 3 shall control.

**SECTION 170.** Notwithstanding the provisions of section 31 of chapter 81 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 2, shall be distributed in fiscal year 1998 in the same proportion as the fiscal year 1997 distribution of said Highway Fund reimbursements.

**SECTION 171.** Notwithstanding the provisions of section 6 of chapter 211D of the General Laws, the committee for public counsel services is hereby authorized and directed to continue 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 119 of the General Laws, child in need of services cases pursuant to section 39E of chapter 119 of the General Laws, actions to dispense with parental consent for adoption pursuant to chapter 210 of the General Laws, and guardianship of minor petitions pursuant to chapter 201 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 January 15, 1998, 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 1, 1996 to June 30,



1998; and, provided further, that said report may be filed in lieu of the report that is otherwise required to be filed on or before September 15, 1997.

**SECTION 172.** Notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, 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.

**NO SECTION 173.**

**SECTION 174.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department 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 7004-0099 in section 2; provided, that as a condition of eligibility or continued occupancy by an applicant or a tenant said department 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 department 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 department 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 director of the department of housing and community development is hereby authorized to enter into an interdepartmental 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 175.** Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission is hereby authorized and directed to ensure that the sponsor of any concert or other event held at the Hatch Shell, so-called, in the city of Boston:

(1) shall provide for the number of detailed police officers to be present on the Hatch Shell site and adjacent property of said commission which is deemed necessary by the colonel of the state police or his designee to assure safety, security and the orderly flow of pedestrian and vehicular traffic; and

(2) shall provide for the number of detailed police officers to be present on the streets adjacent to said Hatch Shell site, under the care and control of the city of Boston which is deemed necessary by the police commissioner of said city or his designee to assure safety, security and the orderly flow of pedestrian and vehicular traffic. The provisions of this section shall not apply to any concert or other event held at the Hatch Shell which is sponsored or co-sponsored by the commonwealth or the metropolitan district commission.

**SECTION 176.** Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission is hereby authorized and directed not to issue permits for the use of properties under the control of the metropolitan district commission parks and recreation department pursuant to item 2440-0010 of section 2 including, but not limited to, the Hatch Shell, so-called, or allow the holding of concerts or any other events to any person who owes money for police, security, cleanup or other services to said commission, or any other state or municipal agency for any previous concert or event held at said Hatch Shell.

**SECTION 177.** There shall be established and set up on the books of the commonwealth a separate fund to be known as the Natural Resource Damages Trust Fund to be expended by the executive office of environmental affairs. Said fund shall be expendable without further appropriation for the purpose of funding natural resource restoration, replacement or acquisition of equivalent natural resources, and other actions related thereto including but not limited to natural resource damage assessment, natural resource damage recovery, and, if necessary, the costs of personnel and administration of studies or related activities, conducted pursuant to the secretary's authority as trustee for natural resources of the commonwealth pursuant to section 5 of chapter 21E of the General Laws, sections 23 to 27, inclusive, of chapter 130 of the General Laws, section 42 of chapter 131 of the General Laws, 42 USC § 1907(f), 33 USC § 1321, 33 USC § 2706 or any other relevant and appropriate authority.

**SECTION 178.** It is the sense of the general court that the appropriation for item 0611-5510 reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws shall be increased by 20 per cent in the current fiscal year and the next four fiscal years so that the gap between the current year's proposed appropriation and full funding of said item will be closed in fiscal year 2002.

**SECTION 179.** 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 in the city of Pittsfield; Cambridge hospital in the city of Cambridge; New England Deaconess hospital in the city of Boston; or Providence hospital in the city of Holyoke, are not negotiated and paid pursuant to the terms of the interdepartmental 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 interdepartmental 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 180.** There is hereby established on the books of the commonwealth a fund to be known as the Asbestos Cost Recovery Fund. Notwithstanding the provisions of any general or special law to the contrary, all sums awarded or received by the commonwealth, after the payment of fees and expenses, as a result of settlement, trial or judgment in the case of *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 181.** 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 12 of chapter 7A of the General Laws.

**SECTION 182.** (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 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 1998. Based on the criteria outlined in this section, the department shall recalculate the minimum required local contributions for a



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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 nonschool 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 not later than October 1, 1997 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 30, 1998, 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 1, 1997, 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 1995 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.



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(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 3 of chapter 214 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 70; provided, 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 1998 under said chapter 70 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.

**SECTION 183.** Notwithstanding any general or special law to the contrary, if the secretary of the executive office of elder affairs, after consultation with the secretary of administration and finance, determines on or before July 1, 1997, that based upon enrollment as of such date, projected spending for senior pharmacy assistance benefits pursuant to section 16B of chapter 118E of the General Laws for fiscal year 1998 shall not exceed \$25,000,000, the division of medical assistance and the executive office of elder affairs shall:

(1) allow eligible persons whose annual income does not exceed 150 per cent of the federal poverty level to enroll in said senior pharmacy assistance program for fiscal year 1998; and

(2) extend the enrollment period for such program until August 31, 1997.

Notwithstanding the provisions of this section, said division and said executive office shall not approve applications which would cause program expenditures to exceed amounts appropriated therefor.

**SECTION 184.** Notwithstanding the provisions of any general or special law to the contrary, no city, town or regional school district shall receive less than \$75 per student under the provisions of chapter 70 of the General Laws for fiscal year 1998.

**SECTION 185.** The workers' compensation unit within the executive office of administration and finance, including investigators and the litigation unit, is hereby transferred to the human resources division. All employees of said unit are hereby transferred to the human resources division without loss of any rights or benefits. The

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records and property of said unit are hereby transferred to the ownership and control of the human resources division. All unexpended funds of said unit on the effective date of this act are transferred to the account of the human resources division for the use of said unit.

**SECTION 186.** Notwithstanding the provisions of any general or special law to the contrary, the state treasurer is hereby authorized to pay for items under section 38C of chapter 29 of the General Laws from items 0699-0015 and 0699-9100; provided, however, that such payments shall pertain to the bonds, notes or other obligations authorized to be paid from each item.

**SECTION 187.** The departments of mental retardation, public health, and education are hereby authorized and 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 235 of chapter 38 of the acts of 1995.

**SECTION 188.** The executive office of elder affairs is hereby authorized and directed to obligate not less than \$125,000 for the Somerville-Cambridge Elder Services for case management services for fiscal year 1998.

**SECTION 189.** 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 18 of chapter 118G 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 appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds pursuant to this section.

**SECTION 190.** 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

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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 118G 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 18 of said chapter 118G or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G 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 said section 18 of said chapter 118G. 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 191.** The Massachusetts Water Resources Authority is hereby authorized and directed to continue the current emergency water agreement, its requirements and obligations, as entered into with the Tri-Town Board of Water, created by chapter 217 of the acts of 1885 until October 1, 1999.

**SECTION 192.** Notwithstanding any general or special law to the contrary, the commissioner of the division of capital planning and operations is hereby authorized and directed, in consultation with the administrative office of the trial court department, to establish and implement on or before August 1, 1997 expedited procedures for advertising, bidding, approving and executing the 15-year leases for the juvenile courts that have been authorized by the asset management board. On or before August 1, 1997, said commissioner, in consultation with said administrative office, shall file a report with the inspector general, the joint committee on the judiciary and the house and senate committees on ways and means describing the expedited procedures that have been established and implemented.

**SECTION 193.** Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is hereby authorized to transfer from the following items in section two of this act such amounts as would otherwise be unexpended on June 30, 1998, to those of the following said items which would otherwise have insufficient amounts to meet debt service payments for the fiscal year ending June 30, 1998; provided, however, that each amount transferred shall be charged to such funds as specified in the item to which said



amount is so transferred: 0699-0015, 0699-0090, 0699-0100 and 0699-9100.

**SECTION 194.** 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 personnel administrator or his designee shall notify agencies within ten days of the enactment of this act as to the change in calculation of workers' compensation chargebacks from fiscal year 1997. The personnel administrator shall notify agencies not later than 14 days after the effective date of this act as to the amount of their estimated workers' compensation costs for the fiscal year beginning July 1, 1997, and shall require all agencies to encumber funds in an amount 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 30, 1997, and may include such additional sums as are deemed necessary by regulations promulgated pursuant to this section. Said personnel administrator shall revise the estimated workers' compensation costs for each agency on the first day of each quarter of the fiscal year commencing July 1, 1997. Within 30 days after the effective date of this act, for any agency that fails to encumber funds sufficient to meet the annual estimated charges, the comptroller is hereby authorized and directed to encumber funds in an amount sufficient to meet the annual estimated 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 per cent 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 1750-0105 in section 2B of this act for the purposes of workers' compensation paid with respect to public employees for any costs, including administrative costs, incurred during the fiscal year. The human resources division may expend an amount collected for all agencies under this section not to exceed \$45,709,392 for hospital, physician, benefits and other costs, including administrative and personnel costs, without further appropriation. Not later than 14 days after the effective date of this act and on the first day of each succeeding quarter during the fiscal year, the division shall bill agencies for 25 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 personnel administrator is authorized to establish regulations and procedures to implement the provisions of this section.

**SECTION 195.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, without further appropriation, \$91,874,223 from the Transitional Aid to Needy Families Fund to the Child Care Fund, not later than June 30, 1998.

**SECTION 196.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, without further appropriation, \$45,937,112 from the Transitional Aid to Needy Families Fund to the Social



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Services Program Fund, or to said Social Services Program Fund via the Child Care Fund if so required by federal law, not later than June 30, 1998.

**SECTION 197.** 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 and the University of Massachusetts 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, 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 administration and finance.

**SECTION 198.** Notwithstanding the provisions of any general or special law to the contrary, the criminal justice training council is hereby authorized and directed to charge \$1,800 per recruit for training programs operated by the council for recruits of city and town police departments who begin on or after July 1, 1997. The state comptroller is hereby authorized and directed to transfer \$1,800 multiplied by the number of such recruits from each municipality from the local aid payments of the municipality in which said recruit shall serve to the local aid fund. 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 30 days after completion of said transfer. Upon completion of training, said training fee of \$1,800 shall be deducted from the recruit's wages in eighteen equal monthly installments or as otherwise negotiated.

**SECTION 199.** (a) Notwithstanding the provisions of any general or special law to the contrary, on or before July 15, 1997, the department of transitional assistance shall by emergency regulations develop and implement a program, pursuant to and in satisfaction of section 6(o)(2) of the Food Stamp Act of 1977, 7 U.S.C. section 2015(o)(2), as appearing in section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, pursuant to which individuals subject to the work requirements set forth in said section 6(o) may satisfy such requirements by either: (1) complying with the provisions of 106 CMR 362.320 through 362.340, inclusive, as revised effective December 16, 1996, to the extent such provisions are consistent with this section; or (2) participating in a program of community service in which a position is available, or working in a vacant position to which no laid off, terminated or currently employed person has a statutory or contractual right to instatement or reinstatement, for the number of hours per month that is determined by dividing the dollar value of such individual's monthly food stamp allotment by the state minimum wage rate or the federal minimum wage rate, whichever is greater.

(b) To the extent not precluded by federal law, the department shall by regulation provide that the following persons shall be deemed to be participating in and complying with

such program or programs: persons making good faith, diligent and persistent efforts, as reasonably determined by the department, to obtain a placement in a program pursuant to clause (1) or (2) of subsection (a); persons 20 years of age or younger who are regularly attending high school or participating in a high school graduate equivalency degree program and other categories of persons reasonably determined by the department.

**SECTION 200.** (a) Notwithstanding the provisions of any general or special law to the contrary, there is hereby established within the department of labor and workforce development the office of the deputy director of workforce development. The director, after thorough consultation with the MassJobs Council and with the approval of the governor, shall appoint the deputy director of workforce development, who shall be the chief job training officer of the commonwealth. Said deputy director shall be a person with not less than five years of experience in the delivery of workforce development services. The position of deputy director shall be classified in accordance with section 45 of chapter 30 of the General Laws and the salary of said deputy director shall be determined in accordance with section 46C of said chapter 30. The deputy director shall devote his full time during business hours to the duties of the office and shall not engage in other employment or business during such hours.

(b) Notwithstanding the provisions of any general or special law to the contrary, the president of the corporation for business, work and learning and the director of the one-stop career center office, so-called, shall be under the supervision and control of said deputy director with respect to the administration of job training services in the commonwealth. As used in this section and in section 201, "job training" shall mean both labor exchange services or core services, so-called, and substantive skills training, including adult basic education and other education-related services necessary to prepare persons to obtain the full benefit of substantive skills training. With respect to the administration of such services, the board of directors of the corporation for business, work and learning shall be an advisory board to the president of said corporation. On or before September 1, 1997, the deputy director, after consultation with said president and said executive director, shall file with the clerks of the house and senate any proposed legislation necessary to implement the deputy director's supervision and control with respect to such services.

(c) On or before December 1, 1997, the MassJobs Council, in consultation with and with the assistance of the deputy director, the secretary of administration and finance and the budget director, the division of employment and training, the executive office of health and human services and the constituent agencies and departments thereof, the department of education, the corporation for business, work and learning, the regional employment boards and the service delivery areas, shall submit to the joint committee on commerce and labor and the house and senate committees on ways and means a comprehensive report and five-year plan for the efficient and effective delivery of job training services in the commonwealth. Such report shall: (1) analyze and supply documentation of the programs, costs, benefits and any problems associated with the system for delivering job training services in the commonwealth as it existed prior to implementation of the one-stop career center initiative, so-called, including an analysis of the total annual cost of such system in

state and federal dollars and the percentage of such cost that was spent on labor exchange services as opposed to actual skills training services; (2) analyze and provide documentation of the programs, costs, benefits and any problems associated with the system for delivering job training services in the commonwealth since the implementation of said one-stop career center initiative, including an analysis of the total annual cost of such system in state and federal dollars both currently and as envisioned when the one-stop career center system is fully operational and the percentage of such costs that are and will be spent on labor exchange services as opposed to substantive skills training services, and provide recommendations for improvement in the system; (3) analyze all interagency service agreements between the one-stop career center office and other state agencies to which state funds have been appropriated for job training programs, including an analysis of whether the performance measures contained therein are consistent across the agreements and are properly designed to ensure that appropriate job training services are provided in a timely and effective manner, an analysis of for what the funds dedicated to said career centers under such agreements would have been used by the agency to which the funds were appropriated but for the existence of such agreements, and an analysis of whether the funds could be more effectively spent by the agency to which said funds were appropriated, and provide recommendations for modifications to said agreements; (4) analyze all contracts between the one-stop career center office and individual career center vendors, including an analysis of issues raised by such contracts being fixed price contracts when the stream of federal and state job training dollars available to the one-stop career center office are not fixed, and an analysis of which party or parties to said agreements are liable for any federal cost disallowances related to federally funded job training programs, and provide recommendations for modifications to said agreements, including methods for assuring that revenues do not exceed obligations to the vendors under such agreements; (5) analyze the sources and amounts of past and future planned funding streams for the one-stop career centers and the certainty thereof, including any proposals for generation of revenue by said career centers and an explanation of the reasons under the competitive one-stop career center model the general court is being requested to appropriate substantially more funds for labor exchange services than under the pre-existing system, including an analysis of what services to which categories and numbers of persons are to be provided under the one-stop career center model that were not being provided under the pre-existing system; (6) for each funding stream identified pursuant to item (5), document exactly how the funds received to date by the career centers have been used and, if continued, will be used over the next five years; (7) analyze the costs, benefits and problems associated with implementing a one-stop system for delivery of labor exchange services using a collaborative and co-located model, so-called, including a comparison of the costs, benefits and problems associated with use of a competitive model, so-called, and a comparison of the costs, benefits and problems associated with using private contractors to operate such a system and the costs, benefits and problems associated with using public sector employees to operate such a system, and set forth recommendations concerning the use of said collaborative model with respect to any future one-stop career centers; (8) set forth a five-year plan, including a financing plan, first



assuming continuation of the current federal system for financing job training services and then assuming federal block grant funding, for the continued implementation of the competitive, one-stop career center model, which shall identify the amount and source of all funds to be directed to the one-stop career centers, a proposed and realistic schedule for opening any additional one-stop centers, and any changes in delivery of services that would occur if such plan were implemented; (9) set forth a five-year plan, including a financing plan, first assuming continuation of the current federal system for financing job training services and then assuming federal block grant funding, for the continued implementation of one-stop career centers using a collaborative or a competitive model at the option of each service delivery area, which shall identify the amount and source of all funds to be directed to the one-stop career centers, a proposed and realistic schedule for opening any additional one-stop centers, and any changes in delivery of services that would occur if such plan were implemented; (10) set forth a five-year plan, including a financing plan, for implementing, and improving the effectiveness of, the delivery of job training services in the commonwealth, without the need for annual appropriations in excess of the amounts appropriated for such services in fiscal year 1998, assuming the current federal funding system and then assuming federal block grant funding; (11) analyze whether the one-stop career center initiative, as currently implemented and designed, violates the provisions of sections 52 to 55, inclusive, of chapter seven of the General Laws, and provide copies of any certifications concerning said initiative which have been provided to the state auditor pursuant to section 54 of said chapter seven; (12) set forth a five-year plan, including a financial plan, for implementing a one-stop career center system which would clearly comply with the provisions of said sections 52 to 55, inclusive, assuming that annual state appropriations will not exceed the amounts appropriated for such services for fiscal year 1998; (13) analyze, set for the performance goals by region and targeted population, and set forth a five-year plan for programs in the commonwealth funded by state, federal and private funds that target the employment and training needs of low income and special needs populations and (14) set forth any and all recommendations for improvements to the job training system in the commonwealth over a five-year period, including but not limited to the programs described in item (13), including a financial analysis of the costs associated with each such recommendation. The report must be reviewed and approved by the deputy director for conformity with the requirements of this section prior to its submission to the general court.

**SECTION 201.** (a) Notwithstanding the provisions of any general or special law to the contrary, for the purpose of maximizing the value of job training services so as to assist recipients of transitional aid to families with dependent children to obtain stable employment with the wages and benefits necessary to support their families without such transitional aid, and therefore to move such persons permanently from welfare to work the department of transitional assistance shall perform, in expending funds appropriated in item 4401-1000 of section 2, a basic assessment of each new adult recipient of such transitional aid during the application process, and of each current adult recipient of such aid on or before October 31, 1997, to determine literacy, educational level, work experience and other factors



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relevant to education and training necessary to obtain a high school diploma or graduate equivalency degree or, where the recipient has such a diploma or degree, to obtain the education and skill level that will enable the recipient to obtain stable employment with the wages and benefits necessary to support the recipient's family after termination of such aid. With respect to recipients lacking a high school diploma or graduate equivalency degree, the department shall encourage the recipient to enroll in an appropriate program to enable the recipient to obtain a high school diploma or graduate equivalency degree and, if the recipient elects, shall assist the recipient in assessing an appropriate literacy, adult basic education, graduate equivalency degree or other equivalent program, a program for learning disabled adults or, where the recipient has the prerequisite basic skill level needed for the particular program, a substantive skills program.

(b) Said department, with the assistance of the MassJobs Council, the deputy director of workforce development, and the corporation for workforce training and development, shall use information currently available to said department, said council and said corporation, information available from the department of education, and information from the assessments of adult recipients as it becomes available to determine, subject to meaningful performance standards for job placement and retention, the number of placement slots needed for English as a second language, literacy, adult basic education, graduate equivalency degree and other equivalent programs, programs for learning disabled adults and substantive skills training. The department shall report such number of slots to the joint committee on human services and elderly affairs and the house and senate committees on ways and means on December 1 and April 1 of the fiscal year. Where the number of program slots needed cannot be fully met from sources other than funds in said item 4401-1000 said department shall allocate the funds appropriated in said item 4401-1000 based upon the assessments of the numbers of recipients who, in order to obtain a high school diploma or graduate equivalency degree, would need programs providing English as a second language, literacy, adult basic education, graduate equivalency degree and other equivalent programs, or programs for learning disabled adults, and the number of recipients with a high school diploma or graduate equivalency degree who need remedial education to obtain reading and math skills at a high school graduate level or other education or substantive skills training to enable them to obtain stable employment with wages and benefits necessary to support their families after transitional aid benefits are terminated.

(c) Said department shall not use the funds appropriated in said item 4401-1000 for labor exchange programs that focus on non-substantive job skills, such as resume writing, interviewing, and job search strategies unless and until sufficient slots are otherwise available for all adult recipients assessed, pursuant to paragraph (a), to be in need of and who are prepared to attend English as a second language, literacy, adult basic education, graduate equivalency degree or other equivalent programs, programs for learning disabled adults, substantive skills training, or remedial education.

(d) On or before October 31, 1997, the commissioner of said department, in consultation with and with the assistance of the secretary of the executive office of health and human services, the MassJobs Council, the deputy director of workforce development,

the division of employment and training, the department of education, the corporation for workforce training and development, the regional employment boards and the service delivery areas, shall submit to the joint committees on human services and elderly affairs, the joint committee on commerce and labor and the house and senate committees on ways and means a report which shall: (1) analyze and provide documentation of the existing programs, costs, benefits and problems associated with the existing systems for the delivery of labor exchange services and substantive skills training services, including adult basic education, to recipients of transitional aid to families with dependent children, including an analysis of the effectiveness of the pre-employment and re-employment program and the skills plus program, so-called, an analysis of the effectiveness and systems for coordinating adult basic education services, an analysis of the effectiveness of the job training programs operated pursuant to appropriations to said department including, but not limited to, an analysis of the number of recipients since December 1, 1996 who have received job training services, an analysis of the kinds of job training services they have received, including whether such services involve on-the-job training or apprenticeships, an analysis of the length of the job training programs in which such recipients participated, the cost of such job training programs and identification of the vendors by whom such job training services were provided, an analysis of the number of job placements that occurred, with and without the assistance of one-stop career centers, prior to receipt of any job training services, the number and percentage of such placements which are in full-time and part-time jobs, the number and percentage of such placements which are in jobs in which health insurance and other employee benefits are provided, and the wage rates associated with such placements, an analysis of the number of job placements that occurred, with and without the assistance of one-stop career centers, after receipt of job training services, the number and percentage of such placements which are in full-time and part-time jobs, the number and percentage of such placements which are in jobs in which health insurance and other employee benefits are provided, and the wage rates associated with such placements; (2) review and set forth conclusions and recommendations concerning, methods for maximizing all federal funding available to recipients for job training, adult education, and grants and loans for adult learners at institutions of higher education so as to augment state appropriations to meet the needs of adult recipients; (3) subject to meaningful performance standards for job placement and retention, review and present conclusions and recommendations concerning, all other substantive skills training, adult education and other education programs within the commonwealth that may be used to supplement the programs funded in said item and additional steps that can be taken more effectively to coordinate access to such programs for adult recipients; and (4) be accompanied by recommendations of methods for assisting recipients to obtain stable employment with the wages and benefits necessary to support the recipients' families through more effectively providing meaningful job training services to recipients who currently are subject to the work requirement and the two-year time limit, to recipients who are not currently subject to the work requirement but are subject to the two-year time limit, and to any other recipients, including but not limited to making such services available at hours that do not conflict with hours recipients are working, suggestions for

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methods for more effectively coordinating child care and job training services, and methods for continuing to inform former recipients of available job training and educational opportunities, and assisting them in accessing such services, after they have reached the two-year time limit.

**SECTION 202.** The Massachusetts Bay Transportation Authority is hereby authorized to broadcast public service announcements on the linear electronic displays, so-called, for cities and towns which host MBTA stations.

**SECTION 203.** Notwithstanding any general or special law to the contrary, the department of environmental management and the division of fisheries and wildlife are hereby required to keep the dam at Flint Pond in the town of Tyngsborough intact to prevent drainage of the existing pond.

**SECTION 204.** The Massachusetts Port Authority and the Massachusetts Bay Transportation Authority are hereby authorized and directed to undertake a one-year pilot program to provide flight information at South Station and at the Park Street station, so-called, the State Street station, so-called, and the Government Center station, so-called, for flights arriving at and departing from the General Edward Lawrence Logan International Airport. Said port authority shall be responsible for the cost of said pilot program which shall not exceed \$250,000.

**SECTION 205.** The department of environmental protection is hereby authorized and directed to promulgate regulations on or before January 1, 1998 for a program of greywater recycling by residents of existing residential homes for use in growing-season irrigation. For the purposes of this section, "greywater" shall mean residential wastewater, other than toilet water. The department shall promulgate such regulations to facilitate the use of greywater and to protect the public health and the environment.

**SECTION 206.** There shall be within the University of Massachusetts a University of Massachusetts Extension Board of Public Overseers, with the purpose of advising and assisting the chancellor of the University of Massachusetts at Amherst, in the mission, budget, operation and management of University of Massachusetts Extension programs. Nothing in this section shall directly affect the employment status of personnel.

The board shall consist of a designee of the president of the University; a designee of the chancellor of the University of Massachusetts at Amherst; the commissioner of the department of food and agriculture or his designee; and the following members to be appointed by the governor: four members of the Massachusetts Farm Bureau Federation, Inc. chosen from a list of twelve members submitted by said federation; one member of the Massachusetts 4-H Foundation, Inc., chosen from a list of three members submitted by said organization; one member of the State 4-H advisory committee, chosen from a list of three members submitted by said committee; one member of the Massachusetts Forestry Association, chosen from a list of three members submitted by said association; one member of the Massachusetts Audubon Society, chosen from a list of three members submitted by said society; two members of the Massachusetts Arborists Association, chosen from a list of five members submitted by said association; and one member of the Massachusetts Nutrition Board, chosen from a list of three members submitted by said board. The



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chancellor of the University of Massachusetts at Amherst shall appoint the chair from among the membership of the board. Members of the board shall serve without pay, but shall be reimbursed, subject to appropriation, out of any funds available for the purpose, for necessary expenses incurred in the performance of their official duties.

The appointed members of the board shall serve for terms of five years, except for persons appointed to fill vacancies, who shall serve for the unexpired term. The board shall hold an annual meeting in January and at least three other times during the year. The University of Massachusetts Extension director shall attend all meetings of the board and shall serve as Secretary thereto, but shall have no vote in its deliberation. Eight members of the board shall constitute a quorum. The board may, by vote of its members then in office, adopt a policy for the conduct of business including constitution of board membership. Policies may be amended or repealed by a two-thirds vote of its members.

The director shall prepare an annual budget for board consideration. Said budget shall be adopted by the board and approved by the chancellor of the University of Massachusetts Amherst. The director shall render a complete detailed report annually of activities, outcomes, revenue, and expenditures to the board.

The University on behalf of the board may receive, manage, and disburse grants and donations from government agencies, other colleges and universities, corporations, foundations, associations and individuals for the purpose of funding University of Massachusetts Extension and agricultural research programs. Further, the University on behalf of the board shall be authorized to establish and administer trust funds to support said programs.

**SECTION 207.** The sum of \$166,000 shall be appropriated for the Springfield University of Massachusetts Minority Achievement program at the University of Massachusetts at Amherst in conjunction with the Springfield Public School System.

**SECTION 208.** 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 561 of chapter 151 of the acts of 1996 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 1, 1997, notify in writing each



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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 3 of chapter 123B of the General Laws.

**SECTION 209.** (a) Notwithstanding the provisions of any general or special law to the contrary, a person who is not a citizen of the United States but who is a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641, or is otherwise permanently residing in the United States under color of law, and who applies on or after July 1, 1997 for benefits under chapter 117A of the General Laws, shall be eligible for such benefits only if he: (1) is not eligible for, and has not unreasonably failed to apply for, federal supplemental security income benefits, federally funded transitional assistance to needy families benefits pursuant to subtitle A of Title IV of the federal Social Security Act, unemployment compensation pursuant to chapter 151A of the General Laws, or veterans' services benefits pursuant to chapter 115 of the General Laws; (2) is engaged in efforts to become a citizen of the United States, to the extent he is physically and mentally capable of doing so and if he is eligible to become a citizen within the next three years; and (3) to the extent he is covered by an immigrant sponsor support agreement pursuant to section 231A(a) of the federal Immigration and Nationality Act, 8 U.S.C. section 1183a(a), inserted by section 423 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, takes all reasonable steps to cooperate with the department of revenue and the department of transitional assistance in such agencies' reasonable efforts to enforce any such agreement applicable to the recipient.

(b) Notwithstanding the provisions of subsection (a), persons who receive in fiscal year 1998 a final notice of termination of federal supplemental security benefits because of the provisions of sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, shall receive benefits pursuant to said chapter 117A only pursuant to the provisions of items 4408-2002 and 4408-2003 of section 2 of this act.

(c) The department of transitional assistance shall, on or before July 15, 1997, promulgate regulations implementing this section, including good cause exceptions to clauses (1) to (3), inclusive, of subsection (a), which shall take into account the emergency needs of bona fide residents of the commonwealth and the requirements of section 412(b) of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 U.S.C. section 1622(b).

(d) Notwithstanding the foregoing, the provisions of this section shall be suspended effective on the effective date of any amendments to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which allow all qualified aliens and all persons permanently residing in the United States under color of law to be eligible for federal supplemental security income.

**SECTION 210.** (a) Notwithstanding the provisions of any general or special law to the contrary, on or after July 1, 1997, a person who is not a citizen of the United States, and for whom, pursuant to sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, federal funds may not be used to provide benefits pursuant to chapter 118 of the General Laws, as modified by section 110 of chapter 5 of the acts of 1995, shall not be eligible for benefits pursuant to said chapter 118.

(b) A person who is not a citizen of the United States, and for whom, pursuant to section 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, federal funds may not be used to provide benefits pursuant to said chapter 118, but who is a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641, or is otherwise permanently residing in the United States under color of law, shall be eligible for a separate program of assistance which shall be known as the program of Supplemental Transitional Aid to Families with Dependent Children; provided, however, that such separate program shall exist only so long as the commonwealth's expenditures for said program count toward maintenance of historic expenditures, so-called, pursuant to section 409(a)(7) of the Social Security Act, 42 U.S.C. section 609(a)(7). Such program shall, subject to appropriation, provide to such persons who meet the eligibility standards applicable to the program established pursuant to said chapter 118, except the requirement related to citizenship and availability of federal funding, the same level of benefits as he would be eligible to receive pursuant to said chapter 118 but for his non-citizen status. The number of assistance units receiving such benefits at any one time shall not exceed the number of assistance units comprised of qualified aliens or persons permanently residing in the United States under color of law which were receiving benefits pursuant to said chapter 118 on June 1, 1997, but for which federal funds could not be used to provide such benefits, pursuant to section 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, plus 640. To the maximum extent deemed feasible by the department, persons qualified for the program established by this subsection who were receiving benefits pursuant to said chapter 118 on June 30, 1997 but who are rendered ineligible for such benefits pursuant to subsection (a) shall be automatically transferred to the program provided by this subsection without being required to reapply for such benefits.

(c) A person who was not receiving benefits pursuant to said chapter 118 on June 30, 1997 and applies for benefits pursuant to subsection (b) on or after July 1, 1997 shall be eligible to receive such benefits only if he: (1) is engaged in efforts to become a citizen of the United States, to the extent he is physically and mentally capable of doing so and if he is eligible to become a citizen within the next three years; (2) to the extent he is covered by an immigrant sponsor support agreement pursuant to section 213A(a) of the federal Immigration and Nationality Act, 8 U.S.C. section 1183a(a), inserted by section 423 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, takes all reasonable steps to cooperate with the department of revenue and the department of

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transitional assistance in such agencies' reasonable efforts to enforce any such agreement applicable to the recipient; and (3) has resided in the commonwealth for at least six months prior to his application for such benefits.

(d) The department of transitional assistance, on or before July 15, 1997, shall promulgate regulations implementing this section, which shall include good cause exceptions to clauses (1) and (2) of subsection (c), which shall take into account the emergency needs of bona fide residents of the commonwealth and the requirements of section 412(b) of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 U.S.C. section 1622(b). On or before July 1, 1997, the department shall also notify the house and senate committees on ways and means of the department's calculation of the maximum number of assistance units that may at any one time receive benefits pursuant to the program provided in subsection (b).

(e) Notwithstanding the provisions of this section, eligibility for or receipt of benefits under this section shall qualify as eligibility for or receipt of transitional aid to families with dependent children pursuant to chapter 118 to the extent that eligibility for or receipt of such benefits is a condition of eligibility for or receipt of other benefits, including but not limited to child care services and the employment services program; provided, however, that the provisions of this subsection shall be effective only to the extent that they do not result in the reduction of otherwise available federal funding.

**SECTION 211.** (a) Notwithstanding the provisions of any general or special law to the contrary, eligibility for benefits pursuant to chapter 118E of the General Laws shall be determined according to the eligibility requirements applicable under the state plan for medical assistance, pursuant to 42 U.S.C. sections 1396a to 1396v, inclusive, as in effect on July 16, 1996, and the provisions of section 1931(b) of the Social Security Act, 42 U.S.C. section 1396u-1, as appearing in section 114 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, including any such requirements with respect to immigration status that were in effect on July 16, 1996, subject only to the provisions of chapter 203 of the acts of 1996, subsequent legislative amendments, and such other modifications as may be promulgated in regulations by the division of medical assistance pursuant to the provisions of said sections 1396a through 1396v, inclusive, as amended, but without regard to the provisions of section 1931(b)(3) of the Social Security Act, the availability of federal funding for such benefits, or the provisions of sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. sections 1611, 1612 and 1613.

(b) Notwithstanding the provisions of subsection (a), a person who is not a citizen of the United States, but who either is a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641, or is otherwise permanently residing in the United States under color of law, and who is not residing in a nursing facility, as defined by 42 U.S.C. section 1396r, as of June 30, 1997, shall be eligible for long-term care services pursuant to said chapter 118E only if (1) he was receiving services pursuant to said chapter 118E on or before June 30, 1997; (2) his application for long-term care services was pending on July 1, 1997 or (3)



federal funds are available for the cost of providing such services.

**SECTION 212.** Notwithstanding the provisions of any general or special law to the contrary, to the maximum extent allowed by federal law, the commonwealth, including any department, board, commission, division or authority, or subdivision thereof may, subject to appropriation, provide state or local public benefits within the meaning of section 411(c) of the federal Personal Responsibility and Work Opportunity Act to any person, whether or not such person is a citizen or is a qualified alien within the meaning of section 431 of said act, 8 U.S.C. section 1641, but only to the extent that such person otherwise satisfies the applicable criteria for such benefits.

**SECTION 213.** (a) Notwithstanding the provisions of any general or special law to the contrary, effective July 1, 1996, there is hereby established a temporary citizenship assistance program, the purpose of which shall be to assist in becoming citizens of the United States those persons who have been determined ineligible for federally funded benefits because of their status as non-citizens pursuant to section 401, 402 or 403 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. sections 1611, 1612 or 1613. Said program shall be designed and administered by the office for refugees and immigrants; provided, however, that said program: (1) shall be in existence for a period of no more than three years; (2) shall provide assistance to persons who are eligible to become citizens of the United States within three years; (3) shall afford assistance to persons who have been determined ineligible for federally funded benefits solely because of their status as non-citizens and are currently receiving state-funded benefits which could be replaced in whole or in part by federally funded benefits if such persons became citizens of the United States; (4) may be funded not only through state appropriations but also through matching financial or in-kind contributions by private organizations or local government agencies; and (5) shall not be an entitlement program and shall be subject to state appropriation. Nothing in this section shall be construed to prevent the office for refugees and immigrants from providing citizenship assistance with federal or other funds not appropriated from the General Fund to persons not qualifying for the program established pursuant to this section; provided, however, that the provision of such assistance shall not interfere with the delivery of assistance to such qualifying persons.

(b) On or before October 1, 1997 and April 1, 1998, the office of refugees and immigrants shall file with the joint committee on human services and elderly affairs and the house and senate committees on ways and means a report describing the program in detail and documenting the number of persons assisted and the kinds of services received.

**SECTION 214.** Notwithstanding the provisions of any general or special law to the contrary, effective July 1, 1997, the department of transitional assistance shall document, based on information provided by the applicants to be verified as the department reasonably deems necessary, the number and percentage of new applicants for benefits pursuant to 209 and 210 and chapters 117A and 118 of the General Laws who have moved into the commonwealth from another state within the six months preceding their applications. The department shall also document the number of cases closed due to a recipient moving out of state or otherwise no longer receiving such benefits. The department shall report this data



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to the house and senate committees on ways and means on a monthly basis commencing not later than August 15, 1997.

**SECTION 215.** Notwithstanding the provisions of any general or special law to the contrary, any person applying on or after July 1, 1997 for benefits pursuant to chapter 117A of the General Laws, chapter 118 of the General Laws, as modified by section 110 of chapter 5 of the acts of 1995, or section 209 or 210, shall, as a condition of establishing residency in the commonwealth and eligibility for such benefits: (1) live in the commonwealth for at least 60 consecutive days prior to receiving such benefits; and (2) not have moved into the commonwealth for the purpose of obtaining such benefits. On or before July 15, 1997, the department of transitional assistance shall promulgate emergency regulations implementing this section, which shall include reasonable good cause exceptions to clause (1) to address the emergency needs of bona fide residents of the commonwealth.

**SECTION 216.** Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission shall not rent ice time to private colleges or universities until all requests of local youth hockey groups and local high schools have been honored as requested and public skating hours have been scheduled to include a minimum of two hours each on Friday and Saturday evenings and two hours on Sunday afternoons.

**SECTION 217.** Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission is hereby authorized and directed to develop a plan to complete repairs to the metropolitan district commission skating rinks, provided, however, that said plan shall focus on repairing existing rinks. Said plan shall include, but not be limited to, determining alternative funding sources.

**SECTION 218.** Notwithstanding the provisions of any general or special law to the contrary, each city or town shall establish a wetlands protection fund for the deposit of all fees paid to the city or town under section 40 of chapter 131 of the General Laws. The fund shall be expended by the conservation commission without further appropriation for the purpose of defraying the costs of administering and enforcing said section 40 of said chapter 131, but only with the written approval of the mayor in cities, or city manager in plan E cities, or the selectmen in towns, or the town manager in towns which have adopted the town manager form of government.

**SECTION 219.** Notwithstanding the provisions of any general or special law to the contrary, items 4400-1000, 4400-1100, 4400-8888, 4400-9999, 4401-1000, 4403-2000, 4403-2110 and 4403-2120 in section 2 shall be charged to the Transitional Aid to Needy Families Fund established by this act, according to the approximate percentage established in the fund split, so-called, for each such item. Said approximate percentage so applied to each such item may range not more than 5 percentage points above or below said approximation for the purposes of achieving maintenance of historic expenditures, so-called, minimizing federal interference with the provisions of state law, and maximizing the effective use of federal funds consistent with the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called, and chapter 5 of the acts of 1995. Said percentage so applied shall be based upon certification to the comptroller by the department of transitional assistance that said percentage reflects the

appropriate distribution of actual expenditures necessary to achieve said purposes. Said percentage so charged shall be subject to the approval of the secretary of administration and finance. Expenditures not charged to said Transitional Aid to Needy Families Fund shall be charged by the comptroller to the General Fund for each such item. The department shall report quarterly to the house and senate committees on ways and means on the expenditures charged to each such fund and the reasons therefore, including, but not limited to, eligibility requirements established by said federal act and said chapter 5 and the relationship between the caseload distribution and costs. Said reports shall be filed not less than 30 days following the close of each state fiscal quarter.

**SECTION 220.** Notwithstanding the provisions of any general or special law to the contrary, if an amount earmarked within any item of section 2 is insufficient to accommodate the full value of the rate increase provided under item 1599-6895 of section 2 of chapter 151 of the acts of 1996, said earmark may be increased to accommodate said rate increase, subject to the approval of the secretary of administration and finance. In no case, however, shall the amount of any earmark in section two of this act be decreased. The secretary of administration and finance shall report to the house and senate committees on ways and means on all such increases not more than 30 days after such increases have been approved.

**SECTION 221.** Notwithstanding the provisions of section 19 of chapter 18B 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 Fund pursuant to the provisions of section 18 of chapter 18B of the General Laws and interest paid on said account on or after July 1, 1993, 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 222.** Notwithstanding the provisions of any general or special law to the contrary, funds in the Commonwealth Sewer Rate Relief Fund, established by section 22 of chapter 29 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 1, 1990, 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 U.S.C. section 1251 et seq., and sections 26 to 53, inclusive, of chapter 21 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 275 of the acts of 1989 which exceeded \$50,000,000 by June 30, 1995

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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 laws; 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 20 per cent 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 1998 shall be disbursed on or before March 31, 1998. 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 it has reduced sewer charges to reflect its share of any such aid.

**SECTION 223.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of the executive office of health and human services and the disabled persons protection commission shall jointly establish uniform procedures for all noncriminal investigations conducted under chapter 19C of the General Laws and shall require that each state agency that investigates a report of abuse pursuant to said chapter 19C shall adopt and follow such procedures in conducting its investigations; provided further, that the disabled persons protection commission, together with the secretary of the executive office of health and human services and the secretary of the executive office of administration and finance, are hereby directed to study the current procedures established by the commission for carrying out the purposes of said chapter 19C and shall make findings and recommendations regarding the sufficiency of such procedures to enable the commission to fulfill its duties under said chapter 19C, including any recommendations for the establishment of an appellate process and standard of review of commission findings, which findings and recommendations, together with any proposed legislation, shall be submitted to the house and senate committees on ways and means not later than December 1, 1997.

**SECTION 224.** (a) Notwithstanding the provisions of any general or special law to the contrary, there is hereby established the Massachusetts performance enhancement program, which shall provide the opportunity for designated agencies to improve their management systems and enhance their performance by streamlining services, reducing paperwork, analyzing and reviewing their policies and procedures including, but not limited to, fiscal management, human resources, procurement, customer services, technology and facilities operation and maintenance.

(b) Said program shall be implemented by a commission, which shall be jointly chaired by the secretary of administration and finance and the comptroller. There shall be



seven additional members of the commission who shall be appointed by the governor. Said members shall include a representative from business and industry, to be selected from three nominees provided by the Massachusetts business roundtable; a representative from organized labor, to be selected from three nominees provided by the Massachusetts State Labor Council, AFL-CIO; the chairperson of the Massachusetts Taxpayers Foundation or his designee; a faculty member from a graduate school of public administration or public management at an institution of higher education located in the commonwealth; and three other members appointed by the governor, after consultation with the secretary of administration and finance and the comptroller. The department of mental retardation and the department of environmental management shall serve as what are hereinafter collectively referred to as the designated agencies.

(c) In evaluating each designated agency, the commission shall work with a team of no fewer than six and no more than ten employees from said agency, which shall include an equal number of management employees and nonsupervisory, nonmanagement employees. The management employee members of each designated agency team shall be selected by the administrative head of the designated agency on or before September 1, 1997. The nonsupervisory, nonmanagement employee members shall be selected either by a vote of the nonsupervisory, nonmanagement employees in the designated agency on or before August 31, 1997 or, if no such selection is made by said date, then by the joint chairpersons of the commission on September 1, 1997. Three members of the commission shall serve on each relevant designated agency team. Each team shall evaluate each designated agency with respect to effectiveness of management policies and practices used by the agency, the efficiency with which said agency operates the programs and provides services under its jurisdiction and fulfills the duties assigned to it by law, and the level of satisfaction of the customers or clients of said agency in order to identify specific projects that will improve said designated agency's performance. Said agency teams may hire a consultant to help them achieve their goals and objectives. Each designated agency shall also provide necessary assistance to its agency team and the commission for the performance of said duties.

(d) Each designated agency team shall submit to the commission for approval a preliminary work plan that includes a spending plan, program design, and specific project proposals on or before October 1, 1997. No funds appropriated for use by said commission shall be allocated to the designated agency teams until such time as said work plan has been submitted and approved by said commission.

(e) The commission, in consultation with the designated agency team, shall, on or before January 1, 1998, submit to the house and senate committees on ways and means and the joint committee on state administration an interim report and tentative recommendations, and shall, on or before June 30, 1998, submit to said committees a final report concerning each designated agency. The interim and final reports shall analyze, provide recommendations and implementation plans concerning methods for maximizing or improving management policies and practices, customer or client service and efficiency, and generating cost savings. Said reports shall also demonstrate the results of any ongoing or completed projects undertaken by said teams or the full commission. Any cost savings



realized by an agency through implementation of said performance enhancement program shall be placed in a retained revenue account held by said agency for one-time expenditures.

**SECTION 225.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the division of capital planning and operations is hereby authorized to enter into an emergency lease agreement with the town of Belchertown for the lease of three buildings situated on Parcel A of state land located in the town of Belchertown; provided, however, that the term of said lease shall expire on June 30, 1998 or the end of the 1997-1998 public school year, whichever is later, in order to provide for the direct public use of said buildings on Parcel A by said town for public school classrooms and other services. The terms of said lease shall be the same as those in the lease in effect as of June 15, 1996.

**SECTION 226.** 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 227.** The director of housing and community development and the director of economic development are hereby authorized to carry out an interagency agreement for the expenditure of \$750,000 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 150 per cent of the federal poverty level, but not more than 175 per cent of said level, and for a program of supplemental energy assistance for low-income elders and families to be administered in accordance with the Low Income Home Energy Assistance Act of 1981, as amended; provided, that said amount may be expended from said fund for the fiscal year ending June 30, 1998 without further appropriation; provided further, that unexpended funds from an interagency agreement between the director of housing and community development and the director of economic development for the fiscal year ending June 30, 1997 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 228.** 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 20 of chapter 118G 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 14G of chapter 151A 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 229.** There shall be continued 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 and prevention work.

**SECTION 230.** Notwithstanding the provisions of any general or special law to the contrary, for fiscal year 1997, funds transferred pursuant to subsection (b) of section 5C of chapter 29 of the General Laws to an account established pursuant to said subsection (b), may be expended without further appropriation; provided, that said funds shall be expended for projects otherwise authorized pursuant to section 49 of said chapter 29.

**SECTION 231.** Upon the effective date of this act, any revenue derived from the sale of veterans' license plates shall be divided as appropriated pursuant to section 2 between the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke for their maintenance and operation costs; provided, that any revenues received by the registry from the sale of said plates in the final quarter of the fiscal year shall be credited upon receipt to the operations of said homes and may be expended in the current fiscal year or in the subsequent fiscal year.

**SECTION 232.** There is hereby established in the office of the chief justice for administration and management of the trial court a pilot indigency verification unit. Said unit shall evaluate and verify the assets, income and expenses of persons requesting appointment of counsel pursuant to section 2 of chapter 211D of the General Laws and make recommendations to the court relative to the appointment of counsel for such persons. Said unit shall obtain access to records of the department of transitional assistance, the department of revenue, the department of correction and all other state agencies which may possess information relevant to the unit's evaluation and verification of said assets, income and expenses. Said departments and all other state agencies shall comply with any requests for records made by said unit. Said unit may contract with providers of asset and credit records and other relevant information for the provision of such information to the unit. Said unit shall operate in three courts of the commonwealth as determined by the chief justice. Said chief justice shall prepare and submit to the house and senate committees on ways and means a report on or before May 1, 1998. Said report shall evaluate the operations of the unit and make recommendations concerning the potential for statewide expansion of the unit.

**SECTION 233.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the division of health care finance and policy, in reviewing rates of reimbursement upon the petition of nursing facilities located on the island of Nantucket, the town of Provincetown or owned by the Martha's Vineyard Hospital Foundation, shall take into consideration the extra variable and fixed costs that said division may determine to reasonably result from operating a geographically isolated nursing facility located on the islands of Martha's Vineyard and Nantucket, or in the town of Provincetown; provided, that the commission shall not consider any adjustments to said rates that are not

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federally reimbursable; and provided further, that for the Martha's Vineyard Hospital Foundation said review shall consider promulgating adjustment to said rates for the period of time that the foundation owns a facility located on the island of Martha's Vineyard in the county of Dukes county and also administers a federally designated sole community provider hospital. The division of medical assistance, pursuant to the second paragraph of section 12 of chapter 118E of the General Laws, is hereby authorized to enter into a contract with said nursing facilities to implement the adjustment to rates, if any, provided for by this section.

**SECTION 234.** Notwithstanding the provision of any general or special law to the contrary, the division of employment and training, the corporation for workforce training and development and any other agency acting for the commonwealth as recipient under the Job Training Partnership Act is hereby authorized to seek from the United States Secretary of Labor a waiver under section 164(e) of said act of any asserted monetary obligation, determined or to be determined, of the city of Lynn. In seeking said waiver, the agency acting for the commonwealth shall cooperate and coordinate its efforts with the city of Lynn.

**SECTION 235.** Notwithstanding any general or special law to the contrary, the Group Insurance Commission is directed to provide all reports, studies, recommendations and contractual changes for fiscal year 1999, commencing July 1, 1998, relative to all deductibles, copayments and benefits as defined in chapter 32A of the General Laws, to the house and senate committees on ways and means and the joint committee on public service on or before March 1, 1998. Said commission is hereby authorized and directed to conduct a properly posted public hearing relative to, but not limited to, said recommendations, studies and reports, within 30 days, but not sooner than five days, of the issuance of said information to the general court.

**SECTION 236.** For hospital fiscal year 1998, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws shall be the lesser of the sum of all the products of each hospital's allowable free care charges and such hospital's cost to charge ratio, calculated by the division of health care finance and policy pursuant to said section 18 of said chapter 118G, or \$315,000,000. For state fiscal year 1998, notwithstanding any general or special law to the contrary, \$30,000,000 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 237.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer as of June 30, 1997, into the Collective Bargaining Reserve Fund, established by section 82 of chapter 120 of the acts on 1995, the sum of \$50,000,000 from the General Fund.

**SECTION 238.** Notwithstanding the provisions of any general or special law to the contrary, except for sections 52 to 55, inclusive, of chapter 7 of the General Laws, the secretary of administration and finance is hereby authorized and directed in fiscal year 1998 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



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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.

A vendor shall only be compensated if (1) the revenue achieved for each specific revenue source is new revenue; provided, that new revenue shall be defined as revenue in addition to revenue collected during the base period for each revenue source, and (2) in the event of revenue sources which are caseload driven federal reimbursements, so-called, the ratio of that revenue source to the reimbursable expenditure has exceeded the highest said ratio during the base period.

A department shall only receive incentive payments pursuant to this section and item 1599-0033 of section 2 if the collection of a fee or any other non-tax revenue during the base period is greater than the highest amount of revenue collected from said fee or other non-tax revenue during the base period; provided, however, that said net additional revenues shall only be those amounts collected which are in excess of the amounts projected in section 1B for each department, office, commission and agency or successor.

For the purpose of this section the term "base period" shall refer to the fiscal years beginning on July 1, 1991 and ending on June 30, 1997. 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. 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 2R of chapter 29 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 2 to participating departments; provided, however, that any amount so allocated shall be in excess of the first \$30,000,000 in net additional revenues credited to said fund consistent with this section; provided further, that the secretary may allocate the first \$2,250,000 from said item when the net additional revenues credited to said fund in the fiscal year are at least \$22,250,000; provided further, that the secretary may allocate the second \$2,250,000 from said item when the net additional revenues credited to said fund in the fiscal year are at least \$34,500,000. Eighty-five per cent 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 15 per cent shall be



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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 \$30,000,000 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 said item 1599-0033 shall be for one-time expenses which shall not recur in fiscal year 1999 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 2 or 2B or in sections 2 or 2A of any supplemental appropriations act enacted in fiscal year 1998 or a subsequent fiscal year. For the purposes of this section, the term "supplant" shall be defined as expenditures made for any purpose which receives 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, not later than January 31 of each year, 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, not later than July 31 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 31 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 239.** (a) Notwithstanding the provisions of any general or special law to the contrary, the office of child care services established by this act shall be established as the lead agency to administer day care services within the jurisdiction of the executive

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office of health and human services. Said office is hereby authorized and directed to set policy related to day care services, establish voucher payment rates and the terms of provider contracts, establish and update the sliding fee scale for income eligible day care as necessary, administer state and federal day care funds, enter into interagency service agreements for the administration of said system and communicate with other state entities providing similar or related services outside of said executive office, including the department of education, to better coordinate the delivery of services to children. The office of child care services shall work in concert with the secretary of health and human services, the department of transitional assistance, and the department of social services to consolidate said administration within said office. Said secretary shall take all necessary steps to assure interagency cooperation.

(b) The office of child care services shall enter into a series of transitional interagency service agreements, for a period not to exceed six months, with the aforementioned departments and office, for the purpose of providing continuity of services during the consolidation of day care services within said office. Said agreements shall be entered into with the specific goal of centralizing day care administrative functions within said office of child care services not later than January 1, 1998. Said office shall issue written reports on a monthly basis to the house and senate committees on ways and means, the joint committee on human services and elderly affairs, and the secretary of administration and finance on the progress of said consolidation, beginning not later than October 1, 1997.

(c) The office of child care services shall develop and adopt a mission statement to identify the commonwealth's public policy purposes and priorities regarding the provision of state-subsidized day care. Said statement shall be filed with the house and senate committees on ways and means, the joint committee on human services and elderly affairs and the secretary of administration and finance not later than September 15, 1997.

(d) Notwithstanding the provisions of any general or special law to the contrary, the office of child care services is hereby further authorized and directed to perform post-audit reviews on a representative sample of the income eligibility determinations performed by vendors receiving funds from items 4130-3100, 4130-3200 and 4130-3300 of section two. Beginning not later than January 1, 1998, said office of child care services shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by said post-audit reviews.

(e) Beginning not later than February 1, 1998, the office of child care services is hereby further authorized and directed to provide quarterly reports to the house and senate committees on ways and means and the secretary of administration and finance on the number of children on waiting lists for state subsidized day care, without duplication. For the purposes of coordinating said list, the office of child care services shall direct all day care providers receiving funds from items 4130-3300 of section two to report monthly to the child care resource and referral agency in their region, the names, or unique identifier, of any eligible children on waiting lists for services provided under said items of appropriation,

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beginning not later than November 7, 1997. Said child care resource and referral agencies shall compile the information received from individual providers into a single list, without duplication, for each region and submit said list to said office of child care services on a monthly basis, beginning not later than December 15, 1997. Said office of child care services shall establish a uniform format for reporting said data and direct said providers and agencies to report such information electronically where feasible.

(f) The office of child care services is hereby further directed to formulate plans to implement recommendations for the improvement of the administration and delivery of day care services in accordance with the provisions of the report to be developed pursuant to the provisions of section 255. Said office shall not enter into any commitments on behalf of the commonwealth to implement said recommendations without prior authorization by law.

(g) The information collected or submitted pursuant to subsection (e) shall not be used for any purpose other than the purpose identified in said subsection, and, to the extent such information allows for identification of any individual or family, it shall not be a public record within the meaning of clause 26 of section 7 of chapter 4 of the General Laws. The office of child care services is hereby authorized and directed to promulgate regulations establishing appropriate penalties, including appropriate monetary fines, which shall be imposed on any person or entity that discloses or uses said information in a manner inconsistent with the provisions of this subsection.

(h) Nothing stated herein shall give the office of child care services, or any other entity within the executive office of health and human services, authority to administer, regulate or control services provided by agencies beyond the jurisdiction of said executive office, except to the extent to which such authority existed on June 30, 1997.

**SECTION 240.** Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management is hereby authorized and directed to expend \$5,000,000 in fiscal years 1998 and 1999 for improvements to Forest Park in the city of Springfield from funds authorized in item 2120-8882 of section 2 of chapter 564 of the acts of 1987; provided, that said improvements shall include not less than \$1,979,920 of said amount for the costs of implementation of the Forest Park Zoological Society's general development plan, so-called, dated March, 1996, including, but not limited to, the design and construction of new exhibit space, a gift shop and administration building, an educational center, a children's memorial garden, and a sanitary sewer; provided, that costs funded by the commonwealth pursuant to this section shall not exceed the cost estimates listed in said plan and shall be a one-time expense. The secretary of administration and finance is hereby authorized and directed to increase the planned allocation to the executive office of environmental affairs for capital expenditures financed by bond spending in fiscal years 1998 and 1999 by an amount sufficient to cover the costs of said improvements to Forest Park in the city of Springfield; provided, that said secretary of environmental affairs shall allocate said increase to the appropriate departments, in accordance with subsection (r) of section 5 of chapter 92B of the General Laws, in order to meet said improvements.

**SECTION 241.** (a) Notwithstanding the provisions of any general or special law to the contrary, for the purposes of this section, the following terms shall, unless the context



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clearly indicates otherwise, have the following meanings:-

(1) "Designated feed stock materials", postconsumer waste material, as defined in this section, and as specified by the department of environmental protection, including, but not limited to, paper, glass and plastic bottles, and tires, which has been through a reclaiming process, as defined in this section, and is ready for use as an input to a system that transforms them, and any other inputs, into products of economic value; said materials shall not include post-industrial waste materials or metals.

(2) "Designated unprocessed materials", those materials shall be limited exclusively to postconsumer waste material, as defined in this section, and as specified by the department of environmental protection, including, but not limited to, theretofore unprocessed loose paper, glass and plastic bottles and tires; provided, however, that said materials shall not include metals.

(3) "Eligible business", a company or corporation, which (A) either: (i) uses designated unprocessed materials in their reclaiming process; or (ii) uses designated feed stock materials, generated by an eligible business, in their manufacturing process; and (B) has at least 50 per cent of its full-time equivalent non-salaried workforce in Massachusetts. A business shall not be considered eligible which: (i) has been convicted of violating any state or federal civil or criminal environmental law in the past three years; or (ii) acts as an intermediary or broker between companies and corporations engaged in the manufacturing process or reclaiming process.

(4) "Manufacturing process", those activities by which designated materials are used as an input to a system that transforms them, and any other inputs, into products of added economic value and resold to a nonaffiliated business.

(5) "Postconsumer waste material", any product generated by a business or consumer that has served its intended use, and that has been separated from solid waste for the purposes of collection, recycling and disposition and that does not include postindustrial waste material.

(6) "Postindustrial waste material", internally generated scrap or fragments of products commonly returned to industrial or manufacturing processes, including home scrap or mill broke.

(7) "Reclaiming process", those activities which densify, shred, bale, grind, culletize or otherwise process theretofore designated unprocessed material.

(8) "Virgin feed stock materials", those materials extracted from their natural resource base and that are prepared for input into a system that transforms them and any other inputs, into products of economic value.

(b) The department of environmental protection, subject to the provisions of this section, shall promulgate final regulations by April 1, 1998, which establish the recycling industries reimbursement grant program for eligible businesses in the commonwealth, hereafter referred to as the program, for implementation 30 days after said final regulations are submitted to the house and senate committees on ways and means for review, subject to appropriation. Said program shall be funded, subject to appropriation, by the Clean Environment Fund, established pursuant to section 323F of chapter 94 of the General Laws.



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(c) The department of environmental protection shall determine which materials within the designated unprocessed materials and the designated feed stock materials are eligible for a reimbursement grant; provided, that no materials that are hazardous waste under applicable state and federal environmental laws shall be eligible for said reimbursement grant. Said department shall evaluate and report the potential for successful recycling of each designated material under investigation, including an objective analysis which identifies materials with stable or mature markets and problematic materials with unstable immature markets. Said problematic materials may include, but not be limited to, green glass, mixed paper, newspaper and plastics. Said department shall also identify materials which may require stimulation by inclusion as a designated unprocessed materials and designated feed stock material.

(d) The department of environmental protection shall determine the amount of the reimbursement grants for eligible businesses, which amount shall be based upon the following factors including, but not limited to: (i) the differences between market prices or price quotations for virgin feed stock materials and the price paid for designated feed stock materials by an eligible business engaged in the manufacturing process in the commonwealth; (ii) the amount of designated feed stock material sold by eligible businesses engaged in the reclaiming process in the commonwealth; (iii) the amount of designated feed stock material used by eligible businesses engaged in the manufacturing process in the commonwealth; and (iv) the market history and price fluctuations of materials. Said department shall make periodic adjustments to reimbursement grant rates as deemed necessary, based on the condition of the markets. Said department shall also have the authority to establish additional criteria upon which to award reimbursement grants; provided that within 6 months of the effective date of this section, said department shall submit the initial implementation plan for the program including, but not limited to, proposed additional materials and criteria, to the house and senate committees on ways and means and the joint committee on natural resources and agriculture. Said department shall determine a maximum annual reimbursement grant limit per eligible business.

(e) The department of environmental protection shall design a promotional strategy for the reimbursement grant program that will reach the maximum number of potentially eligible businesses. Said department shall coordinate said promotion strategy with existing programs in business development and the recycling loan fund to achieve the efficient use of activities and funds.

(f) The department of environmental protection shall design and implement controls to prevent fraud and waste of program funds, including, but not limited to: (i) awarding reimbursement grants to companies or corporations which attempt to reclaim the same batch of designated unprocessed materials multiple times; or (ii) awarding reimbursement grants to companies or corporations which purchase designated feed stock materials, but do not use said materials in the manufacturing process.

(g) The department of environmental protection may enter into interagency service agreements or other cooperative agreements with any agency of the commonwealth which it deems appropriate to develop and implement said program including, but not limited to,

the department of economic affairs, and the strategic envirotechnology partnership, so called, to promote, evaluate or analyze said program.

(h) The department of environmental protection, in cooperation with the department of revenue, shall review and approve applications for the reimbursement grants allowed in this section. Application for reimbursement grant shall be made in writing on a form prescribed by said department and shall contain information including, but not limited to, and where applicable, on the purchase of designated unprocessed materials, the sale of designated feed stock materials, a description of the designated feed stock materials, the amount of designated materials, the percentage of designated feed stock materials, the percentage of postindustrial waste material and the percentage of virgin feed stock materials used in manufacturing and the products manufactured. Reimbursement grants shall be processed and awarded in a timely fashion. Any business which falsifies any information contained in its application for reimbursement grant shall be subject to a fine of double the amount of said reimbursement grant.

(i) An annual report detailing the reimbursement grant program as implemented, including but not limited to: amounts and numbers of reimbursement grants requested and awarded shall be submitted to the house and senate committees on ways and means and the joint committee on natural resources and agriculture by January 1 of each year for the most recent fiscal year.

**SECTION 242.** For the purpose of expediting the locating of a University of Massachusetts at Dartmouth downtown New Bedford campus, the division of capital planning and operations is hereby directed to issue not later than August 1, 1997 the request for proposals authorized in subsection (a) of section 2 of chapter 457 of the acts of 1996.

**SECTION 243.** Notwithstanding the provisions of any general or special law to the contrary, for state fiscal year 1998 any specialty hospital, as defined in section 1 of chapter 118G of the General Laws, which provides free care as defined in said section 1 of said chapter 118G, shall be exempt from the provisions of section 18 of said chapter 118G; provided, that said specialty hospital's gross outpatient service revenue equals at least 80 per cent of its gross patient service revenue as of January 1, 1996. 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 1998 by said specialty hospital. Said division is directed to transfer from the Compliance Liability Trust Fund as established pursuant to section 56 of chapter 495 of the acts of 1991 into the uncompensated care pool trust fund as established in said section 18, an amount equal to the amount owed by said specialty hospital for state fiscal year 1998 for the purpose of ensuring that other participating hospital's liability to the uncompensated care pool does not increase due to the aforementioned exemption.

For the purpose of resolving the liability to the uncompensated care pool of any specialty hospital meeting the exemption criteria established in the preceding paragraph that would be owed in fiscal year 1999 and subsequent fiscal years, said division is hereby authorized and directed to evaluate alternatives to funding said liability from the compliance

liability trust fund. Said division shall investigate said alternatives in consultation with any such specialty hospital and the Massachusetts hospital association. Said division shall make recommendations relative to the viability of said alternative funding sources and the ramifications of relying on such funding for said pool in a report that shall be filed with the joint committee on health care and the house and senate committees on ways and means not later than December 5, 1997.

**SECTION 244.** Notwithstanding the provisions of any other general or special law, rule or regulation to the contrary, Plymouth Cordage Park is hereby eliminated as a Designated Port Area under 301 C.M.R. 25 and 310 C.M.R. 9 and any other applicable provisions of the code of Massachusetts regulations.

**SECTION 245.** The division of employment and training shall not close any local DET office during fiscal year 1998 in which the major city served by that office had an unemployment insurance rate at least twice the statewide average for fiscal year 1997.

**SECTION 246.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the division of employment and training and the secretary of the executive office of economic affairs shall maintain a regional office of the division of employment and training office in the city of Pittsfield which shall be accessible and open for claims and job assistance counseling; provided further, that the secretary of the executive office of elder affairs shall maintain a regional office of elder services in the city of Pittsfield; provided further, that the commissioner of the department of highways and the secretary of the executive office of transportation and construction shall maintain a department of highways district 1 administrative office in the town of Lenox; provided further, that said commissioner and said secretary shall maintain a department of highways district 2 administrative office in the city of Northampton; provided further, that the commissioner of the department of highways is hereby directed to maintain staffing levels of at least one district highway engineer director, one district construction engineer, one maintenance engineer and one administrative manager in each of said offices; provided further, that the commissioner of the department of transitional assistance and the secretary of the executive office of health and human services shall maintain a regional department of transitional assistance office in the city of Pittsfield; provided further, that the commissioner of the department of youth services and the secretary of the executive office of health and human services shall maintain a regional department of youth services office in the city of Pittsfield; provided further, that the commissioner of the department of social services and the secretary of the executive office of health and human services shall maintain a regional department of social services office in the city of Pittsfield; provided further, that the commissioner of the department of mental retardation and the secretary of the executive office of health and human services shall maintain a regional department of mental retardation office in the city of Pittsfield; provided further, that the commissioner of the department of revenue and the secretary of administration and finance shall maintain a regional department of revenue office in the city of Pittsfield.

**SECTION 247.** That the division of employment and training shall maintain an office within the downtown area of the city of New Bedford. If consolidation or movement



is considered necessary by the department, said department shall request legislative approval six months in advance of any such consolidation or movement.

**SECTION 248.** Notwithstanding the provisions of section 39M of chapter 30 of the General Laws or any other general or special law to the contrary and whereas it has been determined that the Mill Cove Siphon constructed in 1933 by the Metropolitan District Commission as part of Section 125 of the Braintree-Weymouth Sewer and now owned and operated by the Massachusetts Water Resources Authority creates a hydraulic restriction in sewage flows that contributes to chronic back-ups and overflows of raw sewage in the communities of Weymouth and Braintree that endanger public health and that ordinary means of cleaning and maintaining the Mill Cove Siphon cannot be utilized because of uncertainty concerning its structural integrity and that the foregoing circumstances constituting a public health and environmental emergency, the Massachusetts Water Resources Authority is hereby authorized and directed to institute an emergency procurement, utilizing such method of procurement as it shall determine to be reasonable and prudent in the circumstances, of a qualified contractor to suitably engineer and install under said authority's direction and supervision an emergency relief siphon to provide the most immediate, suitable and practicable relief of said hydraulic restriction, said installation to be completed within 180 days of the effective date of this act. Said contractor shall be certified as paying prevailing wages that would be applicable as if the contract were to be awarded under said section 39M of said chapter 30. Said authority shall report to the clerk of the house and the senate and the house committee on ways and means prior to July 15, 1997 if geotechnical appraisals or utility surveys completed by said date show that the project cannot be accomplished as hereby directed. Any agency, department, office or commission with regulatory jurisdiction shall, notwithstanding any other law to the contrary, cooperate with said authority to assure the attainment of the foregoing schedule and to assure that substantive and procedural regulatory requirements are exercised to achieve the purposes of this section.

**SECTION 249.** Notwithstanding the provisions of any general or special law to the contrary, the Gate 31 fishing area, so-called, at the Quabbin Reservoir shall be designated as the Senator Robert D. Wetmore fishing area.

**SECTION 250.** The department of social services shall develop specialized standards for foster homes or other facilities designated to receive referrals of sexually abusive youths or arsonists pursuant to section 33B of chapter 119 of the General Laws. The department shall file a plan for implementing such standards, including estimates of any additional appropriations that such implementation might require, with the joint committee on human services and elderly affairs and the house and senate committees on ways and means on or before March 31, 1998.

**SECTION 251.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, without further appropriation, as of June 30, 1998, \$36,952,082 from the General Fund to the Children's and Seniors' Health Care Assistance Fund, established in section 2FF of chapter 29 of the General Laws.



**SECTION 252.** Notwithstanding any general or special law, regulation or order to the contrary, the department of public utilities is hereby directed to include the town of Belmont and the city known as the town of Watertown within the boundary lines of the 617 area code in D.P.U. 96-61 (1997) and D.P.U. 96-61A (1997).

**SECTION 253.** Notwithstanding the provisions of any general or special law to the contrary, the department of state police is hereby directed to provide patrols to the areas outlined herein in fiscal year 1998. Said department shall use funding from either item 8100-0000 or 8100-0007 of section 2 of this act, or other available funding sources. Patrols shall be provided as follows: \$365,000 shall be expended on a pilot program for the Medford State Police Barracks entitled Zero Tolerance and Fire Risk Prevention, which will increase patrols and public safety by using bicycles and other policing means within the Middlesex Fells and Mystic River Reservation district; provided further, that \$30,240 shall be expended for the costs associated with providing state police patrols three nights per week in the city of Brockton in the following area: south between Montello street and Warren avenue and north to Battle's street between Montello street and Warren avenue, or at such other location and that such patrols shall be assigned between the hours of 8:00 p.m. and 4:00 a.m. beginning July 1, 1997 for a period of 18 weeks, as deemed necessary; provided, further, that \$30,000 shall be expended for the cost associated with providing state police services at Breakheart Reservation; provided further, that \$75,000 shall be expended for the costs of state police patrols along the Charles river esplanade and the Charlesgate area of the city of Boston; provided further, that \$131,520 shall be expended for the costs of state police patrols at Lynn Beach, Kings Beach, and Nahant Beach; provided further, that \$25,000 shall be expended for the costs associated with patrols of the Wollaston beach-Quincy Shore Drive section of the city of Quincy; provided further, that \$250,000 shall be expended for the purpose of increased patrols during the months of April through October at Winthrop Beach and Winthrop Shore drive in the town of Winthrop, Revere Beach in the city of Revere, Constitution Beach and Belle Isle Marsh in the East Boston section of the city of Boston; provided further, that not less than \$150,000 shall be expended to provide patrols along the southwest corridor, so-called; provided further, that \$25,000 be expended to provide patrols of Blue Hill and Stonybrook Reservations and those parklands and roadways under the care and control of the Metropolitan District Commission patrolled by the state police in the Hyde Park, West Roxbury, Roslindale, and Readville sections of Boston, and in the towns of Canton, Milton, and Randolph; provided further, that \$46,666 shall be expended for patrols of properties of the metropolitan district commission located along Day Boulevard in the South Boston section of the city of Boston; provided, that said patrols shall be assigned between the hours of 8:00 p.m. and 4:00 a.m., nightly until November 1, 1997.

**SECTION 254.** Notwithstanding the provisions of any general or special law to the contrary, of the amount appropriated in item 1102-3206 in section 2 of this act, \$45,000 shall be obligated and expended for the refurbishment of a kitchen at the Natick senior center, \$250,000 shall be obligated and expended for a full-service kitchen, including the purchase of equipment, at the New England Shelter for Homeless Veterans in the city of Boston, and \$367,000 shall be obligated and expended for the construction of a senior citizen center in

Said evaluation and recommendations shall be reported to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than January 1, 1998.

**SECTION 259.** The department of revenue is hereby directed to review and develop an implementation plan for the recommendations contained in the publication "Road Fund Tax Evasion: A State Perspective" issued by the Council of State Governments. Said implementation plan shall be accompanied by any legislation necessary to implement the recommendations of said publication. Said plan and legislation shall be filed with the joint committee on taxation and the house and senate committees on ways and means on or before October 15, 1997. Those recommendations which do not need accompanying legislation shall be implemented by the department on or before January 1, 1998. The department shall issue annual reviews of the goals of the implementation plan.

**SECTION 260.** 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, including but not limited to, federal financial assistance, municipal revenue contributions, and state aid to cities, towns, regional school districts, counties maintaining agricultural schools and independent vocational schools. The report of said commission shall identify, but not be limited to, identifying for each public school district and for public schools as a whole the level of actual and anticipated operating support from state, municipal, and federal revenue sources for fiscal year 1993 to fiscal year 2000, the growth or decline of actual dollars and as a percentage of annual schools budgets for said public schools, a discussion of the impact of growth in enrollment and costs of special education on school district budgets, and any other fiscal matters that impact the financial support for said public school districts. 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 house and senate committees on ways and means not later than February 1, 1998.

**SECTION 261.** The department of public health is hereby authorized and directed to conduct a study and file a report on a five-year program for breast cancer prevention, research and detection services. Said study and report shall incorporate and evaluate the results of the scientific research grant program investigating potential environmental factors that contribute to breast cancer in "areas of unique opportunity" as described in item 4570-1500 of section 2. Said report shall include but shall not be limited to the amount of state spending proposed, a statement of reasons in support of said amount, and efforts to be undertaken by said department to establish and increase alternative sources of funding. Said report shall be filed with the joint committee on health care and the house and senate committees on ways and means not later than December 31, 1997.

**SECTION 262.** The executive office of administration and finance in conjunction with the executive office of transportation and construction and Nantucket and Martha's Vineyard Steamship Authority is hereby authorized and directed to study the demand for

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extended roll on and roll off freight service to Nantucket and Martha's Vineyard, including, but not limited to, how this demand might be met by adding an additional port to service said Islands. All feasible ports, including New Bedford, shall be considered in said study. Said study shall also include a review of the Steamship Authority's current plan to address its unmet demand, a review of any studies the Steamship Authority has undertaken relative to meeting and analyzing said unmet demand, and an analysis of the financial impacts and cost of living impacts to the residents of Nantucket and Martha's Vineyard as a result of developing a new port to address said unmet demand. Said study shall be filed with the joint committee on transportation and the house and senate committees on ways and means not later than February 1, 1998.

**SECTION 263.** The secretary of administration and finance and the department of environmental management, in consultation with the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, the southeastern regional planning and economic development agency and other second Bristol district economic development agencies are hereby authorized and directed to prepare an implementation plan for the design and construction of a ferry terminal at the New Bedford Aquarium site in the port of New Bedford serving passengers, vehicles and freight. Said secretary of administration and finance, in consultation with the Center for Marine Science and Technology at the University of Massachusetts at Dartmouth and the New Bedford Aquarium Corporation, are hereby authorized and directed to prepare an implementation plan for the design and construction of the University of Massachusetts at Dartmouth Center of Marine Science and Technology/Science Education and Economic Development center at the New Bedford Aquarium site. Said plans shall assume a completion date for the design and construction of said terminal and the Science Education and Economic Development center not later than December 31, 1998. Said implementation plans shall be filed with the joint committee on transportation and the house and senate committees on ways and means not later than December 31, 1997.

**SECTION 264.** There is hereby established a special commission, to study the feasibility of amending paragraph (4) of section one of chapter 152 of the General Laws by inserting after the third paragraph a provision allowing said subsection to become elective as to bona fide corporate officers. Said special commission shall consist of the secretary of administration and finance or his designee, two members appointed by the president of the senate, one member appointed by the minority leader of the senate, two members appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives. Said commission shall detail the number of businesses affected by such proposed change and shall develop methods for fraud protection with respect to this proposal and shall include procedures to ensure the continued safeguard of worker's compensation benefits for subordinate employees. Said special commission shall report the results of said study together with its recommendations, if any, and draft of legislation necessary to carry out such recommendations by filing the same with the senate and house committees on ways and means not later than December 1, 1997.

**SECTION 265.** Notwithstanding the provisions of 310 C.M.R. 10.23 or any other



regulation to the contrary, Eastward Ho!, in the town of Chatham may construct a coastal engineering structure to prevent further coastal erosion from occurring at Hole #7; provided, however, that a notice of intent is filed with the department of environmental protection and the Chatham Conservation Commission.

**SECTION 266.** The commissioner of public health is hereby authorized and directed to develop a plan for the continuation of the Weapons Related Injury Surveillance System after the cessation of federal funding for said program, including an analysis of alternative sources of funding for the continuation of said program. Said plan shall be filed with the governor, the house and senate committees on ways and means and the senate committee on post audit and oversight not later than September 1, 1997.

**SECTION 267.** The division of medical assistance is hereby directed to conduct an investigation and study of the current nursing home bed holds standards and regulations as expressed in item 4000-0300. Said study shall include an investigation of the feasibility and ramifications of expanding the length of time relative to nursing home bed holds and an evaluation of appropriate financial reimbursement levels for said expansion. Said division shall report the result of such investigation and study by filing the same with the joint committee on health care on or before September 30, 1997; provided, however, that the division shall, prior to concluding said study, consult with parties affected by said division's matter of study including, but not limited to, the Massachusetts Law Reform Institute, Health Care For All and Massachusetts Senior Action.

**SECTION 268.** The secretary of administration and finance is hereby authorized and directed to conduct a study of the costs of training state and municipal employees and report any recommendations and accompanying legislation relative to the equitable use of assessments on all said employees receiving training from the state to the clerks of the house of representatives and senate, the house and senate chairpersons of the committees on ways and means and the house and senate chairpersons of the joint committee on public safety on or before January 1, 1998.

**SECTION 269.** The executive office of transportation, in collaboration with the Massachusetts Port Authority, the southeastern regional planning and economic development agency and other local economic development agencies and parties in the second Bristol district, is hereby authorized and directed to study the feasibility of the creation of a port authority in the city of New Bedford; provided, however, that said study shall delineate an efficient intermodal transportation network that shall include, but not be limited to, optimum economic use of the New Bedford/Fairhaven Seaport, an expanded New Bedford Regional Airport, a proposed commuter rail extension to Greater New Bedford, a ferry terminal which shall include both freight and passenger service and an aquarium on the New Bedford waterfront, and shall evaluate potential benefits to the city from the creation of a port authority and shall submit a detailed master plan, including time lines, as to how the state shall proceed with these projects. Said study shall also evaluate the costs and benefits of establishing such an authority. Said study shall be submitted to the joint committee on transportation, the house and senate committees on ways and means and the house and senate clerks not later than December 31, 1997.



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**SECTION 270.** The commissioner of the department of revenue is hereby authorized and directed to investigate the source and verify the amount of excise imposed by section four of chapter 64A of the General Laws. Said commissioner shall examine the returns filed under said section four to determine the source of the excise paid and whether the gasoline powered vehicle traverses roadways or water. Said commissioner shall then verify that the apportionment, as described in section 13 of said chapter 64A, of excise paid under said chapter 64A is accurate and true. Said commissioner shall conclude said investigation on or before December 1, 1997 and shall report the results of said investigation by filing the same with the clerks of the house and senate, the house and senate committees on ways and means and the joint committee on natural resources and agriculture.

**SECTION 271.** Notwithstanding any general or special law to the contrary, the executive office of environmental affairs is hereby authorized and directed to seek, to the maximum extent possible, any and all federal financial assistance for the installation of air pollution control devices consistent with the requirement of section 129 of the Clean Air Act of 1990 for the purpose of assisting municipalities with these costs. Said office shall report the progress of such efforts, from time to time, as may be appropriate, and at least once every six months, to the house and senate committees on ways and means and the committee on natural resources and agriculture.

**SECTION 272.** The commissioner of social services shall study and submit a report to the senate and house committees on ways and means not later than December 15, 1997 regarding the costs, federal reimbursements and benefits of collaborating with a college or university to provide training to the employees of the department.

**SECTION 273.** The secretary of environmental affairs is hereby authorized and directed to develop a plan for the provision of state financial assistance to communities making debt service payments on federally mandated drinking water treatment facilities including, but not limited to, the cities of Worcester, Attleboro and North Adams. Said plan shall include the total cost to the commonwealth of providing assistance at a level of 50 per cent of total debt obligation, a breakdown of the assistance that shall be provided to all eligible communities at said 50 per cent level and recommendations on the potential sources of funding for said plan. Said plan shall be filed with the governor, the house and senate committees on ways and means and the joint committee on natural resources not later than October 1, 1997.

**SECTION 274.** 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 items in section 2 towards the goals of education reform: 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 not later than January 20, 1998.

**SECTION 275.** Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator is hereby authorized and directed to develop a revised management pay plan for the commonwealth. Said revised management pay plan shall replace the management pay plan contained in section 46C of chapter 30 of the General Laws. Said revised management pay plan shall be filed in the form of legislation with the house and senate clerks not later than October 1, 1997; provided, however, that said revised management pay plan shall not take effect until it is enacted into law.

**SECTION 276.** Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator, in consultation with the state comptroller, shall file a revised personnel schedule with the house and senate committees on ways and means. Said schedule shall reschedule positions to those items of appropriation from which the majority of such positions' compensation is paid. Said revised personnel schedule shall be designed so as to minimize the need for the state comptroller to employ the Personnel Cost Reporting System, so-called, in allocating charges for compensation of state personnel. Said plan shall be filed with the house and senate committees on ways and means not later than September 1, 1997 and shall take effect not later than September 30, 1997. The personnel administrator and the comptroller are hereby authorized and directed to make such adjustments as are necessary to the Massachusetts management accounting and reporting system, so-called, the Personnel Administrative Reporting Information System, so-called, and the Payroll Cost Reporting System, so-called, in order to implement the revised personnel schedule filed under the provisions of this section.

**SECTION 277.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of health and human services is hereby authorized and directed to study the various services provided under the Turning 22 programs, so-called, of the department of mental retardation, the Massachusetts commission for the blind and the Massachusetts rehabilitation commission. Said study shall include, but shall not be limited to, a review of: (1) the service needs of the consumers served by said Turning 22 programs; (2) whether there are more effective and efficient means of providing for such service needs; (3) whether there would be any administrative efficiencies or savings if the management of said Turning 22 programs were consolidated within a single state agency; and (4) a projection of the numbers of consumers which will be eligible for services under said Turning 22 programs in each of the next five fiscal years and the total costs of serving such consumers. The results of said study shall be submitted to the house and senate committee on ways and means not later than October 1, 1997.

**SECTION 278.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of public health is hereby authorized and directed to study the staff-to-patient ratios of the department's four public health hospitals. Said study shall

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review the appropriateness of such staff-to-patient ratios in comparison to ratios in other comparable public and private hospitals. Said study shall make such recommendations as may be appropriate to adjust said staff-to-patient ratios if needed. The results of said study shall be filed with the house and senate committees on ways and means not later than December 31, 1997.

**SECTION 279.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance shall study the methods of procuring fuel for state vehicles, including, but not limited to, vehicles operated by the Metropolitan District Commission, the state police, the departments of environmental management, fisheries and wildlife, highways, public health, mental health, corrections, and mental retardation. Said study shall review current methods of procurement and shall identify such measures, including, but not limited to, bulk purchasing, as will reduce the costs of procurement. Said study shall also identify any increased costs associated with purchasing fuel for vehicles through the use of state credit cards. Said study shall make such recommendations as may be appropriate to reduce the overall costs of procurement and shall make recommendations regarding the proper oversight of funds expended for the procurement of fuel for state operated vehicles. The results of said study shall be filed with the house and senate committees on ways and means not later than October 1, 1997.

**SECTION 280.** Notwithstanding the provisions of any general or special law to the contrary, the executive office of transportation and construction, the Pioneer Valley Regional Transit Authority and the city of Springfield are hereby authorized and directed to study the expansion of transit service in said city to include nights and weekends. Said study shall focus and make recommendations on the following items: (1) the costs to the city of Springfield and the commonwealth of implementing such service; (2) the economic benefits to the city of Springfield from the implementation of expanded service; (3) appropriate fare structures and other funding mechanisms required to implement such service; and (4) the estimated ridership which would utilize such expanded service. The results of said study shall be submitted to the house and senate committees on ways and means not later than December 31, 1997.

**SECTION 281.** On or before October 15, 1997, the department of transitional assistance shall submit to the committee on human services and elderly affairs and the house and senate committees on ways and means a report detailing the degree to which insufficiency of transportation, if any, impedes the ability of recipients of benefits pursuant to chapter 118 of the General Laws and section 110 of chapter five of the acts of 1995, to obtain and retain meaningful employment, and setting forth the department's comprehensive proposals for addressing such impediments, including a detailed cost analysis of such proposals and suggestions for how any unmet needs could be met without any additional state appropriations.

**SECTION 282.** (a) Notwithstanding any general or special law to the contrary, there is hereby established a special commission to conduct a study of the effects on current and former recipients of benefits pursuant to chapter 118 of the General Laws, as modified by chapter 5 of the acts of 1995, of the implementation of the provisions of said chapter 5



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and the provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Said commission shall select and retain a professional individual or entity for the purpose of conducting said study. The commission shall be co-chaired by the chairmen of the joint committee on human services and elderly affairs and the secretary of the executive office of health and human services. There shall be ten additional members of said commission who shall be the secretary of administration and finance or his designee, the commissioner of the department of transitional assistance, the chairs of the house and senate committees on ways and means or their designees, one member appointed by the minority leader of the house, one member appointed by the minority leader of the senate, one president of a community college to be selected by the board of education, two representatives of nonprofit organizations which provide services to such recipients to be selected by the co-chairs of the commission, and a member selected by the Massachusetts State Labor Council, AFL-CIO.

(b) The commission shall determine the appropriate parameters of such study, which may include interviewing and tracking over a period of at least one year a representative sample of current and former recipients to assess the initial and ongoing effects of said laws on said recipients' lives.

(c) The commission shall establish an appropriate timetable for production of a final report, provided that interim reports shall be filed with the house and senate committees on ways and means on or before February 1, 1998 and November 1, 1998.

**SECTION 283.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance and the secretary of environmental affairs are authorized and directed to study and make recommendations with regard to the statewide allocation of the unassigned environmental police officers; provided, however, that for the purposes of the study and recommendations said secretaries shall consult with the department of environmental affairs and the division of fisheries and wildlife law enforcement; and, provided further, that the results of said study, together with recommendations, if any, shall be filed with the clerks of the senate and house of representatives not later than October 1, 1997.

**SECTION 284.** Notwithstanding the provisions of any general or special law to the contrary, the low-level radioactive waste management board established by chapter 111H of the General Laws shall file with the joint committee on natural resources and agriculture and the house and senate committees on ways and means not later than February 1, 1998, a report which shall specify the long-term plan for the disposal of low-level radioactive waste generated within the commonwealth by generators under the jurisdiction of the board. The plan shall include, but not be limited to, an assessment of the current and anticipated output of generators including all efforts at source minimization, current and anticipated actions taken by the board with regard to in-state siting, current and anticipated agreements with out-of-state disposal facilities including the terms of current contracts and the long-term projected availability of out-of-state disposal facilities and a description of all actions of the board with regard to developing a long-term disposal solution.

**SECTION 285.** The Massachusetts board of library commissioners is hereby



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authorized and directed to conduct a study of collection development policies and practices in public libraries in Massachusetts. Said study shall include, but not be limited to, the apportionment of collection development budgets by spending category, by subject matter and by patron age group. The board shall also design and submit to the senate committee on ways and means and the joint legislative committee on education, arts and humanities by October 1, 1997 a proposal for a program of grants, to be made to municipal libraries across the state which conform to the Massachusetts library association's standards of operation and whose collection development purchases are categorically proportionate to its circulation statistics; provided, however, that no municipality shall receive more than two such grants per calendar year; and provided further, that one such grant shall equal one full-time equivalent position.

**SECTION 286.** The department of correction, in collaboration with the executive office of elder affairs, is hereby directed to study the costs associated with creating a separate housing area for elderly and ill members of the prison population. Said housing area may be a wing that is an existing part of a house of correction or jail, or may be proposed as new construction. Said study shall determine the costs associated with both housing scenarios, and provide inmate census information delineating the total elderly state prisoner population, including information on illnesses and problems the elderly population encounters that are related to their age. The study shall also provide information on the population of prisoners that are not elderly, but have long term illnesses, and are still members of the general population, specifically, not including those prisoners that are mentally ill or housed in a long term care facility such as the Lemuel Shattuck hospital. Said information shall be used in determining the problems encountered by that population that are related to their illnesses. When examining the costs and implications of creating a separate wing for both populations, said department shall delineate the benefits and liabilities of combining both populations and shall make recommendations regarding the proposal. The department shall report the results of said study to the joint committee on public safety and senate and house committees on ways and means by April 1, 1998.

**SECTION 287.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to conduct a comprehensive study evaluating its transportation operations. Said study shall include, but not be limited to, the following: a fiscal accounting of revenues generated and costs incurred by: (1) current bus service; (2) current light rail and rapid transit service; and (3) commuter rail operations; a fiscal accounting of any and all programmed or planned outsourcing of bus service; a fiscal accounting of projected revenues and costs of expanding the current scope of operations, including, but not limited to, the urban ring project, so-called, the north-south rail link, so-called, and the expansion of commuter rail service along the Old Colony line, so-called. Said study shall also evaluate the costs and benefits of establishing reverse commuter rail services, so-called, service which allows commuters to travel from central city locations to outlying suburban destinations. The results of said study shall be submitted to the joint committee on transportation, the house and senate committees on ways and means, and the house and senate clerk not later than December 31, 1997.

and the provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Said commission shall select and retain a professional individual or entity for the purpose of conducting said study. The commission shall be co-chaired by the chairmen of the joint committee on human services and elderly affairs and the secretary of the executive office of health and human services. There shall be ten additional members of said commission who shall be the secretary of administration and finance or his designee, the commissioner of the department of transitional assistance, the chairs of the house and senate committees on ways and means or their designees, one member appointed by the minority leader of the house, one member appointed by the minority leader of the senate, one president of a community college to be selected by the board of education, two representatives of nonprofit organizations which provide services to such recipients to be selected by the co-chairs of the commission, and a member selected by the Massachusetts State Labor Council, AFL-CIO.

(b) The commission shall determine the appropriate parameters of such study, which may include interviewing and tracking over a period of at least one year a representative sample of current and former recipients to assess the initial and ongoing effects of said laws on said recipients' lives.

(c) The commission shall establish an appropriate timetable for production of a final report, provided that interim reports shall be filed with the house and senate committees on ways and means on or before February 1, 1998 and November 1, 1998.

**SECTION 283.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance and the secretary of environmental affairs are authorized and directed to study and make recommendations with regard to the statewide allocation of the unassigned environmental police officers; provided, however, that for the purposes of the study and recommendations said secretaries shall consult with the department of environmental affairs and the division of fisheries and wildlife law enforcement; and, provided further, that the results of said study, together with recommendations, if any, shall be filed with the clerks of the senate and house of representatives not later than October 1, 1997.

**SECTION 284.** Notwithstanding the provisions of any general or special law to the contrary, the low-level radioactive waste management board established by chapter 111H of the General Laws shall file with the joint committee on natural resources and agriculture and the house and senate committees on ways and means not later than February 1, 1998, a report which shall specify the long-term plan for the disposal of low-level radioactive waste generated within the commonwealth by generators under the jurisdiction of the board. The plan shall include, but not be limited to, an assessment of the current and anticipated output of generators including all efforts at source minimization, current and anticipated actions taken by the board with regard to in-state siting, current and anticipated agreements with out-of-state disposal facilities including the terms of current contracts and the long-term projected availability of out-of-state disposal facilities and a description of all actions of the board with regard to developing a long-term disposal solution.

**SECTION 285.** The Massachusetts board of library commissioners is hereby

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authorized and directed to conduct a study of collection development policies and practices in public libraries in Massachusetts. Said study shall include, but not be limited to, the apportionment of collection development budgets by spending category, by subject matter and by patron age group. The board shall also design and submit to the senate committee on ways and means and the joint legislative committee on education, arts and humanities by October 1, 1997 a proposal for a program of grants, to be made to municipal libraries across the state which conform to the Massachusetts library association's standards of operation and whose collection development purchases are categorically proportionate to its circulation statistics; provided, however, that no municipality shall receive more than two such grants per calendar year; and provided further, that one such grant shall equal one full-time equivalent position.

**SECTION 286.** The department of correction, in collaboration with the executive office of elder affairs, is hereby directed to study the costs associated with creating a separate housing area for elderly and ill members of the prison population. Said housing area may be a wing that is an existing part of a house of correction or jail, or may be proposed as new construction. Said study shall determine the costs associated with both housing scenarios, and provide inmate census information delineating the total elderly state prisoner population, including information on illnesses and problems the elderly population encounters that are related to their age. The study shall also provide information on the population of prisoners that are not elderly, but have long term illnesses, and are still members of the general population, specifically, not including those prisoners that are mentally ill or housed in a long term care facility such as the Lemuel Shattuck hospital. Said information shall be used in determining the problems encountered by that population that are related to their illnesses. When examining the costs and implications of creating a separate wing for both populations, said department shall delineate the benefits and liabilities of combining both populations and shall make recommendations regarding the proposal. The department shall report the results of said study to the joint committee on public safety and senate and house committees on ways and means by April 1, 1998.

**SECTION 287.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to conduct a comprehensive study evaluating its transportation operations. Said study shall include, but not be limited to, the following: a fiscal accounting of revenues generated and costs incurred by: (1) current bus service; (2) current light rail and rapid transit service; and (3) commuter rail operations; a fiscal accounting of any and all programmed or planned outsourcing of bus service; a fiscal accounting of projected revenues and costs of expanding the current scope of operations, including, but not limited to, the urban ring project, so-called, the north-south rail link, so-called, and the expansion of commuter rail service along the Old Colony line, so-called. Said study shall also evaluate the costs and benefits of establishing reverse commuter rail services, so-called, service which allows commuters to travel from central city locations to outlying suburban destinations. The results of said study shall be submitted to the joint committee on transportation, the house and senate committees on ways and means, and the house and senate clerk not later than December 31, 1997.



**SECTION 288.** There is hereby established a special commission which shall study and make recommendations concerning whether the commonwealth should participate in the Federal Prison Industries enterprise program. The members of the commission shall be one representative each of the Criminal Justice Policy Coalition, the Massachusetts Housing and Shelter Alliance, the St. Francis House, the Massachusetts Halfway Houses, the Massachusetts Bar Association, the Associated Industries of Massachusetts, the Massachusetts State Labor Council, AFL-CIO, and the director of the department of labor and workforce development or his designee, the commissioner of the department of corrections or his designee, and the house and senate chairpersons of the joint committee on public safety. Said commission shall file its final report, including any proposed legislation, with the clerks of the senate and house of representatives and with the governor on or before the second Monday of December, 1997.

**SECTION 289.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to undertake a comprehensive study reevaluating the current operations of Massachusetts Bay Transportation Authority bus service. Said study shall include, but not be limited to, the cost of providing current bus service, the cost of maintaining the current service with certain cost savings initiatives to be jointly examined and discussed by the authority and those currently providing bus service, the projected cost savings expected from altering the current provision of such service, the number of employees who will be affected by altering the current provision of such service, and the impact altering the current provision of such service will have on federal funding to the authority as a result of the provisions of section 13(c) of the Urban Mass Transportation Act of 1964. Said study shall be submitted to the joint committee on transportation, the joint committee on state administration and the house and senate committees on ways and means not later than October 1, 1998. Notwithstanding any other general or special law to the contrary, current operations of the Massachusetts Bay Transportation Authority bus routes shall not be privatized before December 1, 1997.

**SECTION 290.** There is hereby established a special commission for the purposes of making an investigation and study relative to the methods of achieving a long-term solution to the problem of private and commercial pollination. Said commission shall consist of one member of the senate, one member of the house of representatives, one member of the department of food and agriculture, or his designee, and four members appointed by the governor, one of whom shall be a beekeeper, one of whom shall be an owner and operator of an orchard, and one of whom shall have a particular expertise in agricultural concerns. The special commission shall report the results of its investigation and study, together with its recommendations, if any, by filing the same with the clerks of the senate and house of representatives not later than January 1, 1998.

**SECTION 291.** The executive office of environmental affairs, the department of environmental protection, the department of economic development and the strategic envirotechnology partnership, so-called, shall conduct a study and prepare a report which shall include, but not be limited to, an assessment and evaluation of the supply of recyclable materials and the demand for recyclable materials in the commonwealth, the development



of a strategic plan to promote the use of recyclable materials, and a review of the clean environment fund. Said report shall include, but not be limited to, estimates of quantities of nonhazardous solid waste generated by residential, municipal, commercial, and construction and demolition sources; an assessment and evaluation of the quantity of materials collected and recovered as recyclable materials, the amount of recyclable materials potentially available as postconsumer waste, the amount of recyclable materials reclaimed and processed, and the amount of recyclable materials sold and used as materials or commodities for the manufacture or production of new goods or products. Materials evaluated shall include, but not be limited to: glass, plastic, metal, paper, wood, organics and tires. Said report shall include an estimate of the savings to the commonwealth of the diversion of recyclable materials by avoided costs such as tipping fees, landfill construction and incineration and other associated costs of solid waste management. Said report shall present a detailed analysis of the potential for successful recycling of each material under investigation, including an objective analytical approach which identifies materials with stable or mature markets, problematic materials which may require stimulation through development initiatives at the state or local level, barriers to market demand and materials with promising demand trends for the future. Said report shall assess and evaluate the impact of existing state and local programs on the supply and demand of recyclable materials. Said report shall include a strategic plan with the goal of using state and local resources to maximize voluntary private activity and investment in using recyclable materials in manufacturing and production, promotion and the use of recyclable materials in manufacturing and production, and increasing the demand for new goods or products made with recyclable materials. Said report shall estimate supply and demand by materials beginning in 1994, including projections through 2001. Said report shall provide a methodology and model for ongoing assessment of Massachusetts recycling markets in the future, to be prepared separately or as part of subsequent versions of the solid waste master plan. Said report shall include a projection of the sources and uses of the Clean Environment Fund from fiscal year 1998 to fiscal year 2000, and recommendations on ensuring that said Fund exclusively supports the achievement of the goals stated in the Solid Waste Master Plan. Said report shall be filed with the house and senate committees on ways and means and the joint committee on natural resources and agriculture not later than April 1, 1998.

**SECTION 292.** The Massachusetts Bay Transportation Authority is hereby authorized and directed to study and report on or before May 15, 1998 to the joint committee on transportation, the means and costs of replacing the wheels on all trains serving the authority's transit lines for purposes of noise mitigation.

**SECTION 293.** Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation is hereby directed to submit a report to the house and senate committees on ways and means further detailing a report released by said department on September 20, 1996 on the waiting list for services at said department. Said report shall include, but not be limited to, the following: (i) a description of the criteria used by said department to classify the unserved or underserved status, so-called, of consumers waiting for services; (ii) a description of the criteria used by the department to determine that

certain levels of service received by said underserved consumers are unsatisfactory or incomplete; and (iii) the criteria used by the department to define the unmet needs, so-called, of consumers. Said report shall also detail said waiting list for services by the number of consumers waiting for residential services, the number of consumers waiting for day and work services, and the number of consumers waiting for family support services, so-called. Said report shall also detail the number, cost and emergency nature of emergency residential placements funded by the department during fiscal year 1997. Said report shall be submitted to the house and senate committees on ways and means not later than November 1, 1997.

**SECTION 294.** (a) In order to promote accountability for effective management and stewardship of public funds, and to achieve and demonstrate measurable educational outcomes, the institutions shall certify achievement of public higher education accountability objectives through a performance measurement system. The board of higher education, in this section called the board, in conjunction with the institutions, shall develop said system including specific performance measures with which to evaluate the institutions and with which to compare them with peer institutions with similar missions in other states. The board shall conduct not less than three regional public hearings on the measures proposed to be incorporated into said system.

(b) The board, in consultation with the councils of state and community colleges, shall identify peer institutions for the state and community colleges. The higher education accountability objectives shall include, but not be limited to, the following: (1) to make public higher education more affordable; (2) to improve student access and academic achievement; (3) to recruit qualified students; (4) to respond to specific needs of the workplace, as defined by business and labor; (5) to provide policy research addressing the needs of the commonwealth and local communities; (6) to ensure cost-effective use of resources at each institution and across all institutions, and manage campuses as efficiently as possible; (7) to promote collaboration among the campuses and with the private sector; (8) to support kindergarten to grade 12 education programs; and (9) to maximize fundraising from private sources.

(c) In order to measure the achievements and expected outcomes of the commonwealth's system of public higher education, the board shall form, no later than September 1, 1997, separate task forces for the state and community college segments consisting of presidents or their appointees and members of boards of trustees of the institutions.

(d) For each of the accountability objectives, the board, in conjunction with each task force, shall establish intelligible performance measures and identify data items that must be obtained for each performance measure. Data shall be collected and analyzed on a campus, segmental and system-wide basis; provided, however, the board and the campuses shall jointly establish definitions for all data items used in the performance measurement system.

(e) In order to achieve the accountability objectives of cost effective use of resources and efficient fiscal management of the institutions, each task force shall match or improve upon standards established by National Association of College and University Business

Officers. Said performance measurement system shall be regularly evaluated and revised by the board in consultation with the institutions to ensure that it continues to measure the achievements and expected outcomes of the commonwealth's public higher education system. Said accountability objectives, performance measures and data items shall be submitted to the house and senate committees on ways and means, and the joint committee on education, arts and humanities. Implementation of said performance measurement system shall commence not later than July 1, 1998.

(f) The board shall use said accountability objectives, performance measures, and expected outcomes to conduct an annual evaluation of the performance of each institution. Any institution's failure to meet a reasonable number of said accountability objectives, as determined by the performance measures, within a given year shall be deemed underperforming. If the board finds an institution to be underperforming, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means, and the joint committee on education arts and humanities. If the institution fails to achieve the agreed to targeted improvements and time line, funds appropriated for said underperforming institution in the following fiscal year shall be disbursed by the board of higher education to said institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of an underperforming institution.

(g) Not later than January 1 of each year, the chancellor of the board of higher education shall submit to the governor and the general court a condition of higher education report which details the condition and performance of each public higher education institution. The board shall issue its first report not later than January 1, 1999.

(h) The board shall structure its staff and financial resources to provide technical assistance to institutions to help them identify problems and assist them with formulating and implementing plans to meet said accountability measures.

(i) The board of trustees of the University of Massachusetts is hereby directed to develop a performance measurement system for the university, in consultation with the board of higher education. The objectives of said performance measurement system shall include the following: (1) to promote student access and affordability; (2) to recruit qualified undergraduate and graduate students; (3) to promote student success; (4) to pursue theoretical and applied research, scholarship and creative activity; (5) to contribute to the economic development of the commonwealth; (6) to support kindergarten to grade 12 education programs; (7) to provide policy research addressing the needs of the commonwealth and local communities; (8) to ensure cost effective use of resources; and (9) to maximize fundraising from private sources. Said system shall include performance indicators for each of these purposes and identify data to be used in measuring performance. The board of trustees may compare institutional performance with the performance of peer institutions with similar missions as part of its evaluation process.

(j) Implementation of said university performance measurement system shall commence not later than July 1, 1998. The university shall adopt an implementation plan



and timetable for meeting performance measures established by said system. The board of trustees shall report annually to the governor and the general court on the results of said performance measurement system, including recommendations for improvements to the system and for achieving improved levels of performance where necessary. Said board of trustees shall issue its first report on or before January 1, 1999.

**SECTION 295.** The department of public health is hereby authorized and directed to conduct a study and file a report on a five year program of osteoporosis education and screening services. Said report shall include, but not be limited to, the amount of state spending proposed, a statement of reasons in support of said amount, and efforts to be undertaken by said department to establish and increase alternative sources of funding. Said report shall be filed with the joint committee on health care and the house and senate committees on ways and means not later than December 21, 1997.

**SECTION 296.** The department of fire services shall submit to the house and senate committees on ways and means not later September 15, 1997 a capital plan for the establishment of regional firefighter training facilities; provided, however, that said plan shall include an analysis of training facility capacity and the demand for firefighter training; provided further, that said plan shall delineate proposed locations for additional regional training facilities and the justification for said proposed locations.

**SECTION 297.** The division of medical assistance is hereby authorized and directed, for the purposes of MassHealth cost allocation and budget neutrality compliance, to develop a method for identifying the eligibility days and absolute numbers of traditional beneficiaries and expansion beneficiaries as defined by clauses (a) to (e), inclusive, of subsection (2) of section 9A of chapter 118E of the General Laws. Said method shall allow the division to allocate costs accurately among items 4000-0500, 4000-0700, and 4000-0860 in section 2 of this act and shall establish the basis for caseload, expenditure and revenue projection necessary to establish the budget neutrality finding required by said section 9A of said chapter 118E. The division shall report on said allocation method to the house and senate committees on ways and means and the secretary of administration and finance no later than November 1, 1997. Said report shall further identify any differences between said method and any federally required allocation method necessary to comply with the terms and conditions of the demonstration project medicaid waiver known as MassHealth.

**SECTION 298.** The statewide emergency telecommunications board, as established by section 18B of chapter 6A of the General Laws, shall submit to the house and senate committees on ways and means not later than September 15, 1997 a report detailing the technological feasibility of implementing a statewide nonemergency abbreviated dial telecommunications system, as a method of reducing the number of nonemergency telephone calls received by emergency telecommunications systems; provided, however, that said report shall detail alternative methods of reducing nonemergency telephone calls received by emergency telecommunications systems; provided, further, that said report shall detail the budgetary ramifications of implementing and maintaining said nonemergency telecommunications system and of any alternative methods contained in said report; and provided further, that said report shall contain said board's recommendations on the most



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efficient method of reducing nonemergency telephone calls to emergency telecommunications systems.

**SECTION 299.** The department of education is hereby authorized and directed to study the method of allocation of all grants funded with monies appropriated in this act from the education reform funding schedule specified in section 68 of chapter 71 of the acts of 1993 to local education authorities so-called, and to determine the most appropriate method of allocation of said grants. The department shall submit a report to the house and senate committees on ways and means no later than February 15, 1998, detailing which grants are most appropriately awarded on a competitive basis, a schedule by which the awarding of said grants can and should be converted to a competitive process, and which grants are most appropriately funded by means of entitlement.

**SECTION 300.** The commissioner of the division of capital planning and operations is hereby authorized and directed to report to the house and senate committees on ways and means on an implementation plan for a system of notification for mayors, city councilors or selectmen of a city or town upon the placement of a notice of need by said division in the central register published by the secretary of state. Said report shall include, but not be limited to, any costs associated with the implementation of said system of notification, the amount of staff hours necessary to comply with said system of notification, and any recommendations, including any necessary enabling or other legislation, necessary to effectuate said system of notification. Said report shall be filed with the house and senate committees on ways and means on or before September 15, 1997.

**SECTION 301.** Any county, city or town which is making payments of different subsidiary or additional rates for a group or class within a unit for insurance for retired employees on the effective date of this act may continue to make such payments notwithstanding the provisions of section nine E of chapter thirty-two B of the General Laws or any other general or special law to the contrary; provided, however, such rates shall remain at the amount in effect on the effective date of this act.

**SECTION 302.** There is hereby established a commission on the consolidation of the Massachusetts Bay Transportation Authority police force with another public law enforcement agency. Said commission shall review the feasibility of consolidation options that will ensure an appropriate level of public safety for the ridership of the MBTA. Said commission shall consider the impact of public safety services within the city of Boston and throughout the public transit network; provided that in considering such consolidation options, the commission shall review such issues as police training, the fiscal impact of pension fund and real estate and equipment transfers upon the consolidated agencies, rank structure, promotional and labor relations issues, any monetary savings and residual costs that might accrue to the commonwealth and the overall impact of consolidation on the public safety services within the city of Boston and throughout the public transit network. The commission shall make recommendations based upon this review and prepare a report to the general court along with legislative recommendations to accomplish the objectives of its report by October 1, 1997.

The commission shall be comprised of the secretary of public safety or his designee,

the general manager of the MBTA or his designee, a representative of the MBTA Police Association, commissioner of the Boston police department or his designee, five members of the house of representatives and three members of the senate.

**SECTION 303.** Section 2 of chapter 353 of the acts of 1996 is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- Such sale, lease or conveyance shall be for full and fair market value pursuant to the appraisal process established by section 9, less all expenditures incurred by the town of Belchertown in conjunction with the town's occupancy, use and maintenance of the land and buildings on parcel A pursuant to all license or leasing agreements with the division prior to conveyance of parcel A to the town of Belchertown and less the costs to be incurred by the recipients for removing asbestos containing materials from the properties, remediating environmental conditions and demolition of buildings where renovation is economically unfeasible. Expenditures shall include, but not be limited to, license fees, lease or rent obligations, maintenance and custodial services, repairs, renovations and alterations, public works and public safety services, property, casualty and liability insurance, engineering surveys, other plans and tests of the site and the costs of preparing a recordable survey describing said parcel A and the costs of recording said plan at the registry of deeds.

**SECTION 304.** (a) The division of capital planning and operations is hereby authorized and directed to transfer, within 90 days of the effective date of this section, all of the commonwealth's right, title and interest in a certain parcel of land with the buildings thereon, as described more fully in subsections (c), (d) and (e), to the Boston Renaissance charter public school, a body corporate and politic established pursuant to and in accordance with the provisions of section 89 of chapter 71 of the General Laws, for a purchase price equal to the full and fair market value less the value of any improvements made by said school.

The full and fair market value shall be determined by averaging three independent appraisals to be conducted at the direction and expense of the division of capital planning and operations.

(b) The inspector general shall review and approve said determination of value and said review shall include an examination of the methodology utilized for said appraisals. Said inspector general shall prepare a report of his review and file said report with said division for submission to the house and senate committees on ways and means. Said school shall assume the full cost of preparing a recordable survey describing said parcel and shall also assume the costs of recording said plan with the registry of deeds for Suffolk county.

(c) The parcel to be conveyed is more fully described as follows: A parcel of land with the buildings thereon on Arlington, Stuart and Piedmont streets in Boston, Suffolk county, Massachusetts, described as and bounded westerly by Arlington street one hundred thirty-five and ninety-seven one hundredths feet; northerly by Stuart street one hundred eight and twenty-eight one hundredths feet; easterly by land now or formerly of Bowditch eighty-five and eleven one hundredths feet; northerly again by land now or formerly of Bowditch twenty-five and forty-four one hundredths feet; easterly again by land now or formerly of Bowditch fifty-one and sixty-six one hundredths feet; and southerly by Piedmont street one

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hundred twenty-eight and thirty-two one hundredths feet.

(d) Said parcel contains fifteen thousand seven hundred ninety-six square feet of land is shown on a plan entitled "Plan of Land in Boston, Mass." by William S. Crocker, civil engineer, dated December 11, 1948, with additions made December 31, 1948, recorded with the Suffolk county registry of deeds on page 403 in book 8073.

(e) The premises, sometimes known as 250 Stuart street, 100 to 104 Arlington street, and 47 to 55 Piedmont street in Boston, Massachusetts, are the same conveyed to the commonwealth of Massachusetts by deed of Eastern Gas and Fuel Associates dated October 3, 1966 and recorded with the Suffolk county registry of deeds in book 8073, page 403.

(f) Notwithstanding any general or special law to the contrary, the Boston Renaissance charter public school may incur debt for the purpose of acquiring land and constructing, reconstructing, adding to, remodeling, making extraordinary repairs to and equipping a school building or buildings, for a term not to exceed 25 years.

**SECTION 305.** Notwithstanding the provisions of any general or special law to the contrary, effective July 1, 1997, any references in any general or special law to the office for children shall be deemed to be references to the office of child care services established by this act.

**SECTION 306.** The comptroller is hereby authorized and directed to transfer to the Child Care Fund established pursuant to section 2LL of chapter 29 of the General Laws, as inserted by section 50 of this act, the unexpended balance in the Child Care and Development Block Grant appropriated pursuant to item 4000-0702 in section 2 of chapter 151 of the acts of 1996.

**SECTION 307.** The provisions of sections 62 and 63 shall be effective for any tax year beginning on or after January 1, 1997.

**SECTION 308.** The provisions of section 64 shall take effect on October 1, 1997.

**SECTION 309.** The provisions of sections 86 and 87 shall take effect on July 1, 1998.

**SECTION 310.** The provisions of sections 160 and 237 shall take effect on June 30, 1997.

**SECTION 311.** Except as otherwise provided, the provisions of this act shall take effect on July 1, 1997.

*This bill was returned on July 10, 1997, 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:*

**SECTIONS:** 4, 10, 15, 23, 25, 26, 27, 31, 32, 34, 36, 37, 54, 55, 65, 66, 67, 73, 74, 105, 108, 131, 135, 140, 141, 166, 199, 201, 215, 228, 234, 240, 241, 245, 246, 247, 253, 260, 275, 276, 287, 289, 296, 301

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**Chap. 43****SECTION 2** *Items reduced in amount*

Item	Reduce by	Reduce to
0332-7500	57,932	596,633
7002-0500	846,978	14,272,166
7002-0502	150,000	2,862,401

**SECTION 2** *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0032-1600	115,864	1,760,913	"two additional assistant clerks,"
0332-1800	115,864	2,461,683	“, two additional assistant clerk positions”
0332-1900	57,932	1,029,436	“; provided that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-2100	115,864	1,788,865	“; provided, that two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998”
0332-2400	115,864	1,751,762	“and two additional assistant clerks”
0332-2900	57,932	1,193,650	“; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1998”
0332-3000	57,932	1,051,452	“; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-3900	115,864	3,437,240	“and two additional assistant clerks”
0332-4000	120,755	2,387,609	“one additional special assistant clerk, so-called, one additional assistant clerk”
0332-4400	57,932	2,094,024	“; provided that one additional assistant clerk magistrate shall be funded from this item to fiscal year 1998”
0332-4700	57,932	2,075,861	“provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”



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Item	Reduce by	Reduce to	Wording Stricken
0332-5300	57,932	4,441,231	“; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-5600	115,864	882,830	“; provided, that \$75,000 shall be expended in fiscal year 1998 for one additional assistant clerk at said court”
0332-5700	57,932	2,943,147	“; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-6100	57,932	1,239,382	“; and provided further, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-6200	115,864	811,509	“; provided, that two additional assistant clerk magistrates shall be appointed and funded from this item is fiscal year 1998”
0332-6400	57,932	4,333,853	“; provided, that one additional assistant clerk shall be appointed and funded from this item in fiscal year 1998”
0332-6600	130,000	3,945,540	“; provided, that \$130,000 shall be expended in fiscal year 1998 for 1 additional assistant clerk and 1 jury session clerk, so-called, at said court”
0332-7000	115,864	1,113,561	“; provided, that two additional assistant clerks shall be appointed and funded from this item in fiscal year 1998”
2010-0100	500,000	6,500,000	“; provided further, that not less than \$500,000 of the amount appropriated herein shall be expended for a recycling industry reimbursement program pursuant to section 24I”

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### SECTION 2 *Items disapproved by striking the wording:*

Item	Wording Stricken
0336-0002	“; provided, that any division of the housing court department, as defined in section 4 of chapter 185C of the General Laws, shall hold its sittings in the facilities of the district court of central Berkshire county in the city of Pittsfield not less than once per month; and provided further, that such sittings shall be held by an associate justice of the trial court appointed to a division of the housing court department”
4403-2000	“; provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary, 30 days 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 the basis for, and text of, such proposed changes”
4403-2002	“; and provided further, that notwithstanding the provisions of any general or special law or of item to the contrary, 30 days 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 the basis for, and text of such proposed changes”
4403-2110	“; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, 30 days before promulgating any such eligibility or benefit charges, 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”

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Item	Wording Stricken
4403-2120	“; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, 30 days before promulgating any such eligibility or benefit charges, 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”
4408-1000	“; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, 30 days before promulgating any such eligibility or benefit charges, 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”
4408-2002	“; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, 30 days before promulgating any such eligibility or benefit charges, 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,

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Item	Wording Stricken 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 "
4510-0150	" ; provided, that the monthly number of clients enrolled in said program shall not exceed the average monthly enrollment in said program for fiscal year 1997"
4513-1000	" ; provided further, that the department shall fund not less than 39 full time equivalent employees for the early intervention program'
4540-0900	" ; provided, that the department shall not enter into a tax exempt lease purchase agreement for the purchase for a computerized billing system which requires the amortization of expenditures"
7003-9006	" ; provided, that no career centers in addition to those seven in operation on May 1, 1998, and any satellite offices associated therewith which are currently scheduled to open on or before December 1, 1997, shall be operated in the commonwealth in fiscal year 1998, except with further express statutory approval"
7010-0005	" ; and provided further, that no local education authority shall expend any funds of the commonwealth, distributed, allocated, or obligated by the department, for the compensation of the costs of any consultant services designed to influence, interpret, or otherwise alter the purpose or intent of said chapter 71"

*The remainder of the bill was approved by the Governor July 10, 1997 at three o'clock and one minute, P.M.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 15, 1997 in the House of Representatives and on July 22, 1997 the Senate passed the following Section: **SECTION 253.***



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**Chapter 44. AN ACT AUTHORIZING THE TOWN OF CHELMSFORD TO CONVEY CERTAIN CONSERVATION LAND.**

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

The conservation commission of the town of Chelmsford is hereby authorized to convey a certain parcel of conservation land to the board of selectmen of said town. Said board of selectmen is hereby authorized to convey said parcel of land to be used for residential-related purposes. Said parcel is described in a deed recorded in the Middlesex county northern district registry of deeds in Book 2223, Page 140.

Approved July 10, 1997.

**Chapter 45. 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 certain parcels 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 parcels are shown on the city of Malden Assessor's Map 154, Block 50600, Lot 606 (Hunting Field) and on Assessor's Map 85A, Block 38600, Lot 601 (Newman Park).

**SECTION 2.** The change in use of said portions of said park lands is contingent upon suitable replacement park lands being provided, as approved by the secretary of environmental affairs and the National Park Service, where applicable.

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

Approved July 10, 1997.

**Chapter 46. AN ACT RELATIVE TO CHARTER SCHOOLS.**

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

**SECTION 1.** Chapter 69 of the General Laws is hereby amended by inserting after section 1L the following section:-

Section 1M. The board shall establish a discretionary grant program for the purpose of providing planning grants to assist in the development and establishment of charter schools pursuant to section 89 of chapter 71.

**SECTION 2.** Chapter 71 of the General Laws is hereby amended by striking out section 89, as most recently amended by sections 223 to 225, inclusive, of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

Section 89. (a) A commonwealth charter school shall be a public school, operated under a charter granted by the board of education, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from the board of education, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

(b) A Horace Mann charter school shall be a public school or part of a public school operated under a charter approved by the local school committee in which the school is located and by the local collective bargaining agent; provided, however, that all charters shall be granted by the board of education. Horace Mann charter schools shall be operated and managed by a board of trustees independent of the school committees which approve said schools.

(c) For the purposes of this chapter, the words "charter school" or "charter schools" shall refer to both commonwealth charter schools and Horace Mann charter schools unless specifically stated otherwise.

(d) The purposes for establishing charter schools are: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs; (6) to hold teachers and school administrators accountable for students' educational outcomes; and (7) to provide models for replication in other public schools.

(e) Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to a non-profit business or corporate entity, two or more certified teachers or ten or more parents; provided, however, that no for profit business or corporate entity shall be eligible to apply for a charter. Said application may be filed in conjunction with a college, university, museum or other similar non-profit entity. Private and parochial schools shall not be eligible for charter school status.

(f) The board of education shall establish the information needed in an application for the approval of a charter school; provided, however, that said application shall include but not be limited to a description of: (1) the method for admission to a charter school; (2) the mission, purpose, innovation and specialized focus of the proposed charter school; (3) procedures for teacher evaluation and professional development for teachers and administrators; (4) the school governance and bylaws; (5) the financial plan for the operation of the school; (6) the educational program, instructional methodology and services to be offered to students; (7) the number and qualifications of teachers and administrators to be employed; (8) the organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school; (9) the provision of school facilities and pupil transportation; and (10) a statement of equal educational opportu-

nity which shall state that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language, and academic achievement. In the case of a Horace Mann charter school, the application shall include a statement of the non-instructional services which will continue to be provided by the local school district. There shall be no application fee for admission to a charter school.

(g) An application submitted for the establishment of a commonwealth charter school shall: (1) be submitted to the board of education for approval pursuant to this section; and (2) be filed with the local school committee for the school district in which the charter school is to be located. Before final approval to establish a commonwealth charter school the board of education shall hold a public hearing on said applications, and solicit and review comments on the application from the local school committee for the school district in which said charter school is to be located.

(h) Applications to establish a charter school shall be submitted to the board each year by November 15. The board shall review the applications and grant new charters in February of the following year.

(i) The board of education shall make the final determination on granting charter school status and may condition charters on the applicant's taking certain actions or maintaining certain conditions. No more than 50 charter schools shall be allowed to operate in the commonwealth at any time. In any fiscal year, no public school district's total charter school tuition payment to commonwealth charter schools shall exceed 6 per cent of said district's net school spending. Of the total number of charter schools in the state, 13 shall be reserved for Horace Mann charter schools and 37 shall be reserved for commonwealth charter schools; provided, however, that in the event that fewer than 13 proposals for Horace Mann schools are submitted to the board of education within three years of the effective date of this act, not more than five charter school slots for said Horace Mann charter schools shall be made available for commonwealth charter schools. Under no circumstances shall the total number of students attending commonwealth charter schools exceed 2 per cent of the total number of students attending public schools in the commonwealth. In approving new charters in any year, the board may give priority to proposals for schools located in low performing districts or schools based upon, but not limited to, such indicators as scores on state wide assessments, and drop out rates. The board may also give priority to schools that have demonstrated broad community support, an innovative educational plan, and a demonstrated commitment to assisting the district in which it is located in bringing about educational change.

(j) A charter school established under a charter granted by the board shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:-

(1) to adopt a name and corporate seal; provided, however, that any name selected must include the words "charter school";

(2) to sue and be sued, but only to same extent and upon the same conditions that a town can be sued;

(3) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility; however, in the case of a Horace Mann charter school, the approval of the local school committee shall be obtained before acquisition of any such real property owned or controlled by such body;

(4) to receive and disburse funds for school purposes;

(5) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the charter school intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the board either as part of the original charter or by way of an amendment thereto; provided, further that the board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;

(6) to incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann school shall obtain the approval of the local school committee and appropriate local appropriating authorities and officials relative to any proposed lien or encumbrance upon public school property or relative to any financial obligation for which the local school district shall become legally obligated; and provided further that notwithstanding any law to the contrary, the terms of repayment of any charter school's debt shall not exceed the duration of the school's charter without the approval of the board;

(7) to solicit and accept any grants or gifts for school purposes;

(8) to have such other powers available to a business corporation formed under chapter 156B that are not inconsistent with this chapter.

(k) Charter schools shall not charge any public school for the use or replication of any part of their curriculum subject to the prescriptions of any contract between the charter schools and any third party providers.

(l) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language, and academic achievement. Charter schools may limit enrollment to specific grade levels and may structure curriculum around particular areas of focus such as mathematics, science, or the arts.

(m) Preference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located. Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled in said school on the date that the application is filed with the board of education and to their siblings; second to other students actually enrolled in the public schools of the district where the Horace Mann charter school is to be located and third, to other resident students.

(n) If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are sib-



lings of students already attending said charter school is greater than the number of spaces available, then an admissions lottery, including all eligible students applying, shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more eligible applicants than spaces left available, then a lottery shall be held to determine which of said applicants shall be admitted; provided, however, that any lottery conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section. Notwithstanding the provisions of this subsection, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board of education 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 of 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. There shall be no tuition charge for students attending charter schools.

(o) Each charter school shall annually, no later than April 1, notify each public school district in writing of the number of students who will be attending the charter school from that district the following September as well as the number of new students who will be transferring from that district to the charter school in the following September. In 1997 charter schools shall provide the required enrollment information no later than August. Tuition for charter school students shall only be paid for the number of students for whom notification has been reported by April 1. Tuition for charter school students shall be paid only for students actually enrolled in said school.

(p) A student may withdraw from a charter school at any time and enroll in another public school where said student resides. A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the board of education, with the advice of the principal and teachers; provided, however, that charter school policies shall be consistent with sections 37H and 37H½.

(q) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease or rent its space. Nothing contained in this section shall preclude computer, cable, or other technology-based learning in conjunction with classroom based learning.

(r) The school committee of each district where a Horace Mann charter school is located shall develop a plan to disseminate innovative practices of said charter school to other public schools within the district subject to the provisions of any contract between the Horace Mann charter school and any third party provider.

(s) The commissioner shall facilitate the dissemination of successful innovation programs of charter schools and provide technical assistance for other school districts to replicate such programs.

(t) A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that the provisions of sections 41 and 42 shall not apply to employees of commonwealth charter schools. Charter schools shall comply with the provisions of chapters 71A and 71B; provided, however, that the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides. If a charter school expects that a special needs student currently enrolled in the charter school may be in need of the services of a private day or residential school, it shall convene an individual education plan team meeting for said student. Notice of the team meeting shall be provided to the special education department of the school district in which the child resides at least five days in advance. Personnel from the school district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child.

(u) Horace Mann charter schools shall be exempt from local collective bargaining agreements to the extent provided by the terms of its charter; provided, however, that employees of the Horace Mann charter school shall continue to be members of the local collective bargaining unit and shall accrue seniority and shall receive, at a minimum, the salary and benefits established in the contract of the local collective bargaining unit where said Horace Mann charter school is located. Employees of Horace Mann charter schools shall be exempt from all union and school committee work rules to the extent provided by said school's charter. Employees in Horace Mann charter schools shall be required to work the full work day and work year to the extent provided by the terms of the individual charter school proposal.

(v) Notwithstanding the provisions of this section or any other general or special law to the contrary, for the purposes of chapter 268A a charter school shall be deemed to be a state agency and the appointing official of a member of the board of trustees of a charter school shall be deemed to be the commissioner of education. The members of the board of trustees of all charter schools operating under the provisions of this section shall file a statement of financial interest with the state ethics commission, pursuant to section 5 of chapter 268B.

(w) Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board of education for students in other public schools.

(x) The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget. The board of trustees of each Horace Mann charter school shall annually submit to the superintendent and school committee of the district in which such school is located a budget request for the following fiscal year. The school committee shall act on such budget request in conjunction with its actions on the district's overall budget. Each Horace Mann charter school shall receive in response to the budget request not less than it would have under the district's budgetary allocation rules. The board of trustees may appeal any disproportionate budgetary allocation

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to the commissioner, who shall determine an equitable funding level for such school and shall require the school committee to provide such funding.

(y) Following the appropriation of the district's operating budget for the fiscal year, the amount approved by the local appropriating authority for the operation of each Horace Mann charter school shall be available for expenditure by the board of trustees of such school for any lawful purpose without further approval by the superintendent or the school committee. In no case shall a Horace Mann charter school expend or incur obligations in excess of its budget request; provided, however, that a Horace Mann charter school shall be authorized to spend federal and state grants and other funds received independent of the school district not accounted for in said charter school's budget request without prior approval from the superintendent or the school committee.

(z) Upon approval of a Horace Mann charter school by the board of education, the superintendent of the school district where the Horace Mann charter school is to be located shall reassign, to the extent provided by the terms of its charter, any faculty member who wishes to be reassigned to another school located within said district.

(aa) Employees of charter schools shall be considered public employees for purposes of tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however, that in the case of a Horace Mann charter school, the school committee of the school district in which the Horace Mann charter school is located shall remain the employer for collective bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter 32 and service in a charter school shall be "creditable service" within the meaning thereof.

(bb) Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave in order to teach in a commonwealth charter school. A teacher may request a leave of absence for up to two years.

(cc) At the end of the second year the teacher may either return to his former teaching position or, if he chooses to continue teaching at said commonwealth charter school, resign from his school district position.

(dd) Notwithstanding section 59C, the internal form of governance of a charter school shall be determined by the school's charter.

(ee) A charter school shall comply with all applicable state and federal health and safety laws and regulations.

(ff) The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on the same terms and conditions as transportation is provided to children attending local district schools. In providing such transportation, said school committee shall accommodate the particular school day and school year of the charter school; provided, however, that in the event that a school committee limits transportation for district school



students, the school district shall not be required to provide transportation to any commonwealth charter school beyond said limitations. In no case shall charter schools receive funds for transportation above the amount actually required by the charter school pursuant to this section. If the sending district provides an alternative method of transportation for students enrolled in the sending district's public schools, it shall not be assessed for transportation costs which exceed the per pupil cost of said alternative. Costs for transportation shall be included only if transportation is provided for students in the same program and grade level as those in the charter school. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section 12B of chapter 76.

(gg) Each charter school shall submit to the board of education, to the local school committee, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school an annual report. The annual report shall be issued no later than August 1 of each year for the preceding school year. The annual report shall be in such form as may be prescribed by the board and shall include at least the following components: (1) discussion of progress made toward the achievement of the goals set forth in the charter; and (2) a financial statement setting forth by appropriate categories, the revenue and expenditures for the year just ended.

(hh) Each charter school shall keep an accurate account of all its activities and all its receipts and expenditures and shall annually cause an independent audit to be made of its accounts. Such audit shall be filed annually on or before January 1 with the department of education and the state auditor and shall be in a form prescribed by said auditor. Said auditor may investigate the budget and finances of charter schools and their financial dealings, transactions and relationships, and shall have the power to examine the records of charter schools and to prescribe methods of accounting and the rendering of periodic reports.

(ii) If a charter school student previously attended a private or parochial school or was home schooled, the commonwealth shall assume the first year cost for that student and shall not reduce the sending district's chapter 70 aid for that student's tuition in that fiscal year.

(jj) Individuals or groups may complain to a charter school's board of trustees concerning any claimed violations of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the board of education which shall investigate such complaint and make a formal response.

(kk) A charter granted by the board of education shall be for five years. The board may revoke a school's charter if the school has not fulfilled any conditions imposed by the board in connection with the grant of the charter or the school has violated any provision of its charter. The board may place the charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.



(ll) The board of education shall develop procedures and guidelines for revocation and renewal of a school's charter; provided, however, that a charter for a Horace Mann charter school shall not be renewed by the board without a vote of support from the school committee and local collective bargaining agent in the district where said charter school is located.

(mm) Notwithstanding any other provision of this section, no school building assistance funds, so-called, shall be awarded to a commonwealth charter school for the purpose of constructing, reconstructing or improving said school.

(nn) Commonwealth charter schools shall be funded as follows: if a student attending a charter school resides in a district with a positive foundation gap, as defined in section 2 of chapter 70, the commonwealth shall pay a tuition amount to the charter school equal to the average cost per student in said district. If the student resides in a district that does not have a positive foundation gap, as so defined, the commonwealth shall pay a tuition amount to the charter school equal to the lesser of: (1) the average cost per student in said district; and (2) the average cost per student in the district in which the charter school is located. The state treasurer is hereby authorized and directed to deduct said charter school tuition amount from the total education aid, as defined in said chapter 70, of the district in which the student resides prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the charter school tuition amount shall be deducted from said chapter 70 education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter 70 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said excess amount. The state treasurer is hereby further authorized to disburse to the charter school an amount equal to each student's charter school tuition amount as defined above. The board of education shall adopt regulations for determining the average cost per student in calculating charter school tuition amounts for the purpose of this subsection, and in adopting said regulations shall consult with the executive office for administration and finance and shall consider the actual cost per student, the variation in cost for different grade levels and different programs, a charter school's capital costs, the advisability of establishing a maximum amount for such average cost, and the impact on existing charter schools, other public schools in the district, and new charter schools.

(oo) Beginning in fiscal year 1999, any district whose total charter school tuition amount is greater than its total charter school tuition amount for the previous year shall be reimbursed by the commonwealth in accordance with this paragraph and subject to appropriation; provided, however, that no funds for said reimbursements shall be deducted from funds distributed pursuant to chapter 70. The reimbursement amount shall be equal to

100 per cent of the increase in the year in which the increase occurs; 60 per cent of that amount in the first year following; and 40 per cent of that amount in the second year following.

(pp) The commissioner of education shall collect data on the racial, ethnic and socio-economic make-up of the student enrollment of each charter school in the commonwealth. The commissioner shall also collect data on the number of students enrolled in each charter school who have individual education plans pursuant to chapter 71B and those requiring transitional bilingual education services. Said data shall be filed annually with the clerks of the house and senate and with the joint committee on education, arts and humanities not later than December 1.

**SECTION 3.** The second sentence of section 19 of chapter 267 of the acts of 1995, as appearing in section 525 of chapter 151 of the acts of 1996, is hereby amended by striking out the word "thirty" and inserting in place thereof the following word:- forty.

**SECTION 4.** No charter school proposal given conditional approval by the secretary of education prior to the effective date of this act shall be given priority status by the board of education when granting new charter schools pursuant to this act.

**SECTION 5.** Reimbursements made pursuant to section 19 of chapter 267 of the acts of 1995, as amended by section 525 of chapter 151 of the acts of 1996, shall be limited to tuition charges for charter schools which began operation before July 1, 1998. Said reimbursement shall be based on the tuition charge for said school in fiscal year 1998 or the tuition charge for said school in the year in which reimbursement is being made, whichever is less.

**SECTION 6.** Notwithstanding any provision or law to the contrary, any public school district that transfers 5 per cent or more of its net school spending to commonwealth charter schools in fiscal year 97 shall not in any future fiscal year have more than an additional 3 per cent of said district's net school spending transferred to commonwealth charter schools for charter school tuition payments.

**SECTION 7.** (a) The board of education shall conduct an evaluation of charter school tuition payments and compare said tuition payments with the actual costs of educating students in charter schools and the actual costs of educating said students in their respective public schools. Said evaluation shall also include, but not be limited to the following matters: an evaluation of the fiscal effects of charter school financing on municipal and regional public school districts; and evaluation of whether and to what extent the innovative practice of the charter schools can be replicated in public school systems; and a study how and how effectively charter schools stimulate or diminish innovative practice in public school systems. Said evaluation shall be filed with the clerks of the senate and the house of representatives, the senate and house committees on ways and means, and the joint committee on education, arts, and humanities no later than September 30, 1997.

(b) The board of education shall, after a public hearing, adopt the regulations for determining the average cost per student in calculating charter school tuition amounts, as required by subsection (nn) of section 89 of chapter 71 of the General Laws, as appearing

in this act, not later than October 1, 1997. Said regulations shall take effect for the school year beginning in September 1998.

**SECTION 8.** The department of education shall study the advisability of legislation authorizing local school committees to grant charters to existing public schools, to be known as district charter schools. Said study shall also consider the effect of such legislation on federal funding, and whether schools now designated as pilot schools by the Boston school committee should be designated as such district charter schools. The department shall report the results of said study, together with proposed legislation if any, to the joint committee on education, arts and humanities, not later than November 1, 1997.

**SECTION 9.** A full evaluation of the costs associated with the establishment of charter schools shall be conducted by a commission consisting of the house and senate chairmen of the joint committee on education, arts and humanities or their designees; the chair of the house committee on ways and means or his designee; the chair of the senate committee on ways and means or his designee; the secretary of administration and finance or his designee; the commissioner of education or his designee; and a member of the Massachusetts Teachers Association. Said study shall include, but not be limited to, whether or not those responsible for the administration or those choosing to enroll in charter schools shall make a contribution towards the operation of said charter school, the cost of transportation and necessary school supplies. A report of said study shall be filed with the clerks of the senate and the house of representatives not later than December 31, 1997.

**SECTION 10.** The inspector general shall conduct a study of the operation, practices and activities at the established charter schools in the commonwealth. Said study shall include, but not be limited to, an analysis and evaluation of contracting practices and related matters and whether any procedures, practices, programs or measures may be employed or implemented to ensure that the charter schools are in conformance with state laws governing contracting, related-party transactions, record keeping and the expenditure of public funds. The inspector general shall submit the findings and recommendations of said study to the house and senate committees on ways and means and the joint committee on education, arts and humanities not later than December 31, 1997.

**SECTION 11.** Notwithstanding the provisions of section 27C of chapter 29 of the General Laws or of any special or general law to the contrary, the administrators of charter schools in the commonwealth who are the procurement officers for said schools shall participate in the Massachusetts public purchasing official certification program conducted by the office of the inspector general in order to earn a Massachusetts public purchasing official certificate.

**SECTION 12.** For the purposes of evaluating charter schools established under section 89 of chapter 71 of the General Laws, the education reform review commission established pursuant to section 79 of chapter 71 of the acts of 1993 shall conduct an independent evaluation of charter schools. For purposes of this evaluation only, said commission shall also include as additional members a parent of a student enrolled in a charter school and a charter school leader or teacher. Said evaluation shall be reported to the



joint committee on education, arts and humanities, along with proposed recommendations and drafts of legislation necessary to carry its recommendations into effect, not later than December 31, 1999.

Approved July 11, 1997.

**Chapter 47. AN ACT ASSISTING IN MAKING HEALTH CARE AVAILABLE TO LOW INCOME UNINSURED AND UNDERINSURED RESIDENTS OF THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to assist in making health care services available to low income uninsured and underinsured residents of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

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

**SECTION 1.** The second sentence of section 2FF of chapter 29 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out clause (b) and inserting in place thereof the following three clauses:- (b) any appropriations transferred to said fund pursuant to the provisions of subsection (9) of section 9B of chapter 118E, any federal reimbursement received for medical benefits provided to expansion beneficiaries as defined by subsection 2 of section 9A of said chapter 118E, any other appropriations or monies made available by law for the purposes of the demonstration project known as MassHealth established pursuant to said section 9A of chapter 118E, and any premiums, grants, gifts, or other contributions explicitly made to said fund; (c) any income derived from the investment of amounts credited to said fund; and (d) any federal reimbursements received for benefits and payments provided pursuant to section 9C of said chapter 118E.

**SECTION 2.** Subsection (b) of section 21 of chapter 62C of the General Laws is hereby amended by striking out clause (9), as appearing in the 1996 Official Edition, and inserting in place thereof the following clause:-

(9) The disclosure to the commissioner of transitional assistance or the commissioner of medical assistance, upon his written request, of the fact that a specific bank or other entity paying interest income, doing business in the commonwealth has filed for any year a report under section 8 with respect to interest paid by it to a designated recipient of transitional assistance under any program administered by the department of transitional assistance or the division of medical assistance and of the amount of the interest so reported, together with the identification of the account with respect to which the interest was paid.

**SECTION 3.** Section 1 of chapter 62D of the General Laws is hereby amended by striking out the definition of "Claimant agency", as so appearing, and inserting in place thereof the following definition:-



"Claimant agency", the IV-D agency as set forth in chapter 119A, the division of medical assistance, the division of employment and training, the department of transitional assistance, the higher education coordinating council in the exercise of its duty to aid and foster programs supporting higher education pursuant to chapter 15A, or the division of health care finance and policy in the exercise of its duty to administer the uncompensated care pool pursuant to chapter 118G.

**SECTION 4.** Said section 1 of said chapter 62D is hereby amended by striking out the definition of "Debt", as so appearing, and inserting in place thereof the following definition:-

"Debt", an unpaid spousal or child support obligation which is being enforced by the claimant agency, or which is collected or ordered to be collected by a court, whether or not there is an outstanding judgment for the sum; an amount owed the division of medical assistance by a debtor; an amount owed the department of transitional assistance by recipients, or former recipients, of public assistance; any liquidated sum due and owing to the corporation on an education loan made under any of the programs administered by the corporation in behalf of the commonwealth whether or not there is an outstanding judgment for that sum or any liquidated sum, certified by the comptroller as due and owing to any state agency, as defined in section 1 of chapter 29, or an amount owed the division of health care finance and policy on behalf of the uncompensated care pool by a person or a guarantor of a person who received free care services paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

**SECTION 5.** Said section 1 of said chapter 62D is hereby amended by striking out the definition of "Debtor", as so appearing, and inserting in place thereof the following definition:-

"Debtor", any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the department of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

**SECTION 6.** Section 8 of said chapter 62D, as so appearing, is hereby amended by adding the following paragraph:-

With respect to uncompensated care pool set-off proceeds, the division of health care finance and policy shall deposit such proceeds in the Uncompensated Care Trust Fund established by section 18 of chapter 118G.

**SECTION 7.** Section 10 of said chapter 62D, as so appearing, is hereby amended by inserting after the word "assistance," in line 8, the following words:- , the division of health care finance and policy.

**SECTION 8.** Section 13 of said chapter 62D, as so appearing, is hereby amended by striking out clause (vii) and inserting in place thereof the following two clauses:-

(vii) the department of transitional assistance; and (viii) the division of health care finance and policy for obligations to the Uncompensated Care Trust Fund for the unreimbursed costs of health care services from the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

**SECTION 9.** Section 3 of chapter 62E of the General Laws, as so appearing, is hereby amended by inserting after the word "authorities", in line 7, the following words:- ; and including the division of health care finance and policy with respect to payments for free care services made from the uncompensated care pool pursuant to chapter 118G.

**SECTION 10.** Chapter 118E of the General Laws is hereby amended by inserting after section 9B, as so appearing, the following section:-

Section 9C. (1) For purposes of this section, the following words shall have the following meanings:-

"Eligible employer", (i) an individual or an unincorporated business that employs one or more residents of the commonwealth, (ii) a corporation, including a foreign corporation, other than a governmental entity, that employs at least one or more residents of the commonwealth, or (iii) a corporation or an unincorporated entity that is exempt from taxation under the provisions of section 501(c) of the Internal Revenue Code of the United States, as amended and in effect for the taxable year; provided however, that to be eligible said employer employs no more than 50 employees and meets the eligibility requirements set forth in this section and in regulations promulgated by the division; and provided, further, that the method of determining the number of employees an employer has and the amount and types subsidies available to an eligible employer based upon employee family status shall be determined by the division.

"Eligible employee", (i) an employee of an eligible employer; (ii) who resides in the commonwealth; (iii) who has not attained age 65; and (iv) who meets the financial and other eligibility standards set forth in regulations promulgated by the division; provided, however, that the gross family income standard shall not exceed 200 per cent of the federal poverty level.

"Eligible self-employed single individual", a person with or without dependents (i) who receives any gross income from self-employment; (ii) who resides in the commonwealth; (iii) who has not attained age 65; and (iv) who meets the financial and other eligibility standards set forth in regulations promulgated by the division, provided that the gross family income standard shall not exceed 200 per cent of the federal poverty level.

"Eligible self-employed husband and wife", a married couple with or without dependents (i) where either spouse receives any gross income from self employment; (ii) where both spouses reside in the commonwealth; (iii) where neither spouse has attained age 65; and (iv) who meets the financial and other eligibility standards set forth in regulations promulgated by the division, provided that the gross family income standard shall not exceed 200 per cent of the federal poverty level.

"Qualified medical insurance", shall mean "qualified medical insurance", "qualified individual medical insurance", "qualified two-person family medical insurance" and "qualified family medical insurance" as defined in regulations promulgated by the commissioner of insurance pursuant to section 3C of chapter 175.

(2) The division may, subject to the provisions of this section, establish an insurance reimbursement program for certain employees and employers for the purpose of reducing or eliminating the amount of contributions or payments made by such employees and employers toward the cost of qualified medical insurance and which shall consist of the following three programs:

(A) an employee subsidy program to assist eligible employees with reducing or eliminating their contribution to premiums or other employment-based costs of qualified medical insurance provided by an eligible employer for which said employer pays not less than 50 per cent of said premium or cost; and provided, further, that the amount of said subsidies may vary with the contribution of said employees to the cost of their qualified medical insurance, and with the income of said employees and their families, in accordance with one or more sliding fee schedules set forth in regulations promulgated by the division and may be paid directly to or on behalf of said eligible employees.

(B) a subsidy program to assist the self-employed single individual and the self-employed husband and wife with reducing or eliminating the cost of premiums or other costs of purchasing qualified medical insurance; provided, further, that the amount of said subsidies may vary with the income or insurance costs of said persons and their families in accordance with one or more sliding fee schedules set forth in regulations promulgated by the division and may be paid directly to or on behalf of said persons; and provided further, the division may choose various options in establishing said program, including but not limited to establishing, (i) subsidies for the self employed which may be for an amount which incorporates payments otherwise available to such self-employed individual or spouse under subsection (5); (ii) sliding fee schedules that may incorporate such payments; or (iii) sliding fee schedules which may be otherwise adjusted so that such persons receive overall assistance comparable, but not necessarily identical, in its effect to that received by similarly situated eligible employees under the program established under paragraph (A).

(C) an employer health care incentive program for the purpose of reducing the cost to said employers of providing or maintaining qualified medical insurance for their eligible low-income employees; provided, however, that said eligible employer pays 50 per cent or more of the premium cost of such qualified medical insurance; and provided, further, that



the division may limit payments under this program, using a reasonable methodology, in relation to the participation of said employer's employees in the subsidy program provided for in paragraph (A).

(3) The subsidy programs described in paragraphs (A) and (B) of subsection (2) shall constitute additional medical benefits to expansion beneficiaries in accordance with the terms and conditions of a demonstration project as defined in subsection (1) of section 9A. The division may, subject to the terms and conditions of said demonstration project, include in the demonstration project the program described in paragraph (C) of subsection (2); provided, however, that the division may implement said program if it is not included within said demonstration project.

(4) The amount of payments for each employer under paragraph (C) of subsection (2) shall be as follows: (i) \$400 for each eligible employee for whom the eligible employer pays 50 per cent or more of the cost of qualified individual medical insurance; (ii) \$800 for each eligible employee for whom the eligible employer pays 50 per cent or more of the cost of qualified two-person family medical insurance, and (iii) \$1,000 for each eligible employee for whom the eligible employer pays 50 per cent or more of the cost of qualified family medical insurance; provided that the division may use any reasonable data sources in determining the number of eligible employees of an eligible employer qualifying for such payments under clauses (i), (ii) and (iii).

(5) The amount of payments for each self-employed single individual or each self-employed husband and wife under paragraph (B) of subsection (2) may include the following amounts: (i) \$400 for an eligible self-employed single individual if the individual purchases qualified individual medical insurance; (ii) \$800 for an eligible self-employed single individual with a dependent child or for an eligible self-employed husband and wife filing a joint return and who have no dependent children, if the individual or husband and wife purchase qualified two-person family medical insurance; or (iii) \$1,000 for an eligible self-employed single individual with two or more dependent children, or for an eligible self-employed husband and wife filing a joint return and who have dependent children, if the individual or the husband and wife purchase qualified family medical insurance; provided that the payment shall not exceed the amount of the net premium cost to said self-employed persons of said insurance, and shall be in conformity with the regulations of the division.

(6) The division may require, as a condition for receiving benefits under this section and solely for the purposes of determining the eligibility of any employee, self-employed single individual, or self-employed husband and wife, the consent of any applicant to the disclosure to the division and to the United States Department of Health and Human Services pursuant to subsection (10) of prior year's tax information and any other information demonstrating the income level of such persons. The division may employ additional eligibility criteria to ensure, where appropriate, that no person or employer receives payments or assistance under more than one category of persons or employers eligible for payment or assistance.



(7) The income and other eligibility requirements for the programs provided under subsection (1) may be modified from time to time to ensure that projected expenditures for such benefits are within the amounts available and within the amounts projected to be available. The division shall set forth in regulations changes in eligibility requirements, including changes necessary to ensure compliance with the budget neutrality requirements of section 9B.

(8) The division may, in lieu of cash payments or otherwise, issue to individuals vouchers or other documents certifying that the division will pay a specified amount for medical insurance under specified circumstances.

(9) If, during the term of the demonstration project as it pertains to programs authorized under this section, the division proposes modifications to the demonstration project which require approval by the Secretary, the division may implement said modifications upon the Secretary's approval, subject to the terms of that approval, and, if required, the enactment of authorizing legislation.

(10) Data and information obtained by the division pursuant to subsection (6) to determine eligibility under this chapter shall be available for inspection by the Secretary or his delegate for the specific purpose of substantiating expenditures made under this section.

(11) The division may implement the provisions of this section through arrangements with other agencies of the commonwealth, including the department of revenue, as provided in subsection (11) of section 9A.

(12) The provisions of this section shall not give rise to, nor be construed as giving rise to, enforceable legal rights for any party or an enforceable entitlement to benefits other than to the extent that such rights or entitlements exist pursuant to the regulations of the commissioner of insurance and the regulations of the commissioner of revenue under the provisions referenced in subsection (1), the regulations of the division, or the terms and conditions of the demonstration project.

(13) Expenditures under this section shall, subject to appropriation, be funded by the MassHealth insurance reimbursement program account established by subsection (c) of section 18 of chapter 118G. Aggregate expenditures made by the division for said insurance reimbursement program shall not exceed \$120,000,000 in any fiscal year, nor exceed \$56,000,000 in the fiscal year when said program commences and shall be further subject to the requirements of the budget neutrality plan established by section 9B.

(14) Ninety days prior to implementing one or more of the programs under this section, the division shall provide a plan or plans for implementing said programs to the committee on health care and to the house and senate committee on ways and means. Said programs may be offered separately and implemented at different times, and a plan relative to each program may be submitted separately.

**SECTION 11.** Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Acute hospital" the following two definitions:-

"Ambulatory surgical center", any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and meets the requirements of the federal Health Care Financing Administration for participation in the Medicare program.

"Ambulatory surgical center services", services described for purposes of the Medicare program pursuant to 42 USC § 1395k(a)(2)(F)(I). These services include facility services only and do not include surgical procedures.

**SECTION 12.** Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Patient" the following two definitions:-

"Pool", the uncompensated care pool established pursuant to section 18.

"Payments subject to surcharge", all amounts paid, directly or indirectly, by surcharge payors to acute hospitals for health services and ambulatory surgical centers for ambulatory surgical center services on or after the effective date of this section; provided, however, that "payments subject to surcharge" shall not include (i) payments, settlements, and judgments arising out of third party liability claims for bodily injury which are paid under the terms of property or casualty insurance policies, (ii) payments made on behalf of Medicaid recipients, Medicare beneficiaries, or persons enrolled in policies issued pursuant to chapter 176K or similar policies issued on a group basis; and provided further, that "payments subject to surcharge" may exclude amounts established in regulations promulgated by the division for which the costs and efficiency of billing a surcharge payor or enforcing collection of the surcharge from a surcharge payor would not be cost effective.

**SECTION 13.** Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "State institution" the following definition:-

"Surcharge payor," an individual or entity that pays for or arranges for the purchase of health care services provided by acute hospitals and ambulatory surgical center services provided by ambulatory surgical centers; provided, however, that the terms "surcharge payor" shall not include Title XVIII and Title XIX programs and their beneficiaries or recipients, other governmental programs of public assistance and their beneficiaries or recipients, and the workers compensation program established pursuant to chapter 152.

**SECTION 14.** Said chapter 118G is hereby further amended by striking out section 18, as so appearing, and inserting in place thereof the following two sections:-

Section 18. (a) There is hereby established an Uncompensated Care Trust Fund, which shall be administered by the division. Expenditures from said Trust Fund shall not be subject to appropriation unless otherwise required by law. The purpose of said fund shall be to provide access to health care for low income uninsured and underinsured residents of the commonwealth. The division shall administer said fund using such methods, policies, procedures, standards and criteria that it deems necessary for the proper and efficient operation of said fund and the programs funded thereby in a manner consistent with simplicity of administration, the provisions of this chapter and the best interests of low income uninsured and underinsured persons.

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(b) The Uncompensated Care Trust Fund shall consist of all amounts paid by acute hospitals and surcharge payors for the purposes of the uncompensated care pool pursuant to this section and section 18A; all appropriations for the purpose of uncompensated acute hospital care or uncompensated community health center care; any sums paid by acute hospitals pursuant to section 56 of chapter 495 of the acts of 1991; all property and securities acquired by and through the use of monies belonging to said fund and all interest thereon; less payments therefrom for the purposes of the uncompensated care pool and amounts transferred to the separate MassHealth account established by subsection (c). All interest earned on the amounts in said fund shall be deposited or retained in said fund. The commissioner shall from time to time requisition from said fund such amounts as the commissioner deems necessary to meet the current obligations of the division for the purposes of said fund and estimated obligations for a reasonable future period.

(c) Within said fund, the division shall establish a separate account for the insurance reimbursement program component of the MassHealth demonstration program established by section 9C of chapter 118E. This separate account shall consist of amounts transferred from the Uncompensated Care Trust Fund, any federal funds transferred from the Children's and Seniors' Health Care Assistance Fund established by section 2FF of chapter 29, and any funds as may be appropriated for deposit into this account. The division shall administer this account and disburse funds from this account for the purposes of said insurance reimbursement program component of said MassHealth program. Funds deposited in this account shall be kept separate and not be commingled with funds of the uncompensated care pool established pursuant to subsection (d). The comptroller is hereby authorized and directed to effect the transfers authorized by this subsection pursuant to a spending plan filed by the division of medical assistance with the secretary of administration and finance and the house and senate committees on ways and means.

(d) Within said fund, the division shall administer an uncompensated care pool consisting of revenues produced by acute hospital assessments and the surcharge percentage calculated by the division pursuant to this section and section 18A and all appropriations for the purpose of uncompensated care provided by acute hospitals, or community health centers, including, but not limited to, federal funds made available for uncompensated care payments to certain acute hospitals as may be appropriated from the General Fund or any other fund. For purposes of this subsection, the words "revenues produced by acute hospital assessments" shall equal the value of and have the same meaning as the words "acute hospitals' liability to the pool" established pursuant to subsection (e) and the words "revenues produced by the surcharge percentage" shall equal the value of and have the same meaning as the words "surcharge payors' liability to the pool" as established pursuant to section 18A. Amounts placed in the Uncompensated Care Trust Fund, except for amounts transferred into the separate MassHealth account established in subsection (c), shall be expended by the division for the purposes of the uncompensated care pool; provided, however, that the division may expend up to \$5,000,000 annually for demonstration projects where the division finds that such projects reduce the liability of said pool to acute hospitals and community health centers by at least the amount expended by said pool on such projects.



The division shall administer the uncompensated care pool and require payments to the pool and disburse funds from the pool consistent with the surcharge payors' and acute hospitals' liability to the pool and the pool's liability to an acute hospital or a community health center. The division shall specify by regulation appropriate mechanisms that provide for interim determination and payment of a surcharge payor's liability to the pool and an acute 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 may promulgate regulations which authorize the assessment of interest on any unpaid liability at a rate not to exceed an annual percentage rate of 18 per cent and late fees at a rate not to exceed 5 per cent per month. The division may calculate final settlements when it determines that data for a fiscal year are substantially complete and that further refinements would not materially affect the calculation. The division may incorporate final settlement amounts by prospective adjustment of acute hospitals' and surcharge payors' liability rather than by retrospective payments or assessments.

(e) An acute hospital's liability to said pool shall equal the product of (1) the ratio of its private sector charges to all acute hospitals' private sector charges; and (2) the private sector liability to the uncompensated care pool as determined by law less the surcharge payors' liability established pursuant to section 18A. Before October 1 of each year, the division shall establish each acute hospital's liability to the pool using the best data available, as determined by the division. The division shall update each acute hospital's liability to the pool as updated information becomes available. For any fiscal year, an acute hospital's final liability to said pool shall be calculated in accordance with subsection (d). The division shall specify by regulation an appropriate mechanism for interim determination and payment of an acute hospital's liability to and from said pool.

(f) An acute hospital's liability to said pool shall in the case of a transfer of ownership be assumed by the successor in interest to the acute hospital.

(g) The division shall establish by regulation an appropriate mechanism for enforcing an acute hospital's liability to the pool in the event that an acute hospital does not make a scheduled payment to said pool. Such enforcement mechanism may include notification to the division of medical assistance requiring an offset of payments on the Title XIX claims of any such acute hospital, any health care provider under common ownership with the acute hospital or any successor in interest to the acute hospital, from the division of medical assistance in the amount of payment owed to said pool including any interest and late fees, 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 noncontracted services, and providers 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 medical assistance, or, in the case of a noncontracting or disproportionate share hospital, in accordance 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 an acute hospital has maintained an outstanding obligation to the uncompensated care pool for a period longer than 45 days and has received proper notice that said division intends to initiate enforcement



actions in accordance with the regulations of said division.

(h) Said pool's liability to an acute 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, which shall be calculated by the division for each acute hospital. 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. 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. The final settlement of the pool's liability to an acute hospital shall be calculated in accordance with subsection (d). The pool's liability to a community health center shall be calculated periodically by the division based on the best data available as determined by the division. Such data shall include, but not be limited to, allowable free care charges as determined by the division and the rates established by the division to be paid for free care services. Such rates shall represent the community health center's reasonable financial requirements, as determined by the division.

(i) The division shall manage said pool in order to encourage maximum efficiency and appropriateness in the utilization of services. The division shall promulgate regulations detailing the definition of free care, including, but not limited to, defining the qualifications of eligible persons and the scope of eligible services, setting standards for reasonable efforts to notify uninsured or underinsured persons of the various insurance options as well as the availability of free care, and setting standards for reasonable efforts to collect costs of emergency care and setting standards to determine medical hardship. Said regulations shall include provision for the review of determinations of eligibility for free care and the establishment of penalties for acute hospitals or community health centers which upon audit show an excessive rate of incorrect eligibility determinations. The division shall adopt regulations prohibiting payments from said pool for non-urgent and non-emergency health care services provided to residents of other states and foreign countries. The division may

require utilization review in accordance with section 6. After consultation with consumer representatives and representatives of acute hospitals and community health centers, the division shall develop programs and guidelines to encourage maximum enrollment of pool beneficiaries into health care plans and programs of health insurance offered by public and private sources, and to promote the delivery of care in the most appropriate setting, through coordination of care and referral of primary care cases to community health centers. Such programs and guidelines shall not deny payments on the ground that services should have been provided in a more appropriate setting if the hospital was required to provide such services pursuant to 42 USC 1395(dd). The division may adopt regulations requiring disproportionate share hospitals to use a portion of payments received from said pool to reimburse physicians for the costs of free care which such physicians provide in such hospitals. In adopting regulations under this subsection, the division shall consult and work cooperatively with representatives of low income uninsured and underinsured persons, health care providers who provide health care to such persons, and organizations representing said persons and providers.

(j) The division shall adopt any other regulations necessary to manage said pool including, but not limited to, regulations: requiring data submissions, setting pool audit standards, establishing enforcement mechanisms consistent with this section, and establishing reasonable controls on utilization. The division shall require acute hospitals and community health centers to submit data that the division determines necessary to efficiently and effectively administer the uncompensated care pool. Said data may include, but shall not be limited to, charge and cost data, patient diagnoses and types of uncompensated service provided, patient demographics, write-off amounts, unique patient identifiers and other such data that would enable the division to conduct analyses, verify eligibility and calculate settlements on a case-by-case basis. The division shall consider all available options for collecting said data, including claims and electronic data submission, and shall implement the most efficient and effective method after consultation with interested parties. If the division finds that hospitals are not complying with the data submission requirements or if the data submitted are not sufficient to enable the division to verify eligibility and calculate settlements on a case-by-case basis, the division may adopt regulations providing for a claims adjudication process for payments from the uncompensated care pool. Such claims adjudication process shall maximize administrative simplicity to the extent practicable and shall not significantly delay cash flow from said pool. The division shall consult with interested parties, including the Massachusetts hospital association, in developing the methodology for such claims adjudication process and shall submit the methodology to the joint committee on health care 90 days in advance of adopting such regulations. The division shall analyze the data collected under this section in conjunction with any other pertinent data to determine the demographic characteristics and the clinical and social needs of uncompensated care recipients. If said analysis indicates that one or more managed care or case management programs would better meet the needs of low income individuals, the division shall consult with representatives of the uninsured and underinsured and the pro-

viders who serve them and other interested parties regarding the potential for managed care or case management approaches to improve care provided under said pool. If the division determines that such approaches would improve care, the division may contract with health care delivery or management organizations or to enter interagency service agreements with the division of medical assistance or the department of public health for the purpose of contracts with health care or managed care providers to deliver services to individuals eligible for free care or; provided, however, that no such contract shall be entered into until the division finds that the cost of such contract does not exceed the amounts that would otherwise have been expended on free care for these individuals; and, provided further, that the expenditures for such contracts shall not exceed \$5,000,000 in any hospital fiscal year.

(k) The division shall promulgate regulations to develop and implement methods and procedures to verify the eligibility of individuals for free care and to ensure that other coverage options are utilized fully before free care is granted. These systems may include but are not limited to investigation and recovery of third party liabilities, and penalties for noncompliance. The division shall compile and maintain a catalog of program information for all programs of health care coverage for low income persons including those sponsored by public and private organizations. The catalog shall include, at a minimum, eligibility criteria, benefits and services offered, enrollment procedures and information necessary for contact and follow-up. The division shall ensure that if free care is granted for the copayment and deductible of an eligible person with other coverage, no payments shall be made from the uncompensated care pool which would cause the total payment to the provider to exceed the applicable rates for free care services. The division shall refuse to allow payments or shall disallow payments to acute hospitals and community health centers for free care provided to individuals if reimbursement is available from other public or private sources including, but not limited to, the Medicaid or Medicare program, or if the individual is not eligible for free care. The division shall require acute hospitals and community health centers to screen each free care applicant for other sources of coverage and for potential eligibility for government programs, and to document the results of such screening. If an acute hospital or community health center determines that an applicant is potentially eligible for Medicaid or another government program, said acute hospital or community health center shall assist the applicant in applying for benefits under such program. The division shall audit free care accounts of acute hospitals and community health centers to determine compliance with this section and shall deny pool payment for any audited account for any acute hospital or community health center that fails to document compliance with this section.

(l) The division may enter into interagency agreements with the department of revenue to verify income data for recipients of free care. Such written agreements shall include provisions permitting the division to provide a list of persons receiving or applying for free care, including any applicable members of the households of such recipients or applicants which would be counted in determining eligibility, and to furnish relevant information including, but not limited to, name, social security number, if available, and other data required to assure positive identification. Such written agreements shall include



provisions permitting the department of revenue to examine the data available under the wage reporting system established under section 3 of chapter 62E and make positive identification of cases in which recipients or applicants for free care, individually or as part of a household unit, are receiving wages in excess of any threshold eligibility requirements established by the division. The department of revenue is hereby authorized to furnish the division with information on the cases of persons so identified, including, but not limited to, name, social security number and other data to ensure positive identification, name and identification number of employer, and amount of wages received. The division may inform acute hospitals and community health centers only of an individuals eligibility or noneligibility for free care based on information obtained from the department of revenue, but may not release any specific information concerning the individual.

(m) The division shall deposit any amounts received pursuant to chapter 62D in the Uncompensated Care Trust Fund to reimburse the uncompensated care pool for expenditures made for persons who received free care through said pool and who, upon review, was determined to be ineligible for uncompensated care based upon applicable income standards.

(n) The division shall not at any time make payments from said pool for any period in excess of amounts that have been paid into or are available in said pool for such period; provided, however, that the division may temporarily prorate payments from said pool for cash flow purposes. In the event that after making allowable free care payments to community health centers, there exists a shortfall of pool revenue, excluding any revenue in the separate MassHealth insurance reimbursement program account, in any fiscal year to cover allowable free care payments to acute hospitals, the division shall allocate such payments so that those acute hospitals with the greatest proportional requirement for pool income shall receive a greater proportional payment from said pool. In the event that there exists a surplus of pool revenue in any fiscal year over that necessary to cover allowable free care payments, the division shall apply such surplus to allowable free care payments for any succeeding fiscal year in which there is a shortfall of pool revenue.

Section 18A. (a) Acute hospitals and ambulatory surgical centers shall assess a surcharge on all payments subject to surcharge as defined in section 1. The surcharge shall be distinct from any other amount paid by a surcharge payor for the services of an acute hospital or ambulatory surgical center. The surcharge amount shall equal the product of (i) the surcharge percentage and (ii) amounts paid for said services by a surcharge payor. The division shall calculate the surcharge percentage by dividing \$100,000,000 by the projected annual aggregate payments subject to surcharge. The division shall determine the surcharge percentage before the effective date of this section and may redetermine the surcharge percentage before the following April 1 if the division projects that the initial surcharge established the previous October will produce less than \$90,000,000 or more than \$110,000,000. Before each succeeding October 1, the division shall redetermine the surcharge percentage incorporating any adjustments from prior years. In each determination or redetermination of the surcharge percentage, the division shall use the best data available as determined by the division and may consider the effect on projected surcharge payments of any modified or waived enforcement under subsection (e). The division shall incorporate



all adjustments, including, but not limited to, updates or corrections or final settlement amounts by prospective adjustment rather than by retrospective payments or assessments.

(b) Each acute hospital and ambulatory surgical center shall bill a surcharge payor an amount equal to the surcharge described in subsection (a) as a separate and identifiable amount distinct from any amount paid by a surcharge payor for acute hospital or ambulatory surgical center services. Each surcharge payor shall pay such surcharge amount to the division for deposit in the uncompensated care pool on behalf of said acute hospital or ambulatory surgical center. Upon the written request of a surcharge payor, the division may implement another billing or collection method for such surcharge payor; provided, however, that the division has received all information that it requests which is necessary to implement such billing or collection method; and provided further, that the division shall specify by regulation the criteria for reviewing and approving such requests and the elements of such alternative method or methods.

(c) The division shall specify by regulation appropriate mechanisms that provide for determination and payment of a surcharge payor's liability, including requirements for data to be submitted by surcharge payors, acute hospitals and ambulatory surgical centers.

(d) A surcharge payor's liability to said pool shall in the case of a transfer of ownership be assumed by the successor in interest to the surcharge payor.

(e) The division shall establish by regulation an appropriate mechanism for enforcing a surcharge payor's liability to said pool in the event that a surcharge payor does not make a scheduled payment to said pool; provided, however, that the division may, for the purpose of administrative simplicity, establish threshold liability amounts below which enforcement may be modified or waived. Such enforcement mechanism may include assessment of interest on the unpaid liability at a rate not to exceed an annual percentage rate of 18 per cent and late fees or penalties at a rate not to exceed 5 per cent per month. Such enforcement mechanism may also include notification to the division of medical assistance requiring an offset of payments on the claims of the surcharge payor, any entity under common ownership or any successor in interest to the surcharge payor, from the division of medical assistance in the amount of payment owed to said pool including any interest and penalties, and to transfer the withheld funds into said pool. If the division of medical assistance offsets claims payments as ordered by the division, said division of medical assistance shall be deemed not to be in breach of contract or any other obligation for payment of noncontracted services, and a surcharge payor 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 medical assistance. In no event shall the division direct the division of medical assistance to offset claims unless the surcharge payor has maintained an outstanding liability to the uncompensated care pool for a period longer than 45 days and has received proper notice that said division intends to initiate enforcement actions in accordance with the regulations of the division.

(f) Any surcharge payor 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 \$5,000 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 15.** Chapter 175 of the General Laws is hereby amended by inserting after section 3B, as so appearing, the following section:-

Section 3C. The commissioner shall promulgate regulations, subject to the approval of the commissioner of medical assistance, defining "qualified medical insurance", "qualified individual medical insurance", "qualified two-person family medical insurance", and "qualified family medical insurance" as those terms are employed in section 9C of chapter 118E. In promulgating said regulations, the commissioner shall make reasonable efforts to conform the definitions of such qualified plans to the standards in effect for small group insurance policies issued pursuant to chapter 176J.

**SECTION 16.** Section 1 of chapter 176N of the General Laws, as so appearing, is hereby amended striking out the definition of "late enrollee", and inserting in place thereof the following definition:-

"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 30 days after termination of coverage provided under another health insurance plan or arrangement where such coverage has ceased due to termination of the spouse's employment or death of the spouse or if the request for enrollment is made pursuant to section 9C of chapter 118E.

**SECTION 17.** Section 25 of chapter 203 of the acts of 1996 is hereby amended by adding the following paragraph:-

In conjunction with said surveys, the division shall also arrange for independent evaluations of the effectiveness of MassHealth programs, the senior pharmacy assistance program, the children's medical security plan and the uncompensated care pool established pursuant to chapter 118G of the General Laws. Said evaluations shall utilize data collected by the division pursuant to this section and said chapter 118G, data collected by the division of medical assistance for the federal government pursuant to the demonstration waiver and sections 9A, 9B and 9C of chapter 118E, and such other data as the division may require. Said evaluations shall include estimates of the impact of said programs on the rate of uninsurance, the proportion of beneficiaries of said programs who were previously insured and previously uninsured, the extent to which said programs have influenced the provision of health care coverage by employers, the impact of said programs on the health of residents

of the commonwealth and such other information as may be useful in evaluating said programs. Said evaluations shall be filed with the house and senate committees on ways and means and the committee on health care on or before March 1, 1998 and on or before March 1, 2000.

**SECTION 18.** Section 29 of said chapter 203 is hereby amended by adding the following sentence:- The division of medical assistance and the division of health care finance and policy are hereby authorized and directed to assure that the intergovernmental transfer program shall reduce by at least \$70,000,000, the allowable uncompensated care costs of the two said hospitals from the uncompensated care pool authorized pursuant to chapter 118G of the General Laws.

**SECTION 19.** For hospital fiscal year 1992, an acute hospital's liability to the uncompensated care pool established pursuant to section 15 of chapter 118F of the General Laws as then in effect, 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 acute hospital to the extent it participated in the uncompensated care pool on a voluntary basis prior to the calculations made in accordance with said section 15. For fiscal year 1992, payments by purchasers and third party payors 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 hospital fiscal year 1992 and hospital fiscal year 1993, in calculating the cost-to-charge ratio for acute hospitals pursuant to section 18 of chapter 118G of the General Laws, the division of health care finance and policy shall exclude from the numerator and the denominator private sector charges attributable to noncontracting, noninsured individuals which have exceeded the applicable price cap calculated pursuant to section 51 of chapter 495 of the acts of 1991 and other private sector charges in excess of an acute hospital's maximum gross inpatient service revenue limitation calculated pursuant to said section 51. Terms used in this section that are defined in section 1 or section 18 of said chapter 118G shall have the same meaning as provided for in said sections 1 or 18.

Notwithstanding any general or special law to the contrary, for hospital fiscal years prior to and including 1997, the division of health care finance and policy shall expeditiously complete all pertinent pending final settlements of the uncompensated care pool, using such thresholds, allowances and other measures it deems necessary, fair and reasonable. The division shall specify, in regulation, the methodology for expediting such settlements.

**SECTION 20.** By August 1, 1997, the division of health care finance and policy shall promulgate regulations setting forth the enforcement mechanisms established pursuant to subsection (g) of section 18 of chapter 118G of the General Laws and subsection (e) of section 18A of said chapter 118G. By September 1, 1997, said division shall promulgate the remaining regulations necessary to govern the calculation of the surcharge percentage established by said section 18A of said chapter 118G.

To accommodate contractual obligations of surcharge payors, the division may by regulation delay the enforcement of the surcharge percentage intended by this act to be



implemented on October 1, 1997 in hospital fiscal year 1998 until January 1, 1998, provided no such delay shall occur unless and until the following five conditions are met: (1) funds are appropriated from the General Fund or another fund and transferred to the uncompensated care pool in an amount equivalent to four months' projected revenues that would otherwise be collected from the surcharge percentage authorized by said section 18A; (2) the amounts so made available and transferred are designated as a temporary start-up loan to accommodate the delay between the beginning of the hospital fiscal year and the commencement of enforcement of the surcharge percentage; (3) the amounts so made available and transferred are restricted to that portion of the pool's liability payments to acute hospitals that otherwise would have been collected from surcharge payors during the months of October through December, 1997 and in January 1998; (4) the division establishes the surcharge percentage for hospital fiscal year 1998 at a level sufficient to generate \$100,000,000 in revenues from the surcharge percentage between January 1, 1998 and September 30, 1998; (5) the division assures the comptroller that the amount so loaned to the uncompensated care pool shall be fully repaid to the General Fund or such other fund, without interest, not later than June 30, 1998, or such other date the comptroller deems permissible to close the books on state fiscal year 1998. The comptroller is hereby authorized and directed to effectuate the repayment of said loan. If the division allows the enforcement of said surcharge percentage to be delayed pursuant to this paragraph, the division shall authorize by regulation that the surcharge percentage billed by hospitals to surcharge payors on said January 1 and for the remainder of said hospital fiscal year shall be based on the payments made by surcharge payors to acute hospitals and ambulatory surgical centers from the beginning of the hospital fiscal year commencing with payments made in October, 1997. If the division allows the enforcement of said surcharge percentage to be delayed pursuant to this paragraph, the division may redetermine the surcharge percentage as of May 1, 1998 and as of July 1, 1998 if the division projects that the surcharge percentage established previously will produce less than \$90,000,000 or more than \$100,000,000, or if the adjustment is necessary in order to fully repay the General Fund or other fund, as required by condition (5) of this section.

By April 1, 1998, the division shall promulgate regulations pursuant to said section 18 of said chapter 118G, for the purpose of further defining allowable free care and to establish revised data collection requirements. By October 1, 1998, the division shall promulgate regulations pursuant to said section 18 providing for the design and implementation of systems to verify the eligibility of individuals for uncompensated care and to ensure that other coverage options are utilized fully before such care is reimbursed by the uncompensated care pool.

**SECTION 21.** Notwithstanding any general or special law to the contrary, in each hospital fiscal year 1998 to 2002, inclusive, the division of health care finance and policy is hereby authorized and directed to allocate not more than \$40,000 annually to the Hampshire Health Access project in Northampton and \$40,000 annually for the EcuCare Project in North Adams to link uninsured and underinsured individuals and families with health care providers willing to treat such persons at reduced or no cost. Any amounts so al-



located shall be subject to the provisions of subsection (j) of section 18 of chapter 118G of the General Laws and any regulations the division promulgates thereunder.

**SECTION 22.** Notwithstanding any general or special law to the contrary, in fiscal years 1998 to 2002, inclusive, the division of health care finance and policy shall allocate \$2,000,000 annually for a Massachusetts Fishermen's Partnership, Inc. demonstration project under subsection (d) of section 18 of chapter 118G of the General Laws; provided, however, that such demonstration project otherwise meets the requirements of said subsection (d).

**SECTION 23.** The division of health care finance and policy shall monitor the operation of the uncompensated care pool, including the payments of acute hospitals liabilities to and from said pool, collections from surcharge payors, the demographics of persons using the pool and the services they use which qualify for free care. The division shall file quarterly reports with the executive office of health and human services and the joint committee on health care concerning utilization of the uncompensated care pool including but not limited to number of inpatient admissions and outpatient visits by age category, income category, diagnostic category, and average charge per admission. The division shall file reports every six months with the executive office of health and human services and the joint committee on health care concerning its estimates of the demand for and supply of uncompensated care pool revenue in the current and upcoming fiscal years. The division shall notify the executive office of health and human services and the joint committee on health care if at any time the division estimates that uncompensated care pool revenue, excluding any revenue in the separate MassHealth account, in any fiscal year falls below 75 per cent of allowable free care costs as reviewed and adjusted by the division.

**SECTION 24.** Nothing in this act shall be construed to require any acute hospital or community health center to take any action which would be inconsistent with the provisions of section 432 of the Personal Responsibility and Work Opportunity Act (8 U.S.C. 1642), as inserted by section 508 of the Omnibus Consolidated Appropriations Act of 1997.

**SECTION 25.** The special commission established by section 30 of chapter 203 of the acts of 1996 shall be revived under the same terms as provided by said section if at any time the division of health care finance and policy estimates and certifies to the executive office of health and human services and the committee on health care that uncompensated care pool revenues, excluding any revenue in the separate MassHealth account, are less than 75 per cent of allowable free care cost or greater than 125 per cent of allowable free care cost. Said commission shall have three months from the date of its revival to file its report on ensuring the adequacy of revenues in said pool, including any proposed legislation, with the governor and with the clerks of the senate and the house of representatives.

**SECTION 26.** For each hospital fiscal year beginning with fiscal year 1998 and ending with hospital fiscal year 2002 or the hospital fiscal year in which this act expires, the private sector liability of purchasers and third party payors to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws shall be \$315,000,000. For state fiscal years 1998 to 2002, inclusive, subject to appropriation, \$30,000,000 generated by federal financial participation made available under Title XIX of

the Social Security Act shall be deposited into said fund.

**SECTION 27.** (A) If the attorney general certifies that a court of competent jurisdiction has temporarily or preliminarily restrained any provision relating to the surcharges established pursuant to section 18A of chapter 118G of the General Laws pending the results of litigation, including any order that such surcharge payments may or shall be placed in escrow or not actually remitted pending the results of litigation, and a stay of any such orders has not been granted within 30 days of the issuance of any such order, such that the Uncompensated Care Trust Fund established pursuant to section 18 of said chapter 118G will not receive funds from one or more surcharge payors pursuant to said section 18A, then the provisions of said section 18A shall have no force or effect unless and until such time that said attorney general certifies that such temporary or preliminary order is no longer in effect.

(B) If the attorney general certifies that a court of competent jurisdiction has issued a final adjudication on the merits invalidating or otherwise precluding surcharge payments pursuant to said section 18A, then the provisions of said section 18A shall have no force or effect unless and until such time that said attorney general certifies that an appellate court of competent jurisdiction has finally adjudicated that said section 18A is valid and enforceable.

(C) If said certification is made pursuant to subsection (A) or (B), the special commission established by section 30 of chapter 203 of the acts of 1996 shall be revived under the same terms. Said commission shall have three months from the date of such revival to file its report, including any proposed legislation, with the clerks of the senate and the house of representatives and with the governor.

(D) If said section 18A is determined not to be in effect pursuant to the operation of this section, then from the date of the certification by the attorney general until the following December 31, the liability of an acute hospital to the uncompensated care pool established by section 18 of said chapter 118G shall consist of (1) the assessment on the acute hospital pursuant to said section 18, calculated by multiplying (I) the ratio of its private sector charges to all acute hospitals' private sector charges by (II) one-half the private sector liability to the uncompensated care pool as determined by law, and (2) the proceeds of a surcharge which shall be assessed by acute hospitals on all payments for services provided on or after the date of such certification; provided, however, that such surcharge shall not apply to (I) payments by Title XVIII and Title XIX programs or their beneficiaries, other programs of governmental assistance and the workers compensation program established pursuant to chapter 152 of the General Laws, (II) payments under policies issued pursuant to chapter 176K of the General Laws or similar policies issued on a group basis and (III) payments, settlements and judgments arising out of third party liability claims for bodily injury and paid under the terms of property or casualty insurance policies. The surcharge amount shall be distinct from any other payment for services to acute hospitals. The surcharge amount shall equal the product of (I) the surcharge percentage and (II) the amount of the payment for services. The division of health care finance and policy shall determine

the surcharge percentage by dividing \$157,500,000, to which the division may add an amount not to exceed 2 per cent of the amount of the surcharge to cover the additional expenses of hospitals for administering collections pursuant to this section, by the projected annual aggregate payments subject to the surcharge. In determining the surcharge percentage, the division may include an adjustment for amounts which the division projects will be uncollectable. The proceeds of such assessment on acute hospitals and such surcharge on payments to acute hospitals, less any reasonable administrative expenses so allowed by the division, shall be deposited in the Uncompensated Care Trust Fund established pursuant to said section 18.

(E) During any period subsequent to the following December 31 referenced in paragraph (D), in which said section 18A is not in effect pursuant to the operation of this section, the liability of acute hospitals to the Uncompensated Care Trust Fund established by section 18 of said chapter 118G shall equal the proceeds of a surcharge which shall be assessed by acute hospitals on all payments for services provided on or after the beginning of such remaining period; provided, however, that such surcharge shall not apply to (I) payments by Title XVIII and Title XIX programs, other programs of governmental assistance and the workers compensation program established pursuant to chapter 152 of the General Laws, (II) payments under policies issued pursuant to chapter 176K of the General Laws or similar policies issued on a group basis, and (III) payments, settlements and judgments arising out of third party liability claims for bodily injury and paid under the terms of property or casualty insurance policies. The surcharge amount shall be distinct from any other payment for services to acute hospitals. The surcharge amount shall equal the product of (I) the surcharge percentage and (II) the amount of the payment for services. The division of health care finance and policy shall determine the surcharge percentage by dividing the private sector liability to the uncompensated care pool as determined by law by the projected annual aggregate payments subject to the surcharge. Said division shall determine the surcharge percentage before January 1, using the best data available as determined by the division. Before each succeeding October 1, the division shall redetermine the surcharge percentage, prospectively incorporating any adjustments from prior years. In determining the surcharge percentage, the division may include an adjustment for amounts which the division projects will be uncollectable. The proceeds of such surcharges shall be deposited in the Uncompensated Care Trust Fund established pursuant to said section 18.

(F) Terms used in this section that are defined in section 1 or 18 of chapter 118G of the General Laws shall have the same meaning as is provided for in said section 1 or 18. The division shall issue regulations to implement and enforce the billing and collection of the surcharge described in this section. The division shall authorize hospitals to employ administrative agents as a means to achieve economies in the billing and collection of the surcharge and may establish payment thresholds below which enforcement may be modified or waived.

(G) Promptly upon receipt of any certification by the attorney general pursuant to subsection (A) or (B), the division of health care finance and policy shall promulgate emergency regulations to implement the provisions of this section.



**SECTION 28.** Any prepaid health plan offered by the Boston Medical Center Corporation, by the Boston public health commission, or by the Cambridge public health commission, or by the subsidiary or affiliate of said corporation or said commissions, shall, pursuant to a written agreement with the division of medical assistance, not be deemed to be the business of insurance and shall not be subject to the provisions of chapter 175 of the General Laws or chapter 176A to 176N, inclusive, of the General Laws.

**SECTION 29.** Not later than October 1, 1997, each disproportionate share hospitals shall file with the division of health care finance and policy and with the house and senate committees on ways and means a report concerning their plans for fiscal years 1998 to 2002, inclusive, for providing care to low income uninsured individuals in a cost-effective manner, including, but not limited to, such care provided through existing community health centers licensed or otherwise utilized by said hospitals. Said plans shall include measures and targets for improving the provision of said care. No later than October 1 of each year from 1998 to 2002, inclusive, each disproportionate share hospital shall file with the division of health care finance and policy a progress report describing the degree to which said hospital met said measures and targets included in its plan, as well as any modifications to said plan. The division of health care finance and policy shall file an annual report with the house and senate committees on ways and means summarizing the hospital progress reports.

**SECTION 30.** In the event that any section of this act or any assessment imposed under the provisions of this act is determined by the Secretary of the United States Department of Health and Human Services to be an impermissible tax or donation, as those terms are defined at section 1903(w) of the federal Social Security Act, or is determined by said Secretary to necessitate reductions in the amounts recognized as state financial participation under Title XIX of the Social Security Act, or is otherwise not approvable by said Secretary under federal laws or regulations governing the availability of federal financial participation, the division of health care finance and policy shall administer the uncompensated care pool in a manner consistent with the purposes of the uncompensated care pool and which maximizes the availability of federal financial participation. If the assessment imposed under section 18A of chapter 118G of the General Laws is determined to be ineligible for federal financial participation, such determination shall not affect the validity of any other provision of this act. This act shall be interpreted liberally to effect its purposes.

**SECTION 31.** The comptroller is hereby authorized and directed to monitor federal revenues generated by expenditures from the Uncompensated Care Trust Fund by the division of medical assistance and the division of health care finance and policy for the purposes of (A) making disproportionate share and other medicaid payments to acute hospitals and (B) for insurance reimbursement program payments authorized pursuant to section 9C of chapter 118E of the General Laws. If in any state fiscal year during which said expenditures are authorized by state and federal law the amount of federal revenue credited to the General Fund from said Uncompensated Care Trust Fund expenditures is less than the amount of federal revenue generated by expenditures made for the same or similar purposes



in state fiscal year 1997, the comptroller is hereby authorized and directed, after consultation with the secretary for administration and finance and the commissioner of medical assistance, to transfer federal revenues deposited in the Children's and Seniors' Health Care Assistance Fund to the General Fund in order to remedy the deficiency in revenue deposited in the General Fund from uncompensated care pool expenditures.

**SECTION 32.** (A) If, by the laws of any state other than this state, or by the action of any public official of such other state, an insurer organized or domiciled in this state, or the duly authorized agents thereof, shall be required to pay taxes for the privilege of doing business in such other state, which taxes are imposed or assessed because of amounts imposed upon or required to be paid, pursuant to section 18A of chapter 118G of the General Laws, by insurers organized or domiciled in such other state, then to the extent such taxes are legally due to such other state, such insurer organized or domiciled in this state may apply for a reduction in the amount of its future liability to the uncompensated care pool pursuant to said section 18A of said chapter 118G, in accordance with the criteria and procedures and in amounts established pursuant to subsection (B) provided, however, that the amount of such reduction shall in no event exceed the lesser of (I) the amount of said taxes legally payable by said domestic insurer to such other state, or (II) the assessment liability, imposed under said section 18A of said chapter 118G, of said domestic insurer during the taxable year with respect to which such taxes have been imposed or assessed by such other state. For purposes of this section, the term "taxes for the privilege of doing business" shall include, but not be limited to, a tax on or measured by income.

(B) The division of insurance, in consultation with the department of revenue and the division of health care finance and policy, shall establish criteria and procedures for determining an insurer's eligibility for a reduction in its future uncompensated care pool liability and the amount of any reduction, pursuant to subsection (A). Said criteria and procedures shall be approved by the secretary of administration and finance and shall be filed with the house and senate ways and means committees not fewer than 60 days prior to implementation.

(C) For purposes of this section, the word "insurer" shall have the same meaning as the words "surcharge payor", as defined in section 1 of said chapter 118G.

**SECTION 33.** Notwithstanding any general or special law to the contrary, no funds shall be expended by the division of medical assistance on the MassHealth insurance reimbursement program established by section 9C of chapter 118E of the General Laws unless the commissioner of medical assistance has certified to the committee on health care and the house and senate committees on ways and means that said division has, subject to federal law, implemented clause (b) of subsection (2) of section 9A of said chapter 118E with respect to providing medical benefits to children through age 12 whose financial eligibility does not exceed 200 per cent of the federal poverty level.

**SECTION 34.** The division of medical assistance shall not implement any plan pursuant to section 9C of chapter 118E of the General Laws, inserted by section 11 of this act, before an appropriation is made available for the initial start-up and operation of said plan.

**SECTION 35.** Notwithstanding the provisions of any general or special law or regulations to the contrary, the Martha's Vineyard Hospital, Inc. shall have all liability to and from the uncompensated care pool trust fund permanently extinguished and of no further force or effect.

**SECTION 36.** The provisions of this act shall expire on September 30, 2002, unless the term of the MassHealth demonstration project approved by the Secretary of the United States Department of Health and Human Services pursuant to section 1115 of the Social Security Act is extended or renewed on substantially similar terms, in which case, the provisions of this act shall expire on the date of the expiration of said demonstration project.

**SECTION 37.** Sections 18 and 20 of this act shall take effect as of July 1, 1997. The remainder of this act shall take effect on October 1, 1997.

Approved July 11, 1997.

**Chapter 48. AN ACT ABOLISHING CERTAIN COUNTIES AND FOR THE PAYMENT BY THE COMMONWEALTH OF CERTAIN DEBTS AND OBLIGATIONS OF MIDDLESEX COUNTY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide immediately for the abolition of Middlesex county which is currently in a fiscal emergency and for the transfer of its functions to the commonwealth, and to prepare immediately for the similar abolition and transfer of Hampden and Worcester counties, 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.** The government of each of the following counties, in this act called an "abolished county", is hereby abolished as provided in this act as of the following date, in this act called the "transfer date": (a) Middlesex county, as of the effective date of this act; (b) Hampden and Worcester counties, as of July 1, 1998, or on such earlier date 30 days after the commissioner of revenue certifies in writing that the county has failed to make a required payment on an outstanding bond or note.

**NO SECTION 2.**

**SECTION 2A.** To provide for the expenses necessitated by the abolishment of Middlesex county and to provide for payment of outstanding debt owed by said Middlesex county and for certain unanticipated obligations of the commonwealth, and to meet certain requirements of law, the sums set forth herein shall be appropriated from the funds designated, 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 30, 1997. The sums so appropriated shall

be in addition to any amounts available for said purposes.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Reserves.*

1599-9711	For the payment of certain costs and liabilities of Middlesex county including, but not limited to, payments owed to vendors of Middlesex county hospital, and for interest and principal on bonds and notes issued by said county that are either overdue or about to become due; provided, however, that said funds that shall not be expended for the payment of vendors unless and until the commonwealth obtains a release of obligation executed by each such vendor which shall be in complete satisfaction of any claim by said vendor against said county and the commonwealth; provided, further, that not more than \$18,574,204 of the amount appropriated shall be expended for the purposes of said vendor payments . . . . .	\$24,604,204
	Local Aid Fund . . . . .	100.0%
1599-9712	For the expenses of the county assets and liabilities valuation task force established in section 19 of this act; provided, however, that the funds appropriated herein shall only be expended for the expenses of an independent audit and valuation of the total liabilities and assets of each county in the commonwealth pursuant to said section 19 . . . . .	\$1,000,000
	Local Aid Fund . . . . .	100.0%

**NO SECTION 2B.**

**SECTION 2C.** For the purpose of making available in fiscal year 1998 balances of appropriations which would otherwise revert on June 30, 1997, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby reappropriated for the purpose of and subject to the conditions stated for the corresponding item in section 2A. Amounts in this section are reappropriated from the fund or funds designated for the corresponding item in said section 2A. The sums reappropriated herein shall be in addition to any amounts available for said purposes.

1599-9711 . . . . .	\$24,604,204
1599-9712 . . . . .	\$1,000,000

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the government of each abolished county, except the office of county treasurer, is hereby abolished as of the transfer date for all purposes, including, but not limited to, the purposes established pursuant to chapters 34, 34A, 35 and 36 of the General Laws or as otherwise authorized by this act. The office of an abolished county's treasurer shall expire on December 31, 2002. Nothing in this act shall affect the existing county boundaries.



**SECTION 4.** Notwithstanding the provisions of any general or special law to the contrary, the terms of an abolished county's commissioners shall expire upon the transfer date. There shall be no increase in the salaries of any abolished county's elected official. An abolished county's advisory board shall be eliminated upon the transfer date.

**SECTION 5.** Notwithstanding the provisions of any general or special law to the contrary, all functions, duties and responsibilities of an abolished county pursuant to this act including, but not limited to, the operation and management of the county jail and house of correction, the registry of deeds and the courthouses are hereby transferred from said county to the commonwealth on the transfer date, subject to the provisions of this act.

**SECTION 6.** All valid liabilities and debts of an abolished county which are in force immediately before the transfer date shall be obligations of the commonwealth as of the transfer date, except as may be otherwise provided in this act. All assets, including revenue received pursuant to chapter 64D of the General Laws and such other revenue said county receives as of immediately before the transfer date shall become assets and revenue of the commonwealth.

**SECTION 7.** Notwithstanding the provisions of any general or special law to the contrary, all rights, title and interest in real and personal property owned or held by an abolished county immediately before the transfer date, including without limitation, all courthouses, registries of deeds, registries of probate, and all other county buildings, and the land on which they are situated and any parking facilities, fixtures and improvements located thereon or appurtenant thereto, shall be transferred to the commonwealth, except as otherwise provided in this act. Such transfer and all buildings, lands, parking facilities, fixtures and improvements shall be subject to the provisions of chapter 7 of the General Laws and the jurisdiction of the commissioner of capital planning and operations as provided therein, except as otherwise provided in this act; and provided, however, that the buildings and land of the county courthouses so transferred shall be controlled by said commissioner on behalf of the commonwealth and shall be operated and maintained by the office of the chief justice for administration and management of the trial court subject to the general superintendence of the supreme judicial court.

The transfer under this section shall be effective and shall bind all persons, with or without notice, without any further action or documentation. Without derogating from the foregoing, the commissioner of capital planning and operations may, from time to time, execute and record and file for registration with any registry of deeds or the land court, a certificate confirming the commonwealth's ownership of any interest in real property formerly held by an abolished county pursuant to the provisions of this section.

**SECTION 8.** All valid leases and contracts of an abolished county which are in force immediately before the transfer date shall be 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 act.

**SECTION 9.** For the purpose of recovering amounts expended by the commonwealth for the liabilities and other debts assumed and paid by the commonwealth on behalf of an abolished county, the secretary of administration and finance shall establish



a plan to recover said amounts, which may include refinancing the indebtedness of said county, and shall include, but not be limited to, recovering amounts paid pursuant to item 1599-9711 of section 2A of this act, the salary of the county treasurer until the expiration of such treasurer's office pursuant to section 3, and the unfunded pension liabilities of said county. Said secretary shall establish an amortization schedule to recover any amounts so expended by the commonwealth which shall be filed with the clerks of the house of representatives and the senate not later than two months after the transfer date. Unless the general court changes said plan or schedule by law, said secretary shall proceed with implementation of said plan and schedule beginning one year after the transfer date; provided, however, that nothing herein shall preclude said assessment from being collected during the year prior to said implementation. For the duration of said schedule, the state treasurer shall, pursuant to section 20 of chapter 59 of the General Laws, assess upon each city and town within the former jurisdiction of an abolished county an amount equal to the county tax paid by each such city and town as assessed pursuant to the provisions of chapter 35 of the General Laws for the fiscal year beginning July 1 of the year immediately before the transfer date. The amount of the assessment shall be paid annually by each city or town to the treasurer of the commonwealth and shall remain in effect for the duration of said amortization schedule, which shall not exceed 25 years.

In addition to the amortization assessment made upon the cities and towns pursuant to this section, said cities and towns of Hampden, Middlesex, and Worcester counties shall not be precluded from assuming an additional assessment, subject to section 21C of chapter 59 of the General Laws, in order to organize and administer in said county or a portion of said county a cooperative entity or regional form of government to provide, purchase or otherwise make available services on a regionalized basis.

**SECTION 10.** The treasurer of an abolished county shall cooperate with the secretary of administration and finance in effecting the orderly transfer of assets, liabilities, personnel, functions, duties and responsibilities from said county to the commonwealth. For the duration of his term, said treasurer shall continue to occupy at no cost the office space occupied by the office of the county treasurer immediately before the transfer date.

**SECTION 11.** Notwithstanding any general or special law to the contrary, an abolished county's registers of deeds holding office immediately before the transfer date shall become employees of the commonwealth under the supervision of the secretary of the commonwealth. The registers shall remain elected officials retaining local administrative control under the general direction of said secretary. The operational procedures of the registries shall be uniform as prescribed by said secretary. Said secretary shall determine the budget of each registry, subject to appropriation.

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 registry of deeds functions of an abolished county's government to the commonwealth, as hereby defined as of the transfer date:

(a) The functions of the registries of deeds, hereinafter called the transferor agencies, shall be transferred to the office of the secretary of state, which is hereinafter called the transferee agency.

(b) All employees of the transferor agencies, including those who immediately prior to the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions by reason of section 9A of chapter 30 of the General Laws or do not hold such tenure, are hereby transferred to said transferee agency, without interruption of service within the meaning of said section 9A or said chapter 31, and without reduction in compensation or salary grade. Notwithstanding the provisions of any general or special law to the contrary, all such employees of the transferor agency shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws, and shall be considered employees for the purposes of said chapter 150E.

(c) All petitions, requests, investigations and other proceedings approximately and duly brought before said transferor agencies, or duly begun by said transferor agencies and pending before said transferor agencies prior to the transfer date, shall continue unabated and remain in force, but shall be assumed and completed by said transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by said transferor agencies which are in force immediately prior to the transfer date, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or canceled in accordance with law by said transferee agency.

(e) All books, papers, records, documents, and equipment, which immediately prior to the transfer date are in the custody of said transferor agencies shall be transferred to said transferee agency.

(f) All duly existing contracts, leases and obligations of said transferor agencies, shall continue in effect and shall be assumed by said transferee agency. No existing right or remedy of any character shall be lost, or affected by the provisions of this act.

**SECTION 12.** The rights of all employees of each registry of deeds of an abolished county shall continue to be governed by the terms of collective bargaining agreements, as applicable, including employees transferred to the office of the secretary of the commonwealth.

**SECTION 13.** Notwithstanding the provisions of any general or special law to the contrary, the sheriff of an abolished county in office immediately before the transfer date shall become an employee of the commonwealth with salary to be paid by the commonwealth. The sheriff shall remain an elected official under the provisions of section 159 of chapter 54 of the General Laws. Said sheriff shall operate pursuant to the provisions of chapter 37 of the General Laws. Such sheriff shall retain administrative and operational control over the office of the sheriff, the jail, and the house of correction upon the effective date of this act.

**SECTION 14.** Notwithstanding the provisions of any general or special law to the contrary, the sheriff of an abolished county shall be considered an "employer" as said term

is defined in section 1 of chapter 150E of the General Laws for the purposes of said chapter 150E.

**SECTION 15.** Chapter 37 of the General Laws is hereby amended by inserting after section 21 the following section:-

Section 21A. For the purposes of paying the salary and travel expenses of a sheriff pursuant to sections 17 and 21, the commonwealth shall pay said salary and travel expenses whenever the sheriff is an employee of the commonwealth; provided, that said travel expenses shall be reimbursed only upon the submission of travel vouchers or other verification of travel expenses to the comptroller.

**SECTION 16.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the sheriff, all deputies, jailers, superintendents, keepers, officers, assistants and other employees of the sheriff of an abolished county, employed immediately before the transfer date in the discharge of their responsibilities set forth in section 24 of chapter 37 and section 16 of chapter 126 of the General Laws, shall be transferred to the commonwealth with no impairment of employment rights held immediately before the transfer date, 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 the transfer date 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 section 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 of an abolished county, as the case may be, on or before the transfer date 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 of an abolished county, before the transfer date, shall be valid, effective and continuing in force according to the terms thereof for all purpose 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 the employees of the sheriff of an abolished county, as the case may be, which are pending before the transfer date shall continue unabated and remain in force notwithstanding the passage of this act.

All records maintained by the sheriff, deputies, jailers, superintendents, keepers, officers, assistants and other employees of the sheriff of an abolished county before the transfer date shall continue to enjoy the same status in any court or administrative proceeding, whether pending on said transfer date or commenced thereafter, as they would have enjoyed



in the absence of the passage of this act.

**SECTION 17.** All officers and employees of an abolished county transferred to the service of the commonwealth shall be transferred with no impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation, except as otherwise provided in this act. Any collective bargaining agreement in effect for such transferred employees immediately before the transfer date shall continue as if the employees had not been so transferred, until the expiration date of such collective bargaining agreement. Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of said transfer, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to such date.

**SECTION 18.** (a) Notwithstanding the provisions of any general or special law to the contrary, employees of an abolished county who become state employees under this act and who are eligible for group insurance coverage as provided under chapter 32B of the General Laws or who are insured under said chapter 32B, shall have said eligibility and coverage transferred to the jurisdiction of the group insurance commission effective four months after the transfer date, and said employees shall cease to be eligible or insured under the provisions of said chapter 32B. The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under the provisions of chapter 32A of the General Laws; provided, however, that county employees who were covered by a collective bargaining agreement on the date of said transfer to said jurisdiction shall continue to receive the group insurance benefits required by their respective collective bargaining agreements until the expiration date of said agreements. All questions relating to group insurance rights, obligations, costs and payments shall be determined by the group insurance commission, and shall include the manner and method for the payment of all required premiums applicable to all such coverage.

(b) Notwithstanding the provisions of any general or special law to the contrary, retired employees of an abolished county and the surviving spouses of active or retired county employees who are eligible for group insurance coverage as provided under chapter 32B of the General Laws or who are insured under said chapter shall have said eligibility and coverage transferred to the jurisdiction of the group insurance commission effective four months after the transfer date and said persons shall cease to be eligible or insured under the provisions of said chapter 32B. The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under the provisions of chapter 32A of the General Laws. All questions relating to group insurance rights, obligations, costs and payments shall be determined by the group insurance commission, and shall include the manner and method for the payment of all required premiums applicable to all such coverage.



(c) The human resources division of the executive office for administration and finance shall assume the obligations of an abolished county to employees who become state employees and who are covered under a health and welfare trust fund agreement established under section 15 of chapter 32B of the General Laws pursuant to a collective bargaining agreement until the expiration date of the collective bargaining agreement.

(d) Any monies in the an abolished county's employees' group insurance trust fund established pursuant to section 8A of said chapter 32B three months after the transfer date shall be transferred to the Group Insurance Commission Trust Fund established pursuant to section 9 of said chapter 32A.

(e) Any monies in a claims trust fund established pursuant to section 3A of said chapter 32B are hereby transferred to the group insurance commission as of the transfer date; provided, however, that any city, town or district that participates in the county's group insurance plans pursuant to section 11 of said chapter 32B or jointly purchased insurance with an abolished county pursuant to section 12 of said chapter 32B, the pro rata share of the excess shall be returned to the participating city, town or district. The abolished county's treasurer shall provide the group insurance commission with an accounting of the Claims Trust Fund which shall be for the one year period immediately preceding the transfer date and shall include a calculation of the employee, retiree and surviving spouse contributions that are in excess of the claims costs and expenses of the plans for which the contributions were made. Said treasurer shall routinely forward to the group insurance commission any claims for health insurance claims made on behalf of the active employees and retirees of the abolished county.

**SECTION 19.** Notwithstanding the provisions of chapter 32 of the General Laws or the provisions of any other general or special laws to the contrary, an abolished county's retirement system shall continue pursuant to this section and shall be managed by the retirement board as provided in this section beginning on the transfer date. An abolished county's employees who retired on or before the transfer date shall be members of the county retirement system, which shall pay the cost of benefits annually to such retired county employees and their survivors. The retirement assets of an abolished county's employees who become state employees pursuant to this act shall be transferred from said county retirement system to the state retirement system, which shall thereafter be responsible for said employees, subject to the provisions of law applicable to employees whose transfer from one governmental unit to another results in the transfer from one retirement system to another. Cities, towns, districts and other governmental units belonging to an abolished county's retirement system shall remain members of said retirement system.

Provisions governing an abolished county's retirement system shall be as follows:

(a) The retirement board shall have the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of the General Laws. Said board shall consist of five members as follows: one member of the retirement board advisory council who shall be selected by a majority of those present and voting at a public meeting of said council, properly posted, called specifically for such election pursuant to paragraphs (c) and (f) who

shall serve as chairman; a second member selected by the Middlesex retirement board advisory council by a majority of those present and voting at a public meeting of said council, properly posted; a third and fourth member hereinafter referred to as the elected members; and a fifth member who shall not be an employee, a retiree or official of a governmental unit the employees of which are members of the system. The fifth member 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 30 days after the expiration of the term of the fifth member, the public employee retirement administration commission shall appoint the fifth member. The election of the elected members shall be conducted in accordance with the provisions of paragraph (f).

(b) The members of the retirement board shall serve without compensation, but they shall be reimbursed for any expense or loss of salary or wages which they may incur through service on such board from the expense fund of the system. Nothing in this paragraph shall prevent the chairman of said retirement board from being compensated for services rendered in the active administration of the system in his capacity as treasurer-custodian, as provided in paragraph (d), but not as a member of the board; provided, however, that such compensation shall not exceed \$3,000 per annum.

(c) The retirement board may employ such clerical and other assistants as may be required to transact the business of the retirement system. All permanent employees employed pursuant to this paragraph shall be members of the retirement system, but shall not be eligible to be a member or candidate for election to the retirement board.

(d) The chairman of the retirement board shall act as treasurer-custodian of the retirement system with respect to the employees of any town or district who became members of said system as provided for in paragraph (b) or (c) of subdivision (3) or paragraph (b) of subdivision (4) of section 28 of said chapter 32 of the General Laws or under corresponding provisions of earlier laws. The treasurer or other disbursing officer of any such town or district, as the case may be, shall act as liaison officer between the employees thereof and the board of the retirement system.

(e) There shall be a retirement board advisory council consisting of all the treasurers, elected or appointed, of each town, unit, or district belonging to the prior county retirement system and remaining in the retirement system established by this section. The members of said advisory council shall elect a chairman from among the members. Said council shall meet at the call of the chairman, but in no event less than twice in each year. Said council shall supervise and certify the procedures involved in the election of the elected members of the retirement board, as provided in paragraphs (a) and (f). Upon certification by the retirement board and the council, the actuary shall be furnished with an estimate of the expenses and costs of administration of the system for the ensuing year. The actuary shall determine the costs attributable to the payment of benefits to or on behalf of county employees who retired on or before the transfer date. At a meeting called specifically for that purpose, the retirement board advisory council shall elect one of its members as a member of the county retirement board at the expiration of the current appointed member's term, as provided in paragraph (a).

(f) The retirement board advisory council, which shall serve as the election board, shall supervise the election of the elected members of the retirement board. The council shall make available nomination papers to any member in or retired from service so requesting and shall require that such nomination papers be signed by the candidate, and returned to the office of the retirement board for safekeeping until the election board shall meet. The chairman of the council shall give a duplicate receipt for such nomination papers to each candidate. Completed nomination papers shall contain the signatures and addresses of at least five active or retired members of said retirement system. The election board shall determine whether each candidate has filed nomination papers containing the requisite signatures and addresses, and shall notify candidates whose nomination papers it deems invalid. If more than one candidate has obtained the requisite number of valid signatures, the election board shall notify the candidates of its determination and shall immediately prepare election ballots, and set the date for an election to be held within 40 days. The election board shall thereupon follow the provisions of the second and third paragraphs of subdivision (h) of subsection (3) of section 20 of chapter 32 of the General Laws. The abolished county's retirement board and retirement board advisory council shall continue to serve until such time as the members of the new retirement board and the new retirement board advisory council pursuant to this section have been duly elected, selected, or appointed, as the case may be.

Notwithstanding any other provision of this section, the treasurer of an abolished county shall serve as chairman of said retirement board, at the same salary said treasurer received immediately before the transfer date, until the expiration of the treasurer's office pursuant to section 3 of this act, after which the provisions of this paragraph shall take effect with respect to the election of a chairman of said board.

**SECTION 20.** Notwithstanding the provisions of any general or special law to the contrary, the actuary, as defined by section 1 of chapter 32 of the General Laws, shall determine the amount to be paid by each member of an abolished county's retirement system into the pension fund of said system which is attributable to costs associated with or attributable to: (i) the payment of retirement benefits to county employees who retired on or before the transfer date; (ii) payments to other retirement systems pertaining to the portion of the benefits to retired former county employees and beneficiaries of retired former county employees determined pursuant to paragraph (c) of subdivision (8) of section 3 of said chapter 32; and (iii) amounts to be contributed to said retirement system in accordance with the unfunded pension liability funding schedule established pursuant to this section. Not later than the third Wednesday of January each year, the retirement board established pursuant to section 19 shall notify each such member of the amount or amounts owed pursuant to clauses (i), (ii) and (iii) by each such member to said pension fund for the subsequent fiscal year.

Said actuary shall establish the funding schedule established pursuant to clause (iii) that shall be designed to reduce to zero not later than twenty-five years after the transfer date



the unfunded liability attributable to the benefits earned by county employees prior to the transfer of said employees to the state retirement system pursuant to this act. Said actuary shall make an initial determination of the amount of said unfunded pension liability not later than five and one-half months after the transfer date and shall specify in a written notice to said retirement board the amount required to be paid by each such member. Said schedule shall be revalued and adjusted not less than every three years. Amounts payable by each such member shall be determined by applying the percentage used in determining the county assessment of each such member in fiscal year 1996 pursuant to the provisions of section 31 of chapter 35 of the General Laws to the total of said amounts. In addition to the amounts determined hereunder. The actuary shall establish appropriations pursuant to paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws; provided, however, that the actuary shall make such adjustments in establishing appropriations as are necessitated by the provisions of this act.

**SECTION 21.** There is hereby established a special task force on the valuation of county assets and liabilities that shall compile an inventory and provide for the valuation of all real and personal property, assets, liabilities and debts of all counties of the commonwealth for the purposes of considering the abolition of county government and the transfer of its critical functions, assets and liabilities to the commonwealth. The task force shall consist of 11 members including four members of the house of representatives appointed by the speaker of the house of representatives one of whom shall be the house chairman of the joint committee on counties, one of whom shall be the chairman of the house committee on ways and means, and one of whom shall be a member of the minority party, four members of the senate appointed by the senate president one of whom shall be the senate chairman of the joint committee on counties, one of whom shall be the chairman of the senate committee on ways and means, and one of whom shall be a member of the minority party, and the secretary of administration and finance, the inspector general and the state auditor. The chairmen of the joint committees on counties shall serve as the co-chairmen of said task force.

The task force is hereby authorized and directed to contract for an independent audit and valuation of the total assets and liabilities of each county in the commonwealth; provided, however, that no such audit and valuation shall be conducted for the former Franklin county. The task force shall establish uniform criteria for conducting said audits and evaluations and shall require that the valuation of assets shall distinguish between disposable, fungible assets and assets necessary to the ongoing core functions of county government which cannot be practicably conveyed. Amounts appropriated in item 1599-9712 of section 2A of this act shall be available for the expenses of said audit and valuation but shall not be available for the expenses of said task force. Said task force shall file with the house and senate committees on ways and means a spending plan for amounts appropriated in said item 1599-9712 not later than September 15, 1997.

Real and personal property to be examined by said task force shall include, but shall not be limited to, the Dukes county airport, the Norfolk county recreational facility, and hospitals, roads, beaches and courthouses owned by said counties, including courthouses of



historic or architectural significance the primary tenant of which is not the trial court. Said task force is hereby authorized and directed to report to the clerks of the house of representatives and the senate on the finances, operations, personnel and management structure of each county registry of deeds and the office of each county sheriff. Said report shall include, but not be limited to, the following: an audit for fiscal year 1997 that details revenues, expenditures, assets and liabilities in accordance with statutory accounting principles and, where possible, generally accepted accounting principles; operating budgets by expenditure type for the prior three years; revenues for the prior three years; fee structures in effect in fiscal year 1997; instrument counts for the prior three fiscal years; property and equipment leases in effect for fiscal year 1997 and fiscal year 1998, including lease terms, conditions, expiration dates and payment rates; contracts in effect for fiscal year 1997 and fiscal year 1998, including contract terms, conditions, expiration dates and rates; fiscal year 1997 facility operating costs; and a current equipment inventory.

Said report shall include an inventory of county roads so-called and an analysis of the system of care and maintenance of such roads as of the effective date of this act with an emphasis on determining whether the care and maintenance of such roads is being provided by municipalities. Municipalities that are determined to have been providing for the care and maintenance of such roads shall continue to provide such care and maintenance. The department of highways and the executive office of transportation and construction shall cooperate with the task force in conducting said inventory and analysis. For the purpose of this analysis, the task force shall consult with the state auditor's division of local mandates.

Said report shall include an organizational chart for each such registry and sheriff's office and shall establish a personnel profile for each current employee that shall include, but not be limited to, the following information as of the date said information is compiled: an actual and functional job title; compensation rate; collective bargaining status; accrued sick, vacation and personal days, vesting status for retirement purposes and length of service. Said report shall include the status of any collective bargaining agreements in effect as of the date said information is compiled, including contractually binding commitments not funded in fiscal year 1998 and any obligation required to be funded in fiscal year 1999. Said report shall project the likely costs to be incurred by the commonwealth in converting each such registry and sheriff's office to the personnel classification system established by chapter 31 of the General Laws.

Said report shall include an analysis of the pension funding status for each such registry and sheriff's office, including any unfunded liabilities, the funding sources for current and future pension liabilities and a projection of the cost or savings, if any, of transferring said pension liabilities to the commonwealth, including the commonwealth's pension defined benefit plan.

Said report shall include any recommendations, including legislation necessary to effectuate the orderly and cost-effective transfer to the commonwealth of the operations of any county registry or sheriff's office.

Representatives of the division of capital planning and operations, the group insurance commission and the public employee retirement administration commission shall be nonvoting members of said task force and shall make available resources as necessary to meet its purposes.

Said report shall be filed with the clerks of the house of representatives and the senate on or before February 1, 1998.

The task force shall further make recommendations to the governor and the general court concerning the disposition of county functions not subject to the control or management of the county sheriffs or the registers of deeds, including but not limited to their consolidation, elimination, privatization in conformity with sections 52 to 55, inclusive, of chapter 7 of the General Laws, or transfer to the commonwealth or any of its political subdivisions. All county officers and employees shall cooperate with the task force by providing information necessary to the performance of its duties, including, but not limited to, providing inventories and lists of properties owned by the county as of the effective date of this act and acquisitions and dispositions of such property subsequent thereto. The task force shall establish objective criteria for the disposition or reuse of properties in possession of counties and transferred to the commonwealth by this act, and for the disposition of county functions or programs, gathering pertinent information with respect to each of the properties, functions and programs being reviewed, holding public hearings as it deems appropriate, and taking such other actions as it determines necessary. The task force shall prepare a specific plan for the disposition or reuse of properties and county functions or programs. Such a plan shall be included in the report to be filed on or before February 1, 1998.

The task force shall further report on the feasibility of retaining the registers of deeds as elected officials in each county, or retaining said registers as appointed officials subject to the general control of the state secretary.

**SECTION 22.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller of the commonwealth is hereby directed to deposit to the Local Aid Fund any monies received from assessments made pursuant to the amortization schedule established by section 9.

**SECTION 23.** (a) In each county, other than the Franklin regional council of governments, Barnstable county or a county that has adopted a charter under chapter 34A of the General Laws, there shall be a county charter commission. The commission shall consist of one representative, appointed by the mayor, city manager or selectmen, of each city or town in the county, or contiguous to the county, if the city council or town meeting, respectively decides to join the county charter commission. Voting in the commission shall be weighted according to the population of each city or town. The county commissioners shall convene the first meeting of the commission not later than December 31, 1997.

(b) A county charter commission established under this section shall have all the powers and duties of a county charter commission under chapter 34A of the General Laws. Said chapter 34A shall apply except to the extent inconsistent with the provisions of this section.

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(c) In each county to which this section applies, including only those cities and towns which joined the county charter commission pursuant to subsection (a), the state secretary shall cause to be printed the question of adopting the proposed county charter on the official ballots for a biennial state election, pursuant to section 13 of chapter 34A of the General Laws. If the majority of votes cast on the question is in the affirmative the charter shall be adopted and shall thereafter govern said county, as constituted to include only said cities and towns. Whether such county shall control registries of deeds, correctional facilities and courthouses located therein shall depend upon legislative action following the report of the task force provided by section 21. Otherwise, or if no charter has been proposed for adoption of such charter at an election, as of December 31, 2000, said county may be subject to abolition pursuant to the provisions of this act.

**SECTION 24.** Notwithstanding the provisions of section 567 of chapter 151 of the acts of 1996, this section shall apply to the sheriff of Franklin county. Said sheriff shall remain an elected official under the provisions of section 159 of chapter 54 of the General Laws and shall be known as the Franklin sheriff. Said sheriff shall operate pursuant to the provisions of chapter 37 of the General Laws. Said sheriff shall retain administrative and operational control over the office of the sheriff, the jail and the house of correction.

**SECTION 25.** Notwithstanding the provisions of any general or special law to the contrary, as of the effective date of this act, no board, commission, officer or department of Hampden or Worcester county shall enter into any collective bargaining agreement applicable to employees of a registry of deeds, a sheriff's department, or courthouse without the approval of the secretary of administration and finance.

**SECTION 26.** Notwithstanding the provisions of any general or special law to the contrary, Hampden and Worcester counties shall not sell or dispose of any assets, except as this act provides for transferring county assets to the commonwealth. Any obligation under a lease or contract entered into by said counties after June 30, 1997 shall be binding on the commonwealth only if and to the extent that the secretary of administration and finance approves the assumption of such obligation and if the county treasurer has certified to the secretary that sufficient funds are available for such obligation.

**SECTION 27.** The provisions of section 2A of this act shall take effect as of June 30, 1997.

*This bill was returned on July 11, 1997, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following sections therein: **SECTIONS 13, 14, 19, 20, 23 and 24.***

*The remainder of the bill was approved by the Governor July 11, 1997.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 15, 1997 in the House of Representatives and on July 22, 1997 in the Senate the following Sections: **SECTIONS 13 and 24**, were passed and therefore have the force of law.*

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**Chapter 49. AN ACT RELATIVE TO THE SALE OF CERTAIN ALCOHOLIC BEVERAGES IN THE CITY OF WOBURN.**

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

Notwithstanding the provisions of section 15 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the city of Woburn shall not issue licenses for the sale of wine and malt beverages not to be drunk on the premises.

Approved July 11, 1997.

**Chapter 50. AN ACT RELATIVE TO THE CONSTRUCTION OR IMPROVEMENT OF SCHOOL BUILDINGS IN THE TOWN OF ANDOVER.**

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

**SECTION 1.** Section 5 of the charter of the town of Andover 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 inserting after the second sentence the following sentence:- Notwithstanding the foregoing, whenever the town shall undertake to construct or improve a school building or property, one member of the school committee and an administrative representative of the superintendent of schools shall be appointed by the school committee to serve on the school building committee to which the planning and construction or acquisition of such school building or property is delegated.

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

Approved July 18, 1997.

**Chapter 51. AN ACT RELATIVE TO FIRE DEPARTMENTS AND FIRE DISTRICTS.**

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

**SECTION 1.** Section 9 of chapter 48 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "town", in line 1, the following words:- or his designee.

**SECTION 2.** Section 10 of said chapter 48, as so appearing, is hereby amended by striking out, in line 4, the word "male".

**SECTION 3.** Section 13 of said chapter 48, as so appearing, is hereby amended by striking out the seventh sentence and inserting in place thereof the following sentence:- Whoever violates any provision of this section shall be punished by a fine of not more than \$500 plus the cost of suppression or by imprisonment for not more than one month or both.

**SECTION 4.** Section 15 of said chapter 48, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "a natural resource officer and a deputy natural resource" and inserting in place thereof the following words:- an environmental police



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officer or deputy environmental police.

**SECTION 5.** Section 19 of said chapter 48, as so appearing, is hereby amended by inserting after the word "assistant," in line 1, the following words:- the state fire warden.

**SECTION 6.** Said chapter 48 is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:-

Section 20. Violation of any provision of sections 16 to 18, inclusive, shall be punished by a fine of not less than \$250 nor more than \$2,500.

**SECTION 7.** Said chapter 48 is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. Whoever operates in or adjacent to forest or grasslands any equipment or vehicle which burns any spark producing material as fuel, unless the same is provided with a suitable spark arrester approved by the United States Department of Forestry, shall be punished by a fine of not less than \$50 nor more than \$100 and the cost of suppression if such operation results in a response from a fire department.

**SECTION 8.** Section 22 of said chapter 48, as so appearing, is hereby amended by inserting after the word "assistants", in line 1, the following words:- or the state fire warden.

**SECTION 9.** Section 24 of said chapter 48, as so appearing, is hereby amended by striking out the third sentence.

**SECTION 10.** Section 26 of said chapter 48, as so appearing, is hereby amended by striking out, in line 3, the words "ten dollars" and inserting in place thereof the following figures:- \$100.

**SECTION 11.** Said chapter 48 is hereby further amended by striking out section 28C, as so appearing, and inserting in place thereof the following section:-

Section 28C. When, in the judgment of the director of the division of forests and parks, the forest fire hazard is such as to require the use of forest fire patrols in any town, all forest lands therein shall be closed to all persons except the owners thereof and the tenants of such owners or to the authorized agents of such owners and tenants and the director shall use all reasonable means to notify all persons of such closing. While such fire hazard exists, a duly authorized forest warden, deputy forest warden, chief fire warden and his assistants, environmental police officer or deputy environmental police officer may arrest without a warrant any person found within the forest lands of another without authorization from the owner or tenant thereof or without other legal authority if such person refuses to leave such forest lands upon request and such person shall be punished by a fine of not more than \$100.

**SECTION 12.** Sections 29 to 35, inclusive, of chapter 48 of the General Laws are hereby repealed.

**SECTION 13.** Section 38 of chapter 48 of the General Laws is hereby repealed.

**SECTION 14.** Section 40 of said chapter 48, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 6, the words "twenty nor more than fifty dollars" and inserting in place thereof the following words:- \$50 nor more than \$100.

**SECTION 15.** Section 47 of said chapter 48, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The engineers, in the extinguishment of fires, shall exercise the powers of firewards and, in the

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nomination and appointment of such firefighters as necessary therefor, shall exercise the powers and perform the duties of selectmen.

**SECTION 16.** Section 48 of said chapter 48, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "The engine, hose and hook and ladder men and protective companies" and inserting in place thereof the following word:- Firefighters.

**SECTION 17.** Section 50 of chapter 48 of the General Laws is hereby repealed.

**SECTION 18.** Said chapter 48 is hereby further amended by striking out section 51A, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 51A. Each city, town or district shall equip any fire apparatus operated by it with at least three self-contained breathing apparatus, so-called. Such breathing apparatus shall contain a minimum of 30 minutes of air or oxygen and shall be equipped with an audible alarm to indicate to the wearer thereof and to any other person in the area that there is a specific designated minimum supply of air or oxygen still present and that such wearer should leave a contaminated area. Any such breathing apparatus shall, in addition to the above, meet the requirements of the standards set up by the National Fire Protection Association for self-contained breathing apparatus. The provisions of this section shall not apply to fire apparatus designed solely for extinguishing woods or brush fires.

**SECTION 19.** Said chapter 48 is hereby further amended by striking out section 52, as so appearing, and inserting in place thereof the following section:-

Section 52. The board of engineers shall have the care and superintendence of fire apparatus and related equipment, buildings, fixtures, and equipment and all pumps, reservoirs for water and apparatus owned by the town and used for extinguishing fires and shall cause the same to be kept in repair or renewed and shall make necessary alterations therein and additions thereto at an expense not exceeding \$1,000 in any one year unless the town has authorized a larger appropriation.

**SECTION 20.** Section 53 of said chapter 48, as so appearing, is hereby amended by striking out, in line 9, the words "twenty dollars" and inserting in place thereof the following figure:- \$200.

**SECTION 21.** Section 54 of said chapter 48, as so appearing, is hereby amended by striking out, in line 3, the words "twenty dollars" and inserting in place thereof the following figure:- \$200.

**SECTION 22.** Said chapter 48 is hereby further amended by striking out section 65, as so appearing, and inserting in place thereof the following section:-

Section 65. The chief engineer and assistant engineers shall be chosen for terms not exceeding three years; provided, however, that the district, at any meeting held in accordance with section 66, may vote to authorize the prudential committee to appoint the chief engineer and assistant engineers on merit for an indefinite period of time. A chief engineer or assistant engineer may be removed for cause at any time after a hearing by such prudential committee. Fire districts may accept the provisions of section 42.

Approved July 18, 1997.

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**Chapter 52. AN ACT EXEMPTING THE POSITION OF DEPUTY DIRECTOR FOR THE BOARD OF HEALTH IN THE TOWN OF BILLERICA FROM THE PROVISIONS OF CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of deputy director for the board of health in the town of Billerica shall be exempt from the provisions of chapter 31 of the General Laws.

**SECTION 2.** The provisions of section 1 of this act shall not impair the civil service status of any person holding the office of deputy director for the board of health on the effective date of this act.

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

Approved July 18, 1997.

**Chapter 53. AN ACT RELATIVE TO ELECTIONS IN THE TOWN OF SCITUATE.**

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

**SECTION 1.** Section 3-1 of article 3 of the charter of the town of Scituate, 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 subsections (e) and (f) and inserting in place thereof the following subsection:-

(e) Coordination of Officials - Notwithstanding the election by the voters of the officers named in this article, the said officers shall be subject to the call of the board of selectmen or of the town administrator for consultation, conference and discussion of any matter relating to their respective offices.

**SECTION 2.** Section 3-2 of said article 3 of said charter is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Composition, Term of Office - There shall be a board of selectmen consisting of five members elected by the voters. The term of office of a selectman shall be for three years. The terms of office of a selectman shall be so arranged that two selectmen shall be elected one year, two selectmen shall be elected the next year and one selectman shall be elected the third year. The election ballots for each year in which more than one selectman is to be elected shall set forth each position to be filled on the board as a separate position which shall be called position one and position two, so that each candidate for selectman shall be listed as a candidate for either position one or position two, but not both. The candidate receiving the highest number of votes for each position shall be elected to that position on the board.

**SECTION 3.** Section 3-4 of said article 3 of said charter is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Composition, Term of Office - There shall be a school committee consisting of five members elected by the voters. The term of office of school committee members shall be for three years. The term of office of school committee members shall be so arranged that



two school committee members shall be elected one year, two school committee members shall be elected the next year, and one school committee member shall be elected the third year. The election ballots for each year in which more than one school committee member is to be elected shall set forth each position to be filled on the committee as a separate position which shall be called position one and position two, so that each candidate for school committee shall be listed as a candidate for either position one or position two, but not both. The candidate receiving the highest number of votes for each position shall be elected to that position on the committee.

**SECTION 4.** Section 3-5 of said article 3 of said charter is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Composition, Term of Office - There shall be a planning board consisting of five members elected by the voters. The term of office for planning board members shall be for three years. The terms of office of the planning board members shall be so arranged that two planning board members shall be elected one year, two planning board members shall be elected the next year, and one planning board member shall be elected the third year. The election ballots for each year in which more than one planning board member is to be elected shall set forth each position to be filled on the planning board as a separate position which shall be called position one and position two, so that each candidate for planning board shall be listed as a candidate for either position one or position two, but not both. The candidate receiving the highest number of votes for each position shall be elected to that position on the board.

**SECTION 5.** Subsection (a) of section 3-6 of said article 3 of said charter is hereby amended by striking out, in the first sentence, the words "at large".

**SECTION 6.** Subsection (a) of section 3-7 of said article 3 of said charter is hereby amended by striking out the words "at large".

**SECTION 7.** Subsection (a) of section 3-8 of said article 3 of said charter is hereby amended by striking out the words "at large".

**SECTION 8.** Subsection (a) of section 3-9 of said article 3 of said charter is hereby amended by striking out, in the first sentence, the words "at large".

**SECTION 9.** Section 7-1 of article 7 of said charter is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Nominations - The number of signatures of voters required to place the name of a candidate on the official ballot for use at a town election shall be not less than 100 signatures. Nominating papers shall not contain the name of more than one candidate.

**SECTION 10.** Subsection (b) of section 7-10 of said article 7 of said charter is hereby amended by striking out, in the first and sixth sentences, the words "in the case of an officer who is elected by the voters at large and of the district in the case of an officer who is elected by the voters of a district".

**SECTION 11.** Subsection (c) of section 7-10 of said article 7 of said charter is hereby amended by striking out, in the third sentence, the words "in the case of an officer who is elected by the voters at large and of the district in the case of an officer who is elected by the voters of a district".



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**SECTION 12.** Section 8-6 of article 8 of said charter is hereby amended by striking out subsection (a).

**SECTION 13.** This act shall not affect the terms of office of incumbent members of the board of selectmen, school committee and planning board on the effective date of this act.

**SECTION 14.** This act shall take effect upon its passage.

Approved July 18, 1997.

## **Chapter 54. AN ACT RELATIVE TO THE COUNTRY CLUB ENTERPRISE FUND IN THE TOWN OF HINGHAM.**

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

Notwithstanding the provisions of section 53F½ of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Hingham is hereby authorized to appropriate any surplus revenue in the Country Club enterprise fund which is available after payment of capital contributions of the town for the acquisition and development of the country club to any capital project of the town for which borrowing is authorized under the provisions of section 7 or 8 of said chapter 44.

Approved July 18, 1997.

## **Chapter 55. AN ACT FURTHER REGULATING OPTOMETRIC PATIENT CARE.**

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

**SECTION 1.** The definition of "Practitioner" in section 1 of chapter 94C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following clause:-

(c) An optometrist authorized by sections 66 and 66B of chapter 112 and registered pursuant to paragraph (h) of section 7 to utilize and prescribe therapeutic pharmaceutical agents in the course of professional practice in the commonwealth.

**SECTION 2.** Section 7 of said chapter 94C, as so appearing, is hereby amended by adding the following paragraph:-

(h) The commissioner shall promulgate regulations which provide for the automatic registration of optometrists, upon the receipt of the fee as herein provided, to issue written prescriptions in accordance with the provisions of sections 66 and 66B of chapter 112, unless the registration of such optometrist has been suspended or revoked pursuant to the provisions of section 13 or section 14 or unless such registration is denied for cause by the commissioner pursuant to the provisions of chapter 30A. Prior to promulgating such regulations, the commissioner shall consult with the board of registration in optometry.

**SECTION 3.** Section 9 of said chapter 94C is hereby amended by striking out paragraphs (a) and (b), as so appearing, and inserting in place thereof the following two paragraphs:-

(a) A physician, dentist, podiatrist, optometrist as limited by sections 66 and 66B of chapter 112 and paragraph (h) of section 7, nurse practitioner and psychiatric nurse mental health clinical specialist as limited by paragraph (g) of said section 7 and section 80E of said chapter 112, physician assistant as limited by said paragraph (g) of said section 7 and section 9E of said chapter 112, a certified nurse-midwife as provided in section 80C of said chapter 112 or a veterinarian when registered pursuant to the provisions of said section 7 and acting in accordance with the provisions of applicable federal law and any provision of this chapter which is consistent with federal law, in good faith and in the course of a professional practice for the alleviation of pain and suffering or for the treatment or alleviation of disease, may possess such controlled substances as may reasonably be required for the purpose of patient treatment and may administer controlled substances or may cause the same to be administered under his direction by a nurse.

(b) Notwithstanding the provisions of section 17, a physician, physician assistant, dentist, podiatrist, optometrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist or veterinarian who is registered pursuant to the provisions of section 7, when acting in good faith and in the practice of medicine, dentistry, podiatry, optometry, nurse-midwifery or veterinary medicine or a nurse, when authorized by a physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified nurse-midwife, psychiatric nurse mental health clinical specialist or veterinarian in the course of such nurse's professional practice, may dispense by delivering to an ultimate user, a controlled substance in a single dose or in such quantity as is, in the opinion of such physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified midwife, psychiatric nurse mental health clinical specialist or veterinarian, essential for the treatment of the patient; provided, however, that such amount or quantity of such controlled substance shall not exceed the amount needed for the immediate treatment of the patient and that all such controlled substances required by the patient as part of such treatment shall be dispensed by prescription to such ultimate user in accordance with the provisions of this chapter.

For the purposes of this section, the words "amount needed for the immediate treatment of the patient" shall mean the quantity of a controlled substance which is necessary for the proper treatment of the patient until it is possible for such patient to have a prescription filled by a pharmacy.

This section shall not be construed to prohibit or limit the dispensing of any prescription medication that is classified by the department of public health as schedule VI and that is provided free of charge by the manufacturer as part of an indigent patient program or for use as samples if such prescription medications are: (1) dispensed to the patient by a professional authorized to dispense controlled substances pursuant to this section; (2) dispensed in the package provided by the manufacturer; and (3) provided at no charge to the patient.

The department shall promulgate rules and regulations governing the dispensing of medication pursuant to this section. Said rules and regulations shall include, but not be limited to, the types and amounts of medications that may be dispensed and the appropriate safeguards for the labeling and dispensing of such medications.

**SECTION 4.** Chapter 112 of the General Laws is hereby amended by striking out section 66, as so appearing, and inserting in place thereof the following section:-

Section 66. The practice of optometry, as referred to in sections 67 to 73, inclusive, shall mean the employment of any method or means for the diagnosis, prevention, correction, management or treatment of optical deficiencies, optical deformities, visual anomalies, muscular anomalies, ocular diseases and ocular abnormalities of the human eye and adjacent tissue, including removal of superficial foreign bodies and misaligned eyelashes, by utilization of pharmaceutical agents, by the prescription, adaptation and application of ophthalmic lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy, prosthetic devices and other optical aids and the utilization of corrective procedures to preserve, restore or improve vision, consistent with the provisions of sections 66A and 66B.

**SECTION 5.** Said chapter 112 is hereby further amended by inserting after section 66A the following section:-

Section 66B. Any registered optometrist, qualified by examination for practice under the provisions of section 68 subsequent to January 1, 1994, duly certified in accordance with the provisions of section 68B and duly registered to issue written prescriptions in accordance with the provisions of paragraph (h) of section 7 of chapter 94C may, for the purpose of preventing, correcting, managing or treating ocular diseases or abnormalities, utilize and prescribe therapeutic pharmaceutical agents; provided, however, that nothing in this section shall be construed to permit optometric use of therapeutic pharmaceutical agents which are: (a) controlled substances as described by Title 21 U.S.C. Section 812 or in chapter 94C, except for those listed in schedule VI; (b) pharmaceutical agents administered by subdermal injection, intramuscular injection, intravenous injection, subcutaneous injection or retrobulbar injection; (c) pharmaceutical agents for the specific treatment of systemic disease; and (d) invasive surgical procedures.

If, during the course of examining or treating a patient with the aid of a diagnostic or therapeutic pharmaceutical agent, an optometrist, exercising professional judgment and that degree of expertise, care and knowledge ordinarily possessed and exercised by optometrists under like circumstances, determines the existence of the signs of previously unevaluated disease which requires treatment not included in the scope of optometric practice as defined in section 66, such optometrist shall refer such patient to a licensed physician or other qualified health care practitioner. Optometrists may utilize and prescribe nonlegend agents.

For the purposes of this section and section 68B, the term "therapeutic pharmaceutical agents" shall mean those topical pharmaceutical agents in schedule VI required for the diagnosis, prevention, management or treatment of abnormal ocular conditions or diseases as defined in section 66, except glaucoma.

**SECTION 6.** Said chapter 112 is hereby further amended by inserting after section 68A the following section:-

Section 68B. The board of registration in optometry shall administer an examination designed to measure the qualifications necessary to safely utilize the ophthalmic application of therapeutic pharmaceutical agents in section 66B. Such examination shall be held in conjunction with the examination provided in sections 68 and 68A and shall include any portion of the examination administered by the National Board of Examiners in Optometry or other appropriate examination covering the subject matter of therapeutic pharmaceutical agents.

Such examination shall, upon application, be open to any optometrist registered under the provisions of this chapter and to any person who meets the qualifications for examination under the provisions of section 68 or section 68A; provided, however, that each such applicant shall furnish to the board evidence of the satisfactory completion of 90 hours of didactic instruction and 30 hours of supervised clinical education relating to the use of therapeutic pharmaceutical agents by a duly accredited medical school or college of optometry and otherwise meeting the guidelines and requirements of the board of registration. The board shall transmit to all successful applicants a certificate of qualification.

**SECTION 7.** The department of public health shall promulgate rules and regulations to implement the provisions of this act within 90 days of its effective date.

Approved July 31, 1997.

## **Chapter 56. AN ACT RELATIVE TO THE PURCHASE OF OIL AND FUEL SUPPLIES FOR MUNICIPAL LIGHT DEPARTMENTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize certain purchases of oil or other fuel supplies without bids, 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 292 of the acts of 1978 is hereby amended by striking out section 3, as most recently amended by chapter 309 of the acts of 1992, and inserting in place thereof the following section:-

*Section 3.* Section 2 of this act shall become inoperative on December 31, 2002.

**SECTION 2.** Chapter 234 of the acts of 1985 is hereby amended by striking out section 3, as most recently amended by section 1 of chapter 53 of the acts of 1995, and inserting in place thereof the following section:-

*Section 3.* This act shall become inoperative on July 1, 2001.

**SECTION 3.** This act shall take effect as of July 1, 1997.

Approved August 1, 1997.



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**Chapter 57. AN ACT RELATIVE TO CERTAIN CONSERVATION LAND IN THE TOWN OF HOPKINTON.**

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

The conservation commission of the town of Hopkinton is hereby authorized to transfer care, custody and control of a certain parcel of conservation land to the parks and recreation commission of said town to be used for access by vehicles and persons to land of said commission and for wetland replication. Said parcel is bounded and described as follows:-

BEGINNING at a point approximately 356 feet easterly of Hayden Rowe Street at the southwesterly corner of the parcel at the intersection of two stone walls;

THENCE N01°52'40"W, by land now or formerly of Botka-Collins, by a stone wall, about 180.00 feet to a point;

THENCE N88°07'20"E, by land of the Inhabitants of the Town of Hopkinton, about 102.71 feet to a point;

THENCE S01°00'26"E, by land of the Inhabitants of the Town of Hopkinton, about 167.98 feet to a point;

THENCE Southwesterly, by land now or formerly of Salvucci, by a curve to the left having a radius of 45.00 feet, about 12.60 feet to a point;

THENCE Southwesterly and Westerly, by land now or formerly of Salvucci, by a curve to the right having a radius of 20.00 feet, about 18.16 feet to a point;

THENCE S89°22'01"W, by land now or formerly of Salvucci, about 74.74 feet to the point beginning;

Said parcel is a portion of land of the inhabitants of the town of Hopkinton shown on a plan by J. D. Marquedant & Associates, Inc., dated January 11, 1989.

Approved August 1, 1997.

**Chapter 58. AN ACT RELATIVE TO CERTAIN CONSERVATION RESTRICTIONS IN THE TOWN OF NATICK.**

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

**SECTION 1.** The town of Natick, acting by and through its board of selectmen, is hereby authorized to release a certain parcel of land subject to the conservation restriction and easement granted to the town of Natick by the Algonquin Hill Homeowners Corporation on September 20, 1991 and recorded in Middlesex county in the southern district registry of deeds, Book 21520, Page 257 from said restriction and easement. The parcel of land to be released is shown as Parcel A-1 on a plan entitled "Plan of Land in Natick, Mass." dated November 30, 1995 by MacCarthy & Sullivan Engineering, Inc.

**SECTION 2.** The town of Natick, acting by and through its board of selectmen, is hereby authorized to release a certain parcel of land subject to a conservation restriction and easement granted to the town of Natick by the Algonquin Hill Homeowners Corporation on

September 20, 1991 and recorded in Middlesex county in the southern district registry of deeds Book 21520, Page 257 from said restriction and easement. Said parcel of land to be released is shown as Parcel C-5B on a plan of land entitled "Plan of Land in Natick, Mass." dated January 19, 1996 by MacCarthy & Sullivan Engineering, Inc.

**SECTION 3.** The town of Natick, acting by and through its board of selectmen, is hereby authorized to release two certain parcels of land subject to the conservation restriction and easement granted to the town of Natick by the Algonquin Hill Homeowners Corporation on September 20, 1991 and recorded in Middlesex county in the southern district registry of deeds Book 21520, Page 257 from said restriction and easement. Said parcels of land to be released are shown as Parcels A-3 and A-4 on a plan of land entitled "Plan of Land in Natick, Mass." dated January 11, 1996 by MacCarthy & Sullivan Engineering, Inc.

Approved August 1, 1997.

**Chapter 59. AN ACT AUTHORIZING THE SAUGUS RETIREMENT BOARD TO GRANT CERTAIN CREDITABLE SERVICE TO A CERTAIN RETIRED EMPLOYEE.**

*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 Saugus retirement board is hereby authorized to grant creditable service time, pursuant to the provisions of paragraph (b) of subdivision (2) of section 8 of chapter 32 of the General Laws, to Richard Eichel, a retired employee of the police department of the town of Saugus who has such creditable service.

**SECTION 2.** This act shall take effect as of July 1, 1997.

Approved August 1, 1997.

**Chapter 60. AN ACT RELATIVE TO THE BOARD OF HEALTH OF THE CITY OF LOWELL.**

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

**SECTION 1.** Notwithstanding the provisions of section 26 of chapter 111 of the General Laws or any other general or special law to the contrary, the board of health of the city of Lowell shall consist of five members, two of whom shall be physicians. Except for such increase in membership, said board shall be governed by the provisions of said section 26 of said chapter 111.

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

Approved August 1, 1997.

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**Chapter 61. AN ACT RELATIVE TO THE MEMBERSHIP OF THE SCHOOL COMMITTEE IN THE CITY OF MELROSE.**

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

**SECTION 1.** Chapter 162 of the acts of 1899 is hereby amended by striking out section 32, as appearing in section 1 of chapter 128 of the acts of 1994, and inserting in place thereof the following section:-

*Section 32.* The management and control of the public schools of the city of Melrose shall be vested in a school committee consisting of five persons who shall be chosen by the city at large at each municipal election. The school committee shall serve without pay and shall exercise the powers and discharge the duties imposed by law upon school committees. The school committee shall at its first meeting in each municipal year, or as soon thereafter as may be, choose a chairman from its members by ballot and the votes of a majority of all the members of the board shall be required in order to elect.

The committee shall make rules for its proceedings. A majority of all members shall constitute a quorum for the transaction of business but a smaller number may adjourn from time to time. No member of the school committee shall hold any other office in or under the city government or act as counsel in any matter before the board of aldermen or any committee thereof.

**SECTION 2.** This act shall be submitted to the voters of the city of Melrose for acceptance at the city election to be held on November 4, 1997 in the form of the following question, which shall be placed on the official ballot to be used for the election of city officers at said election:-

"Shall an act passed by the General Court in the year 1997, entitled, 'An Act Relative to the Membership of the School Committee in the City of Melrose', be accepted?" If the majority of the votes cast in answer to said question is in the affirmative, this act shall become effective but not otherwise.

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

Approved August 1, 1997.

**Chapter 62. AN ACT RELATIVE TO THE WHITMAN-HANSON REGIONAL SCHOOL DISTRICT.**

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

**SECTION 1.** The Whitman-Hanson Regional School District may incur debt for the purpose of purchasing departmental equipment for a term of five years, or for such maximum term not exceeding 15 years as may be approved by the emergency finance board established under the provisions of section 47 of chapter 10 of the General Laws, whether authorized before or after the effective date of this act, but subject to the approval of said emergency finance board as provided in clause (d) of section 16 of chapter 71 of the General Laws. Except as otherwise provided herein, such debt shall be authorized and issued in accordance with the applicable provisions of chapters 44 and 71 of the General Laws.

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

Approved August 1, 1997.

**Chapter 63. AN ACT PROVIDING FOR THE ELIMINATION OF THE POSITION OF TOWN ADMINISTRATOR IN THE TOWN OF HOPEDALE.**

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

Chapter 550 of the acts of 1983 is hereby repealed.

Approved August 1, 1997.

**Chapter 64. AN ACT RELATIVE TO THE ORDER OF PLACEMENT OF A CERTAIN PERSON ON THE CIVIL SERVICE ELIGIBLE LIST.**

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

Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, for the purpose of placement on the eligible list for appointment for the position of police officer in the city of Quincy, Joseph T. McGunigle shall be considered to be the son of a police officer as provided in section 26 of chapter 31 of the General Laws; provided, however, that he passes the required written and physical examination for entrance to the police service.

Approved August 1, 1997.

**Chapter 65. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO LEASE A CERTAIN PARCEL OF LAND TO THE BOYS AND GIRLS CLUB OF CAPE COD, INC.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Mashpee, acting by and through its board of selectmen, is hereby authorized to lease to the Boys and Girls Club of Cape Cod, Inc. for a term of 99 years at a rent of \$1 per year and upon such other terms and conditions as said board deems appropriate. Said parcel is shown on a plan entitled "Proposed Boys and Girls Club Site, May, 1996 ATM", a copy of which is on file in the office of the town clerk. Said Boys and Girls Club of Cape Cod, Inc. shall use said property to provide educational, recreational and cultural services to persons under the age of 18 individually, or in cooperation with other organizations, for the benefit of persons under the age of 18.

**SECTION 2.** In the event the parcel described in section 1 ceases to be used at any time for the purposes contained herein, said parcel shall immediately revert to the care and control of the town of Mashpee.



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

Approved August 8, 1997.

**Chapter 66. AN ACT RELATIVE TO MEETING DATES AND MEMBERSHIP OF THE BOARD OF HIGHER EDUCATION.**

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

**SECTION 1.** Section 18B of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 3 and 25, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

**SECTION 2.** Section 18A of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "higher education coordinating council on behalf of any employee of said council" and inserting in place thereof the following words:- board of higher education on behalf of any employee of said board.

**SECTION 3.** Section 1 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 4.** Section 2 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 3, 35 and 39, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

**SECTION 5.** The first paragraph of section 4 of said chapter 15A, as so appearing, is hereby amended by striking out the first three sentences and inserting in place thereof the following sentence:- The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, and ten members appointed by the governor, reflecting regional geographic representation, one of whom shall be a student currently enrolled in a state funded institution of higher education.

**SECTION 6.** Said section 4 of said chapter 15A, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The board shall meet six times per year, and at least once every two months, omitting meetings in the months of July and August; the chair may call additional meetings at other times.

**SECTION 7.** Section 9 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 201, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 8.** Section 9B of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 9.** Section 21 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 37 and 38, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 10.** Section 40 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 3, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 11.** Section 1 of chapter 62D of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 12.** Section 13 of said chapter 62D, as so appearing, is hereby amended by striking out clause (v) and inserting in place thereof the following clause:- (v) the board of higher education.

**SECTION 13.** Section 1F of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out, in lines 21 and 22, and in lines 27 and 28, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

**SECTION 14.** Section 30 of said chapter 69, as so appearing, is hereby amended by striking out, in lines 7 and 8, and in lines 44 and 45, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

**SECTION 15.** Section 30A of said chapter 69, as so appearing, is hereby amended by striking out, in line 1, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 16.** Said section 30A of said chapter 69, as so appearing, is hereby further amended by striking out, in line 7, the word "council" and inserting in place thereof the following word:- board.

**SECTION 17.** Section 31 of said chapter 69, as so appearing, is hereby amended by striking out, in line 1, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 18.** Section 31A of said chapter 69, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 19.** Section 31B of said chapter 69, as so appearing, is hereby amended by striking out, in line 3, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 20.** Section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in lines 58 and 59, and in line 84, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

**SECTION 21.** Section 2 of said chapter 75, as so appearing, is hereby amended by striking out, in lines 12, 16 and 25, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:-

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**Chap. 66**

board of higher education.

**SECTION 22.** Section 1 of chapter 150E of the General Laws, as so appearing, is hereby amended by striking out, in line 55, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

**SECTION 23.** Section 7 of said chapter 150E, as so appearing, is hereby amended by striking out, in lines 7 and 8, 20 and 21, each time they appear, the words "higher education coordinating council" and inserting in place thereof, in each instance, the following words:- board of higher education.

Approved August 8, 1997.

**Chapter 67. AN ACT RELATIVE TO THE INVESTMENT OF CERTAIN TRUST FUNDS BY THE COMMISSIONERS OF TRUST FUNDS OF THE TOWN OF WESTON.**

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

**SECTION 1.** Notwithstanding the provisions of the second sentence of section 54 of chapter 44 of the General Laws or any other general or special law, the town of Weston may, unless otherwise provided or directed by the donor thereof, direct the treasurer to invest such trust funds in securities, other than mortgages or collateral loans, which are legal for the investment of funds of savings banks under the laws of the commonwealth, provided that not more than 15 per cent of such trust funds shall be invested in bank stocks and insurance company stocks, nor shall more than 7 per cent of such funds be invested in the stock of any one bank or insurance company.

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

Approved August 13, 1997.

**Chapter 68. AN ACT AUTHORIZING THE TOWN OF WILBRAHAM TO ISSUE TWO ADDITIONAL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES.**

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

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Wilbraham is hereby authorized to issue two additional licenses for the sale of all alcoholic beverages to be drunk on the premises, under the provisions of section 12 of said chapter 138. Said licenses shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved August 13, 1997.

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**Chapter 69. AN ACT AUTHORIZING THE TOWN OF ACUSHNET TO WITHDRAW FROM THE ACUSHNET, MARION AND ROCHESTER REGIONAL HEALTH DISTRICT.**

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

**SECTION 1.** Notwithstanding the provisions of section 27A of chapter 111 of the General Laws or any other general or special law to the contrary, the town of Acushnet shall withdraw from the Acushnet, Marion and Rochester Regional Health District, such withdrawal to be effective 30 days following the effective date of this act.

**SECTION 2.** The regional health district joint committee shall call a special meeting, in accordance with Article III, Section 2 of the district by-laws, to be held no later than 30 days following the effective date of this act. At said meeting, the regional health district shall determine what funds from the district's annual budget, if any, are due to the town of Acushnet as a result of said town's withdrawal prior to the end of the district's fiscal year. The district treasurer shall forthwith issue a reimbursement of such funds to the town.

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

Approved August 13, 1997.

**Chapter 70. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF NORTH ANDOVER.**

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

**SECTION 1.** Subsection 4-5-2 of section 5 of chapter 4 of the charter of the town of North Andover, which is on file in the office of the archivist of the commonwealth as provided by section 12 of chapter 43B of the General Laws, is hereby amended by striking out clauses (a) and (b).

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

Approved August 13, 1997.

**Chapter 71. AN ACT RELATIVE TO THE COMPOSITION OF THE LICENSING BOARD FOR THE CITY OF BROCKTON.**

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

(a) Notwithstanding the provisions of section 4 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing board for the city of Brockton shall consist of five members and two associate members to be appointed by the mayor, subject to confirmation by the city council. Each member shall be a resident of the city of Brockton and shall be appointed to serve for a term of three years and until his successor is chosen and qualified.



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(b) This act shall be implemented 90 days after the effective date of this act. Those persons serving as members of the licensing board at the time of passage of this act shall continue to serve as members for a period of three years or until the expiration of their term, whichever period is shorter.

On the effective date of this act, the mayor, subject to confirmation by the city council, shall appoint two residents of the city of Brockton to serve as members of the licensing board, one of whom shall serve for a term of one year, one of whom shall serve for a term of two years, two residents of said city of Brockton to serve as associate members, one of whom shall serve for a term of one year, and one of whom shall serve for a term of two years. Upon the expiration of the terms of office referred to in this paragraph, members and associate members shall then be appointed to serve for a term of three years.

Associate members shall serve as regular members of the commission, whenever any regular member is unable to attend a meeting of the board. Associate members shall be selected to fill such vacancies caused by absence of a regular board member, on a rotating basis under the supervision of the licensing board chairman.

(c) No person shall be eligible to serve on the licensing board if that person is engaged, directly or indirectly, in the manufacture or sale of alcoholic beverages.

(d) In addition to but not in lieu of the authority granted to the license board to suspend, revoke, modify, or cancel any license, as provided in section 64 of said chapter 138, the licensing board may impose a civil fine of not more than \$500 for any violation for which the licensing board has enforcement authority.

(e) Any civil fines collected pursuant to paragraph (d) shall be deposited in a separate account under the control and supervision of the city auditor, and funds shall only be appropriated for the purpose of furthering the enforcement of the licensing laws, rules and regulations and city ordinances, and for no other purpose.

Approved August 14, 1997.

## **Chapter 72. AN ACT RELATIVE TO THE CERTIFICATION OF THE INSPECTOR OF BUILDINGS AND BUILDING COMMISSIONER IN THE CITY OF BROCKTON.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, Robert Finnegan, duly appointed superintendent of buildings for the city of Brockton, shall be deemed to meet or exceed the qualifications for the position of inspector of buildings and building commissioner pursuant to section 3 of chapter 143 of the General Laws and the state building code.

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

Approved August 14, 1997.

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**Chapter 73. AN ACT RELATIVE TO THE PROCUREMENT AND AWARD OF CONTRACTS FOR CERTAIN HOUSING IN THE CITY OF BOSTON.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, any public housing project which (1) has been conveyed by the Boston Housing Authority, whether by leasehold or fee estate, to a private entity pursuant to a process in accordance with the provisions of chapter 30B of the General Laws, and (2) has been funded in part by a federal government Hope VI grant awarded in 1994 or 1996, shall not be subject to the requirements of any general or special law related to the procurement and award of contracts for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency, but shall remain subject to the requirements of sections 26 to 27H, inclusive, of chapter 149 of the General Laws; provided, however, that contracts for the construction, reconstruction, alteration, remodeling or repair of any publicly owned public works which service such projects shall not be exempted by the provisions of this act from the requirements of section 39M of chapter 30 of the General Laws.

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

Approved August 14, 1997.

**Chapter 74. AN ACT RELATIVE TO THE REIMBURSEMENT OF CERTAIN GRANTS BY THE SALEM HOUSING AUTHORITY.**

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

Notwithstanding the provisions of section 34 of chapter 121B of the General Laws or any other general or special law, rule or regulation to the contrary, the housing authority of the city of Salem shall not be required to reimburse the commonwealth for grants made to said authority in 1972 for the purchase of certain land in said city; provided, however, that said property shall be subdivided and conveyed in accordance with rules and regulations of the department of housing and community development. Said parcel is shown as Lot 2 on a plan of land entitled "Subdivision Plan - Highland Acres, Sheet 2, dated August 5, 1971, drawn by Essex Survey Service, Inc." recorded in the Essex south district registry of deeds in Plan Book 123, Plan 25.

Approved August 14, 1997.

**Chapter 75. AN ACT RELATIVE TO THE FINANCING OF FINAL JUDGEMENTS BY THE CITY OF NEW BEDFORD.**

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

**SECTION 1.** The city of New Bedford is hereby authorized to borrow at one time

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## Chap. 75

or from time to time such sums of money as may be necessary, not to exceed an aggregate amount of \$750,000 for the purpose of paying any final judgement entered against said city or any consent order requiring said city to indemnify other parties on the cases entitled *Gonsalves v. City of New Bedford, et al.* and *Rodriguez v. City of New Bedford, et al* including all interest, costs, fees and other expenses required to be paid by the city pursuant to such judgements or consent orders. Notwithstanding the provisions of clause 11 of section 7 of chapter 44 of the General Laws or any other general or special law to the contrary, each authorized issue shall constitute a separate loan, each such loan shall be payable within 10 years from its date and indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the city under section 10 of chapter 44 of the General Laws but, except as provided herein, shall otherwise be subject to the provisions of that chapter.

**SECTION 2.** The loan order of the city council passed on December 19, 1996, providing for the authorization of bonds for the payment of final judgements, is hereby ratified, validated and confirmed in all respects.

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

Approved August 14, 1997.

## **Chapter 76. AN ACT ESTABLISHING A DEPARTMENT OF FINANCE, BUDGET AND PERSONNEL IN THE TOWN OF MERRIMAC.**

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

**SECTION 1.** There is hereby established in the town of Merrimac, a department of finance, budget and personnel. Said department shall have all the powers and duties presently exercised by the offices of town treasurer, town accountant, and tax collector including supervision of budgets and the director of purchasing by the various town boards and departments as may be assigned from time to time by the board of selectmen. Said department shall be comprised of the divisions of treasurer, tax collector, assessors, accountant and such other divisions as the board of selectmen may from time to time assign. Said department shall be under the direction of a full time finance director appointed by said board of selectmen.

**SECTION 2.** Upon appointment of a finance director, the office of town treasurer shall be abolished and its functions transferred to the department of finance, budget and personnel. The incumbent in said office shall be transferred to said department for the remainder of his current term and may be retained as an employee thereafter. The finance director shall exercise the powers and duties of treasurer and collector and shall, subject to the approval of the board of selectmen, appoint a person or persons to direct the divisions of accounting and assessing.

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

Approved August 14, 1997.

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**Chapter 77. AN ACT PROHIBITING COURT ORDERED VISITATION RIGHTS TO CERTAIN PERSONS CONVICTED OF FIRST DEGREE MURDER.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to prohibit court ordered visitation rights to certain persons convicted of first degree murder, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 35 of chapter 119 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- No court shall make an order providing visitation rights to a parent who has been convicted of murder in the first degree of the other parent of the child who is the subject of the order, unless such child is of suitable age to signify his assent and assents to such order; provided, further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian.

**SECTION 2.** Section 28 of chapter 208 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

No court shall make an order providing visitation rights to a parent who has been convicted of murder in the first degree of the other parent of the child who is the subject of the order, unless such child is of suitable age to signify his assent and assents to such order; provided, further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian.

**SECTION 3.** Section 37 of chapter 209 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

No court shall make an order providing visitation rights to a parent who has been convicted of murder in the first degree of the other parent of the child who is the subject of the order, unless such child is of suitable age to signify his assent and assents to such order; provided, further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian.

**SECTION 4.** Subsection (a) of section 3 of chapter 209C of the General Laws, as so appearing, is hereby amended by adding the following sentence:- No court shall make an order providing visitation rights to any parent who has been convicted of murder in the first degree of the other parent of the child who is the subject of the order, unless such child is of suitable age to signify his assent and assents to such order; provided, further, that until such order is issued, no person shall visit, with the child present, a parent who has been convicted of murder in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian.

Approved August 15, 1997.



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**Chapter 78. AN ACT RENAMING NORTH ADAMS STATE COLLEGE THE MASSACHUSETTS COLLEGE OF LIBERAL ARTS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is immediately to rename North Adams state college as the Massachusetts College of Liberal Arts, 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 5 of chapter 15A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the words "North Adams State College" and inserting in place thereof the following words:- Massachusetts College of Liberal Arts.

**SECTION 2.** Section 2 of chapter 73 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "state college at North Adams", and inserting in place thereof the following words:- Massachusetts College of Liberal Arts.

**SECTION 3.** Section 19 of said chapter 73, as so appearing, is hereby amended by striking out, in line 4, the words "North Adams State College" and inserting in place thereof the following words:- Massachusetts College of Liberal Arts.

**SECTION 4.** There shall be a moratorium on any further name changes within the state college system until the board of higher education reviews the system wide impacts of its action agenda and policy initiatives on the public state colleges. The board of higher education shall report its findings and recommendations to the joint standing committee on education, arts and humanities not later than June 30, 1998.

Approved August 20, 1997.

**Chapter 79. AN ACT RELATIVE TO LEAD POISONING PREVENTION WEEK.**

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

Chapter 6 of the General Laws is hereby amended by inserting after section 15WWW the following section:-

Section 15XXX. The governor shall annually issue a proclamation setting apart the week beginning with the third Sunday of July as Lead Poisoning Prevention Week and recommending that said week be observed in an appropriate manner by the people.

Approved August 20, 1997.

**Chapter 80. AN ACT RELATIVE TO CERTAIN ELECTIONS IN THE CITY OF MEDFORD IN THE CURRENT YEAR.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the

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## Chap. 80

contrary, there shall be no preliminary election in the city of Medford as otherwise required on September 23, 1997 for the office of school committee member for a two year term for the office of city council for a two year term and for the office of mayor for a two year term and the candidates whose nomination papers have been duly certified shall be deemed to have been nominated.

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

Approved August 20, 1997.

## **Chapter 81. AN ACT AUTHORIZING THE TOWN OF DRACUT TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF WINE AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority in the town of Dracut is hereby authorized to issue to Dionisio N. Toscano doing business as Giovanna's Lakeview Restaurant and Bakery a license for the sale of wines and malt beverages only to be drunk on the premises under the provisions of section 12 of said chapter 138, subject to all of the provisions of said chapter 138 except said section 17.

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

Approved August 21, 1997.

## **Chapter 82. AN ACT DESIGNATING A CERTAIN OVERPASS IN THE TOWN OF MILTON AS THE HONORABLE M. JOSEPH MANNING COMMUNITY PARK.**

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

The overpass spanning interstate highway route 93 in East Milton square in the town of Milton, shall be designated and known as the Honorable M. Joseph Manning Community Park, in recognition of the many years of service which M. Joseph Manning has dedicated to the citizens of said town of Milton and to the commonwealth. The department of highways is hereby authorized and directed to erect suitable markers bearing said designation in compliance with the standards of said department.

Approved August 28, 1997.

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**Chapter 83. AN ACT VALIDATING THE PROCEEDINGS OF A SPECIAL ELECTION HELD IN THE TOWN OF NORTH READING.**

*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 North Reading at a special town election held on November 19, 1996, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the calling or holding of said special town election.

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

Approved August 28, 1997.

**Chapter 84. AN ACT DIRECTING THE CITY OF NEW BEDFORD RETIREMENT BOARD TO INCREASE THE DISABILITY RETIREMENT ALLOWANCE TO FORMER POLICE OFFICER RAYMOND SOUZA.**

*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 city of New Bedford is hereby authorized and directed to amend the accidental disability pension of retired police officer Raymond Souza of the city of New Bedford, who, as the result of injuries sustained by him while in the performance of his duties is totally and permanently incapacitated for further service as police officer. The annual amount of pension payable to said Raymond Souza under this act shall be fixed in the amount equal to the regular base salary of a police officer in effect in said city on the effective date of this act.

**SECTION 2.** Upon the death of said Raymond Souza, leaving Norma Souza, his wife, surviving him, said city shall pay to her for as long as she remains unmarried an annuity in the amount of 72 per cent of the amount of the pension payable to him at the time of his death.

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

Approved August 28, 1997.

**Chapter 85. AN ACT PROHIBITING SMOKING IN CERTAIN STATE BUILDINGS.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is immediately to prohibit smoking in certain state facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

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

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## Chap. 85

The second paragraph of section 22 of chapter 270 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following two sentences:- No person shall smoke in the state house or in any building owned by the commonwealth or in any space occupied by a state agency or department of the commonwealth which is located in another building, including any private office in any such building or space mentioned in this sentence, notwithstanding the provisions of the last paragraph. The provisions of the foregoing sentence shall not apply to residents or patients of state hospitals, the Soldiers' Home in Massachusetts, the Soldiers' Home in Holyoke and any substance abuse treatment center under the jurisdiction of the commonwealth.

Approved August 28, 1997.

### **Chapter 86. AN ACT DIRECTING THE STATE-BOSTON RETIREMENT BOARD TO RETIRE JORGE L. TORRES, A POLICE OFFICER OF THE CITY OF BOSTON.**

*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 Jorge L. Torres, a police officer of the city of Boston, who, as a police officer, on October 2, 1987, is totally and permanently incapacitated from further service as a police officer. The annual amount of pension payable to Jorge L. Torres shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a police officer of said city at the grade held by him at the time of his retirement. Such retirement shall become effective as of the date following the last date on which he received regular compensation. Upon such retirement, the state-Boston retirement board shall forthwith pay to him the amount credited to him as accumulated total deductions in the annuity savings of the state-Boston retirement system.

**SECTION 2.** Said Jorge L. Torres shall be entitled to receive such indemnification for all hospital, medical and related expenses that have been or may be incurred after the date of his retirement as a result of the injuries sustained by him while in the performance of his duties, according to the provisions of chapter 41 of the General Laws.

**SECTION 3.** Upon the death of said Jorge L. Torres, if any surviving spouse, the state-Boston retirement board shall pay her so long as she remains unmarried, an annuity in the amount of three-fourths of the amount of the pension payable to him, per month at the time of his death. If spouse remarries, said city shall pay, in lieu of the aforesaid annuity, an annuity of \$520 per month to her.

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

Approved August 29, 1997.



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**Chapter 87. AN ACT DIRECTING THE STATE-BOSTON RETIREMENT BOARD TO RETIRE JONATHAN STRATTON, A POLICE OFFICER OF THE CITY OF BOSTON.**

*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 Jonathan Stratton, a police officer of the city of Boston, who, as a result of injuries sustained while in the performance of his duties on November 30, 1995, is totally and permanently incapacitated from further service as a police officer.

The annual amount of pension payable to Jonathan Stratton shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a police officer of said city at the grade held by him at the time of his retirement. Such retirement shall become effective as of the date following the last day on which he received regular compensation. Upon such retirement, the state-Boston retirement board shall forthwith pay to him the amount credited to him as accumulated total deductions in the annuity savings of the state-Boston retirement system.

**SECTION 2.** Said Jonathan Stratton shall be entitled to receive such indemnification for all hospital, medical and related expenses that have been or may be, incurred after the date of his retirement as a result of the injuries sustained by him while in the performance of his duties, according to the provisions of chapter 41 of the General Laws.

**SECTION 3.** Upon the death of said Jonathan Stratton should his wife survive him, the state-Boston retirement board shall pay to her, so long as she remains unmarried, an annuity in the amount of three-fourths of the amount of the pension payable to him, per month at the time of his death. If said wife remarries, said city shall pay, in lieu of the aforesaid annuity, an annuity of \$520 per month to her.

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

Approved August 29, 1997.

**Chapter 88. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1997 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 appropriations for the fiscal year ending June 30, 1997, and to make certain changes in 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:*

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## Chap. 88

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 1997 and for certain other activities and projects in said fiscal year, the sums set forth in section 2 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 30, 1997. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

### **SECTION 2.**

#### **JUDICIARY.**

##### *Committee for Public Counsel Services.*

0321-1510 .....	\$3,192,675
0321-1512 .....	\$2,191,650
0321-1520 .....	\$1,442,850

##### *Appeals Court.*

0322-0100 .....	\$29,569
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#### **DISTRICT ATTORNEYS.**

##### *Plymouth District Attorney.*

0340-0800 .....	\$154,000
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#### **SECRETARY OF STATE.**

0526-0100 .....	\$460,000
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#### **EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

##### *Group Insurance Commission.*

1108-5200 .....	\$2,586,651
1108-5500 .....	\$32,900

##### *Department of Revenue.*

1233-2000 .....	\$150,000
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##### *Reserves.*

1599-0036 .....	\$836,000
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##### *Operational Services Division.*

1775-0100 .....	\$426,049
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#### **EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

##### *Metropolitan District Commission.*

2440-0010 .....	\$242,000
2440-2000 .....	\$582,041
2444-9005 .....	\$250,000

#### **EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

##### *Division of Medical Assistance.*

4000-0820 .....	\$40,000,000
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4000-0830 .....	\$29,386,000
<i>Massachusetts Commission for the Blind.</i>	
4110-1000 .....	\$118,858
<i>Massachusetts Soldiers' Home.</i>	
4180-1100 .....	\$148,000
<i>Holyoke Soldiers' Home.</i>	
4190-1100 .....	\$112,000
<i>Department of Social Services.</i>	
4800-0041 .....	\$3,330,236

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.***Department of Highways.*

6030-7201 .....	\$8,467,862
6030-7221 .....	\$1,293,693

**OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.***Department of Housing and Community Development.*

7004-9005 .....	\$948,489
<i>Department of Economic Development.</i>	
7007-0900 .....	\$880,000
7007-1000 .....	\$418,000
7007-1300 .....	\$66,000
<i>Department of Education.</i>	
7010-0005 .....	\$2,111,810
<i>Board of Higher Education.</i>	
7119-0100 .....	\$54,144
7520-0423 .....	\$70,605

**EXECUTIVE OFFICE OF PUBLIC SAFETY.***Office of the Secretary.*

8000-0040 .....	\$1,006,671
<i>Department of Public Safety.</i>	
8312-1000 .....	\$195,000
<i>Department of Correction.</i>	
8900-0001 .....	\$375,000
8900-0004 .....	\$600,000

**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 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 for the fiscal year ending June 30, 1997. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

SECRETARY OF STATE.

- 0521-0010 For reimbursements to municipalities for extended polling hours in fiscal year 1997 and for the costs of a special election for the House of Representatives . . . . . \$245,335

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

*Reserves.*

- 1599-3384 For a reserve for the payment of certain court judgments, settlements, and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in fiscal year 1998 or a prior fiscal year; provided, that \$1,500,000 shall fund the settlement agreements in Judge Rotenberg Educational Center, Inc. v. Campbell, et. al., U. S. District Court, C. A. No. 96-1179EFH; provided further, that \$205,000 shall be expended for the case June G. Williams v. Commonwealth of Massachusetts Metropolitan District Commission; provided further, that \$117,500 shall be expended for the case Jean Witkowski, et al vs. the commonwealth; and provided further, that \$134,725 shall be expended for the case Donald A. Dinsdale vs. Commonwealth of Massachusetts . . . \$11,839,725
- 1599-3399 For the settlement owed in the case of Independence Park, Inc. vs. Commonwealth of Massachusetts . . . . . \$6,300,000
- 1599-3823 For a reserve to meet the fiscal year 1997 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees (Unit 3), 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, 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 years 1997 and 1998 such amounts as may be necessary to meet the cost 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; 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; provided further, that this item shall not expire until June 30, 1998; and provided further, that a total of \$40,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of Articles 23 and 26 of said agreement, and shall not expire until June 30, 1999 . . . \$1,778,000  
Collective Bargaining Reserve Fund . . . . . 100.0%

1599-3824 For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees (Unit 3), 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, 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 1998 such amounts as may be necessary to meet the cost 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; 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 item shall not expire until June 30, 1998 . . . . . \$2,390,000  
Collective Bargaining Reserve Fund . . . . . 100.0%

- 1599-3825 For a reserve to meet the fiscal year 1997 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Organization of State Engineers and Scientists (Unit 9), 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, 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 years 1997 and 1998 such amounts as may be necessary to meet the cost 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; 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; provided further, that this item shall not expire until June 30, 1998; and provided further, that a total of \$65,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of paragraph D of section 12 of Article 23A and paragraph G of section 1 of Article 24A of said agreement, and shall not expire until June 30, 1999 . . . . . \$3,060,000  
Collective Bargaining Reserve Fund . . . . . 100.0%
- 1599-3826 For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Organization of State Engineers and Scientists (Unit 9), 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, 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 1998 such amounts as may be necessary to meet the cost 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; 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 item shall not expire until June 30, 1998 . . . . . \$5,436,000

Collective Bargaining Reserve Fund . . . . . 100%

1599-3827 For a reserve to meet the fiscal year 1997 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the state lottery commission and the Service Employees International Union, Local 254, AFL-CIO, and to meet the costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said collective bargaining agreement; 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 1997 and 1998 such amounts as may be necessary to meet the cost 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 committee 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; provided further, that this item shall not expire until June 30, 1998 . . . . .	\$510,000
	Collective Bargaining Reserve Fund . . . . .	100.0%
1599-3828	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the state lottery commission and the Service Employees International Union, Local 254, AFL-CIO, and to meet the costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said collective bargaining agreement; 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 1998 such amounts as may be necessary to meet the cost 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; 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; provided further, that this item shall not expire until June 30, 1998 . . . . .	\$1,100,000
	Collective Bargaining Reserve Fund . . . . .	100.0%
1599-3829	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Alliance, AFSCME/SEIU, AFL-CIO (Units 2, 8, and 10), and to meet the costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by 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; 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 1998 such amounts as may be necessary to meet the cost 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; 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; provided further, that this item shall not expire until June 30, 1998; and provided further, that a total of \$512,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of paragraph D of section 15 of Article 23A, section 8 of Article 24A, and section 10 of Article 25 of said agreement, and shall not expire until June 30, 1999 . . . . . \$17,335,000  
Collective Bargaining Reserve Fund . . . . . 100.0%  
1599-3917 For a reserve for the payment of principal and interest on bonds issued by Essex county, dated February 1, 1996, for repairs and renovations of courthouses subsequently acquired by the commonwealth . . . . . \$147,958  
Local Aid Fund . . . . . 100.0%

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Department of Medical Assistance.*

4000-0440 For the payment of prior fiscal years' expenses for a program of medical services for disabled children and adults . . . . . \$1,700,000

*Department of Transitional Assistance*

4405-2010 For 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 2 of chapter 38 of the acts of 1995 . . . . . \$200,000

4408-1010 For 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 2 of chapter 38 of the acts of 1995 . . . . . \$700,000

*Department of Social Services.*

4800-0001 For payment of prior years' expenses for the foster care program, the group care program, for social service providers, and certain administrative costs . . . . . \$1,154,634

*Department of Labor and Workforce Development*

7003-0603 For school-to-work connecting activities; provided, that notwithstanding the provisions of any general or special law to the contrary, the department of labor and 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; provided further, that said program may include the award of matching grants to regional employment boards or other local public-private partnerships involving local community job commitments and work-site learning opportunities for students; provided further, that such grants shall require at least a 200 per cent match in wages for such students from private sector participants; provided further, that 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 public funds shall assume the cost of connecting schools and businesses to work to ensure that such students serve productively on the job; and provided further, that the department shall provide not less than \$122,000 for the establishment of a rapid response program within the corporation for business, work and learning . . . . . \$2,500,000

*Division of Standards.*

7006-0070 For the support of the division of standard's municipal inspection efforts pursuant to section 2 OO of chapter 29 of the General Laws, as inserted by section 50 of chapter 43 of the acts of 1997; provided, that up to fifteen per cent of the amount appropriated herein may be expended for administrative costs of said division . . . . . \$300,000

*Department of Education.*

7027-0017 For additional matching grants for various school-to-work programs including the jobs for bay state graduates program and the CS-squared program; provided, that the department of education shall collaborate with the department of labor and workforce development to administer said programs; 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 law to the contrary; provided further, that each grant awarded hereunder shall be matched by the recipient from local, federal, or private funds; provided further, that the board of education may determine the percentage match required on an individual grant basis; and provided further, that \$450,000 shall be made available for the state's matching grant for the CS-squared program, so called at the corporation for business, work and learning ..... \$885,000  
Local Aid Fund ..... 100.0%

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Office of the Secretary.*

8001-1900 For the design and construction of regional lockup facilities and short term detention units; provided, that not less than \$2,600,000 shall be expended for a regional lock-up facility for Hampshire county; provided further, that \$2,000,000 shall be expended for the construction of short-term detention units for use by the cities and towns of Berkshire county; provided further, that \$1,000,000 shall be expended for the construction of short-term detention units for use by the cities and towns of Worcester county; and provided further, that \$120,000 shall be expended for a one-time payment for unforeseen expenses for damages incurred to the I Building, so-called, as a result of the recent riot at the Worcester county jail; provided further, that said \$120,000 shall fully satisfy the commonwealth's obligation for said riot damages ..... \$6,240,000  
Local Aid Fund ..... 100.0%

**SECTION 2B.** To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year

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1997, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for an alteration of purpose for current intragovernmental chargeback authorizations, and to meet certain requirements of law, the sums set forth herein are hereby authorized from the Intragovernmental Service Fund for the several purposes 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 30, 1997. The sums authorized herein shall be in addition to any amounts previously authorized and made available for the purposes of said items.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Reserves.*

1599-3100 .....\$50,000

**SECTION 2C.I.** For the purpose of making available in fiscal year 1998 balances of appropriations which otherwise would revert on June 30, 1997, 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 purposes of and subject to the conditions stated for the corresponding item in section 2 of the general appropriation act for fiscal year 1998; provided, however, that for items which do not appear in said section 2 of said general appropriation act, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the funds designated for the corresponding item in said section 2 of said general appropriation act; provided, however, that for items which do not appear in said section 2 of said general appropriation act, the amounts in this section are re-appropriated from the funds designated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

**JUDICIARY.**

*Appeals Court.*

0322-0100 .....\$29,569

*Trial Court.*

0330-3000 .....\$70,000

*Superior Court Department.*

0331-0100 .....\$40,000

*Juvenile Court Department.*

0337-0003 .....\$1,755,225

**DISTRICT ATTORNEYS.**

*Suffolk District Attorney.*

0340-0100 .....\$350,000

**EXECUTIVE.**

*Executive.*

0411-1000 .....\$1,326,164



**SECRETARY OF STATE.**

0526-0100 ..... \$460,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Division of Capital Planning and Operations.*

1102-9999 ..... \$3,740,000

*Reserves.*

1599-0036 ..... \$836,000

1599-3384 ..... \$10,000,000

1599-3750 ..... \$400,000

1599-3790 ..... \$190,000

1599-3821 ..... \$11,000,000

1599-3822 ..... \$672,484

1599-3823 ..... \$1,778,000

1599-3824 ..... \$2,390,000

1599-3825 ..... \$3,060,000

1599-3826 ..... \$5,436,000

1599-3827 ..... \$510,000

1599-3828 ..... \$1,100,000

1599-3829 ..... \$17,335,000

1599-3854 ..... \$700,884

1599-3917 ..... \$147,958

1599-4421 ..... \$1,750,772

1599-7500 ..... \$400,000

*Human Resources Division.*

1750-0104 ..... \$453,000

*Information Technology Division.*

1790-0107 ..... \$4,990,440

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2010-0100 ..... \$288,170

*Department of Environmental Management.*

2100-0005 ..... \$7,971,215

*Department of Environmental Protection.*

2260-8870 ..... \$39,825

*Department of Fisheries, Wildlife, and Environmental Law Enforcement.*

2320-0200 ..... \$260,000

2330-0120 ..... \$100,000

*Metropolitan District Commission.*

2440-0010 ..... \$145,000

2440-0100 ..... \$50,000

2440-1203 ..... \$50,000

2440-1210 ..... \$10,400

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**Chap. 88***Department of Food and Agriculture.*

2520-0300 .....	\$5,980
2520-1200 .....	\$19,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.***Division of Medical Assistance.*

4000-0325 .....	\$1,500,000
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*Department of Social Services.*

4800-1996 .....	\$3,399,521
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*Department of Labor and Workforce Development.*

7003-0603 .....	2,500,000
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*Department of Housing and Community Development.*

7004-9005 .....	\$75,000
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*Division of Standards.*

7006-0070 .....	\$300,000
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*Department of Economic Development.*

7007-0900 .....	\$880,000
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7007-1000 .....	\$418,000
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7007-1300 .....	\$66,000
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7007-2215 .....	\$27,000
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*Department of Education.*

7027-0017 .....	\$885,000
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**EXECUTIVE OFFICE OF PUBLIC SAFETY.***Office of the Secretary.*

8000-0040 .....	\$1,006,671
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8001-1900 .....	\$6,240,000
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*Massachusetts Emergency Management Agency.*

8800-0032 .....	\$78,000
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8800-0034 .....	\$3,154,897
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8800-0050 .....	\$15,000
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8800-0051 .....	\$348,552
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*Department of Correction.*

8900-0001 .....	\$375,000
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**EXECUTIVE OFFICE OF ELDER AFFAIRS.***Office of the Secretary.*

9110-0100 .....	\$100,000
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II. For the purpose of making available in fiscal year 1998 certain balances of retained revenue and intragovernmental chargeback authorizations which otherwise would revert on June 30, 1997, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2B of the general appropriation act for fiscal year 1998; provided, however, that for items which do

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not appear in said section 2 or 2B of said general appropriation act, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2, 2A, or 2B of this act or in prior appropriation acts. Amounts in this section are re-authorized from the funds designated for the corresponding item in said section 2 or 2B of said general appropriation act; provided, however, that for items which do not appear in said section 2 or 2B of said general appropriation act, the amounts in this section are re-authorized from the funds designated for the corresponding item in section 2, 2A, or 2B of this act or in prior appropriation acts. The sums re-authorized herein shall be in addition to any amounts available for said purposes.

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2001-1001 .....	\$35,000
2001-1002 .....	\$35,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of Correction.*

8900-0011 .....	\$40,000
8900-0021 .....	\$150,000

**SECTION 2D.** For the purpose of making available for expenditure in fiscal year 1998 certain balances of authorizations which otherwise revert on June 30, 1997, the expiration dates of items listed below are hereby extended through June 30, 1998.

7510-7881  
7510-7891

**SECTION 2E.** 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 are hereby appropriated from the Capital Investment Trust Fund, created by section 107 of this act, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds. Notwithstanding the provisions of any general or special law to the contrary, appropriations made in this section shall not expire until June 30, 1999.

**JUDICIARY.**

*Trial Court.*

0330-9999 For the purchase or lease of equipment or other items for a program of intermediate sanctions, as authorized in item 0330-8968 of section 2 of chapter 12 of the acts of 1996, including but not limited to, the purchase of mobile substance abuse testing vans, the acquisition and build-out of leased or purchased space for day reporting centers and detention facilities, including modular units, and the purchase of equipment, such as electronic monitoring devices to support curfew enforcement, home confinement,

and other such sanctions that may qualify as alternatives to incarceration; provided, that no funds appropriated in this item shall be expended for the costs of state personnel or contracted personnel; provided further, that not more than 2 per cent of the funds authorized herein shall be expended for the administration of any projects funded herein; and provided further, that the chief justice for administration and finance shall submit a report detailing any such administrative expenditures to the house and senate committees on ways and means . . . . . \$10,000,000

**SECRETARY OF STATE.**

*Secretary of State.*

0526-0400 For a program of matching grants to units of municipal government and to private, nonprofit organizations for the preservation of historic properties, landscapes and sites; provided, that such funds shall be awarded in accordance with regulations promulgated by the state secretary in his capacity as chairman of the Massachusetts historical commission . . . . . \$10,000,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Division of Capital Planning and Operations.*

1102-7977 For the costs associated with emergency deferred maintenance and repairs to capital assets owned by the commonwealth; provided, that expenditures from this item shall include, but not be limited to, deferred maintenance, repairs, and related costs at hospitals, and facilities and institutions operated by the departments of mental health, mental retardation, public health, and youth services, the soldier's homes, the state correctional institutions operated by the department of corrections, police barracks operated by the department of state police, and state buildings operated and maintained by the division of capital planning and operations and the bureau of state office buildings for projects including, but not limited to, state house renovations, John W. McCormack Building sprinkler systems, and projects for compliance with the Americans with Disabilities Act, so-called; provided further, that priority be given to those projects deemed by the commissioner of said division to be emergency in nature and the most cost-effective to effec-



tuate; provided further, that notwithstanding the provisions of section 40B of chapter 7 of the General Laws, the commissioner of the division of capital planning and operations may, upon the request of a state agency or building authority, delegate project control and supervision to that state agency or building authority over projects funded from this item whose estimated cost is less than \$500,000 if said commissioner determines that the agency or authority has the ability to control and supervise such project; and provided further, that funds for such emergency deferred maintenance and repair projects may be expended notwithstanding the provisions of sections 39B to 40N, inclusive, of chapter 7 of the General Laws whenever the total cost of such project is \$500,000 or less . . . . . \$24,000,000

1102-7978 For the costs associated with emergency deferred maintenance and repairs to capital assets owned by the commonwealth at state institutions of higher education; provided, that any expenditure from this item shall include, but not be limited to, deferred maintenance and related projects at the university of Massachusetts, institutions within the state college system, and institutions within the community college system; provided, that priority be given to those projects deemed emergency in nature and the most cost-effective to effectuate by the commissioner of said division; provided further, that priority also be given to projects for which operating funds at each institution would be used in order to reduce reliance on such operating funds for deferred maintenance capital projects and that any new capacity in operating funds previously budgeted for capital purposes continue to be used for capital improvements; provided further, that priority be given to those projects deemed by the commissioner of said division to be emergency in nature and the most cost-effective to effectuate; provided further, that notwithstanding the provisions of section 40B of chapter 7 of the General Laws, the commissioner of the division of capital planning and operations may, upon the request of a state agency or building authority, delegate project control and supervision to that state agency or building authority over projects

funded from this item whose estimated cost is less than \$500,000 if said commissioner determines that the agency or authority has the ability to control and supervise such project; and provided further, that funds for such emergency deferred maintenance and repair projects may be expended notwithstanding the provisions of sections 39B to 40N, inclusive, of chapter 7 of the General Laws whenever the total cost of such project is \$500,000 or less . . . . . \$10,000,000

1102-7979 For the costs associated with emergency deferred maintenance and repairs to capital assets owned by the commonwealth in state-owned court facilities operated by the trial court; provided, that priority be given to those projects deemed emergency in nature and the most cost-effective to effectuate by the chief justice for administration and finance; provided further, that priority be given to those projects deemed by the commissioner of said division to be emergency in nature and the most cost-effective to effectuate; provided further, that notwithstanding the provisions of section 40B of chapter 7 of the General Laws, the commissioner of the division of capital planning and operations may, upon the request of a state agency or building authority, delegate project control and supervision to that state agency or building authority over projects funded from this item whose estimated cost is less than \$500,000 if said commissioner determines that the agency or authority has the ability to control and supervise such project; and provided further, that funds for such emergency deferred maintenance and repair projects may be expended notwithstanding the provisions of sections 39B to 40N, inclusive, of chapter 7 of the General Laws whenever the total cost of such project is \$500,000 or less . . . . . \$13,500,000

*Reserves.*

1599-3912 For costs related to environmental remediation projects undertaken by state agencies pursuant to executive order 350, the governor's clean state initiative, so-called . . . . . \$3,500,000

1599-3919 For a reserve to be transferred to the water pollution abatement trust to fund financial assistance to local governmental units to meet debt service obligations on bonds incurred by such local governmental units after July 1, 1993, to finance the

costs of water treatment projects or portions thereof which have been approved by the department of environmental protection and which have been completed, as determined by the department, on or prior to the promulgation date of the department's regulations related to the implementation of the safe drinking water revolving fund, so called; provided, that of the amount so transferred, not less than \$800,000 shall be expended for debt service payments by the city of North Adams; provided further, that not less than \$1,200,000 shall be expended for debt service payments by the city of Attleboro; provided further, for the purpose of protecting the public health and safety, the following shall be expended from this item: \$400,000 to reimburse the Grafton water district for expenses incurred for contamination correction of the Follette Street well site, \$500,000 for a grant to the town of Hinsdale for the Lower Main Street water main replacement project, so-called, \$500,000 for alleviating the contamination of groundwater and wells, including the costs associated with the installation of a waterline to deliver potable drinking water, to the residents of Assonet village in the town of Freetown, and \$279,000 for alleviating the contamination of groundwater and wells, including the costs associated with the installation of a waterline, to deliver potable drinking water in the town of Mendon . . . . . \$6,000,000

1599-7977 For a reserve to fund site acquisition costs for the purpose of developing an industrial park, including an advanced materials technology center, at the Kerr Mill site, so-called, in the city of Fall River; provided, that said acquisition process shall be managed by the Massachusetts government land bank in consultation with the university of Massachusetts at Dartmouth, and that said site shall be acquired by and held in the name of said land bank . . . . . \$4,000,000

*Information Technology Division.*

1790-0106 For expenses related to correcting the date-handling logic problems, so-called, in critical commonwealth computing systems, including, but not limited to, systems at the department of revenue and the division of employment and training, in order to sustain uninterrupted operations

through the year 2000 and beyond; provided, that upon approval of the secretary of administration and finance, funds appropriated herein may be transferred to other items of appropriation for the purposes of correcting said problems; and provided further, said secretary shall file a quarterly report with the house and senate committees on ways and means delineating by agency the projects and amounts on which funds have been expended, the progress status of each project, completion dates, and estimates for any additional costs necessary for the completion of the correcting of the date-handling logic problems, so-called . . . \$7,000,000

1790-0130 For a reserve to fund the planning, design, acquisition, implementation and oversight of educational technology projects; provided, that \$20,000,000 shall be expended for the planning, design, acquisition, implementation and oversight of educational technology projects to encourage and support statewide and local investments in education technology projects by school districts, regional school districts, charter schools and, where applicable, educational collaboratives, including no more than \$4,600,000 for statewide technology projects administered by the department of education; provided further, that preference shall be given to school districts that do not have a connectivity to district or statewide networks; provided further, that funds may be expended for matching grants to encourage and support local investments in education technology projects by school districts, regional school districts, charter schools and, where applicable, educational collaboratives, which shall submit updated local technology plans to the department of education; provided further, that such 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 shall 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 shall 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 anticipated capital spending levels in excess of \$30 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 \$30 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 50 per cent 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 educational collaborative shall be used for purposes of determining its local match and 100 per cent 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 such project to the house and senate committees on ways and means and the house and senate committees on science and technology; and provided further, that the department of education shall ensure that the matching resources shall not place an unreasonable financial burden upon grant recipients, based upon a recipient's available financial resources; and provided further, that \$10,000,000 shall be expended for technology

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	projects at the institutions within the system of public higher education .....	\$30,000,000
1790-0140	For technology upgrades and other automation projects at the registries of deeds; provided, that registries of deeds of those counties which have been abolished shall be given priority in expenditures made from this item .....	\$5,000,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Department of Environmental Management.*

2120-7977	For on-going studies and the preparation of plans, if necessary, and for the on-going repair, reconstruction, construction, and improvements to dams and flood control projects; provided, that the department of environmental management shall give priority to funding dams and flood control projects owned by the commonwealth which pose the greatest risk to public health and safety .....	\$5,000,000
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2120-7978	For the cost of centennial celebration improvements, so-called, to the commonwealth's forest and parks system; provided, that expenditures from this item shall include, but not be limited to, systemwide beautification improvements, systemwide campground improvements, and improvements and renovations to state forest and park facilities; provided, that no funds expended from this item shall be expended for the cost of state personnel or contracted personnel; and provided further, that allocations from this item shall be expended for said improvements in each of the department's regions .....	\$7,000,000
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*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 747 of the acts of 1970, chapter 406 of the acts of 1978, chapter 286 of the acts of 1982, chapter 723 of the acts of 1983, chapter 233 of the acts of 1984, chapter 786 of the acts of 1985, chapter 307 of the acts of 1987, and chapter 564 of the acts of 1987; provided, that said reimbursements shall be consistent with a payment schedule provided by 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	
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eligible for reimbursement in fiscal year 1996; 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 . . . . . \$20,500,000

*Metropolitan District Commission.*

2420-1401 For the acquisition of property, easements, rights in development and associated costs for property surrounding the Wachusett reservoir, so-called, for the protection of said reservoir and surrounding watershed pursuant to 310 CMR 22.20A and 40 CFR Ch.I sections 141.70 and 141.71 . . . . . \$16,000,000

2440-9800 For repairs and improvements to rinks, pools and other properties 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; provided further, that no funds appropriated herein shall be expended for any personnel or administrative costs of the commission; provided further, that \$8,000,000 of the amount appropriated herein shall be expended for the construction of the Pope John Paul II Park as a passive parkland site under the care, custody, and control of said commission; provided further, that said \$8,000,000 shall be expended solely for the construction and completion of said parkland; provided further, that said commission shall not

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shall not expend any of said \$8,000,000 until said commissions plans receive the prior review and approval of the house committee on ways and means ..... \$13,000,000

**BOARD OF LIBRARY COMMISSIONERS.**

7000-9111 For grants to cities and towns for approved public library projects as authorized by sections 19G to 19I, inclusive, of chapter 78 of the General Laws; provided, that said grants may only be awarded for projects which have commenced after April 10, 1996 ..... \$14,500,000

*Department of Housing and Community Development.*

7004-8975 For the demolition of certain abandoned buildings which represent a severe public health and safety risk, as authorized in item 3722-9950 of section 2B of chapter 277 of the acts of 1995 ..... \$4,000,000

7004-8976 For state financial assistance in the form of community development action grants by the commonwealth acting by and through the department of housing and community development pursuant to section 57A of chapter 121B of the General Laws, as authorized in item 3722-8896 of section 2 of chapter 494 of the acts of 1993 ..... \$10,300,000

7004-8977 For the renovation, remodeling, reconstruction, redevelopment, hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws; provided, that the amount made available herein shall fund projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents, as authorized in item 3722-8894 of section 2 of chapter 494 of the acts of 1993; provided, that said department may enter into a contract or contracts with housing authorities for projects undertaken pursuant to section 25 and clause (j) of section 26 of chapter 121B of the General Laws ..... \$2,500,000

*Board of Higher Education.*

7066-0115 For the purposes of implementing section 15E of chapter 15A of 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 higher



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 ..... \$14,000,000

**SECTION 3.** Subsection (a) of section 49 of chapter 7 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the sixth sentence the following sentence:- In the event the representative of a public safety union or the designee of the president of the Massachusetts AFL/CIO is a public employee, he or she shall be granted leave, without loss of pay or benefits and without being required to make up lost time, if on duty, for regularly scheduled work hours while in the performance of responsibilities of the commission.

**SECTION 4.** Chapter 7A of the General Laws is hereby amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

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

The comptroller shall prepare an annual statutory basis financial report based on the final closing of the accounting records. Such statutory basis financial report, so called, shall be published not later than October 31 of each year.

The report shall present fairly the aggregated financial statements for the budgeted governmental funds, the non-budgeted governmental funds, the capital project governmental funds, the proprietary funds, the fiduciary funds, and the general fixed assets and general long-term obligations account groups; such statements shall be audited in accordance with generally accepted auditing standards and generally accepted governmental auditing standards, and the report of the auditor shall be included.

The comptroller shall include, supplemental to the aggregated financial statements in the statutory basis financial report, a statement of the consolidated net surplus in the operating funds for the preceding fiscal year, and the amount by which such surplus exceeds ½ per cent of the total amount of state tax revenues as defined in chapter 29B, the amount in the Commonwealth Stabilization Fund at the close of the preceding year, and the amount by which such amount exceeds 5 per cent of the budgeted revenues and other financial resources pertaining to the budgeted funds.

Accompanying the statutory basis financial statements the comptroller shall include financial statements for such individual funds as have been established by law, and combining statements for such funds, including but not limited to a statement that compares the budget to final operations for each fund subject to appropriation. In addition, the comptroller shall publish a supplementary schedule to the statutory basis financial report of the balances, revenues, and expenditures of the non-appropriated funds maintained by each public institution of higher education.

The comptroller may include such narratives, statistical tables, and other disclosures and reference material in the statutory basis financial report as are recommended by the general court, the auditors, or as are common in general practice and that he deems appropriate in his professional judgment; provided, however, that such disclosures shall include a statement of obligations and expenses incurred by the commonwealth for bond counsel and bond underwriting for such fiscal year, and a statement of all agreements for debt collection services, revenue optimization projects, and cost savings projects.

The comptroller shall produce a set of revenue and expenditure records for each account that comprises the underlying detail to the statutory basis financial report. This revenue and expenditure account detail, so called, shall be available to any party upon request.

(b) The comptroller shall prepare an annual federal funds report based on the final closing of the accounting records. Such final federal funds report, so called, shall be published not later than the second Wednesday in January. The report shall present fairly all federal funds received by each agency and department during the fiscal year. Said report shall include for each program of federal financial participation the opening balances, revenues, and other sources, expenses and other uses, and ending balances for the fiscal year. The final federal funds report shall be audited in conjunction with the state single audit and the report of the auditor shall be included.

(c) The comptroller shall prepare a comprehensive annual financial report in conformity to generally accepted accounting principles. Such comprehensive annual financial report, so called, shall be published not later than the second Wednesday in January. The report shall present fairly the general purpose financial statements of the commonwealth and related notes and other reference material, in conformity to generally accepted accounting principles. The general purpose financial statements and related notes and other reference material required by generally accepted accounting principles shall be audited in accordance with generally accepted auditing standards and generally accepted governmental auditing standards and the report of the auditor shall be included.

The comprehensive annual financial report shall include a statement showing the medicaid liability and a statement showing the total medicaid liability, whether paid or unpaid, measured pursuant to generally accepted accounting principles.

The comptroller may include narratives, statistical tables, and other disclosures and reference material in the report that the auditors recommend and that he deems appropriate in his professional judgment.

**SECTION 5.** Chapter 10 of the General Laws is hereby amended by inserting after section 35Q the following section:-

Section 35R. There shall be established and set up on the books of the commonwealth a separate fund, to be administered by the commissioner of public health as provided in sections 2D to 2F, inclusive, of chapter 111, to be known as the Massachusetts AIDS Fund. Said fund shall consist of all revenues received by the commonwealth under the provisions of section 6G of chapter 62, from public and private sources as appropriations, gifts, grants, and donations, and from the federal government as reimbursements, grants-in-

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aid or other receipts, to further the purposes of said fund as set out in section 2E of said chapter 111. All revenues credited to said fund under this section shall remain in said fund, not subject to appropriation, for application to said purposes. The state treasurer shall not deposit said revenues in, or transfer said revenues to, the General Fund or any other fund other than the Massachusetts AIDS Fund. The state treasurer shall deposit monies in said fund in accordance with the provisions of section 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time. Said fund shall be expended only for the purpose stated in section 2E of chapter 111 at the direction of the commissioner of public health, and any unexpended balances shall be redeposited, as herein provided, for further use consistent with this section. The provisions of this section shall apply to all funds received by the commonwealth after July 1, 1995 under the provisions of section 6G of chapter 62.

**SECTION 6.** The second paragraph of section 2FF of chapter 29 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The comptroller shall report in the annual statutory basis financial report on the amounts of revenue 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.

**SECTION 7.** Section 5 of chapter 29 of the General Laws is hereby repealed.

**SECTION 8.** Section 5C of said chapter 29, as amended by section 6 of chapter 10 of the acts of 1997, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The comptroller shall annually, on or before October 31, certify to the commissioner of administration the amount of the consolidated net surplus in the operating funds at the close of the preceding fiscal year.

**SECTION 9.** The first paragraph of said section 5C of said chapter 29, as appearing in said section 6 of said chapter 10, is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) an amount equal to one-half of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year.

**SECTION 10.** Said section 5C of said chapter 29 is hereby further amended by striking out the last paragraph.

**SECTION 11.** Chapter 29B of the General Laws is hereby amended by striking out section 5, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 5. The comptroller shall include in his report submitted pursuant to subdivision (a) of section 12 of chapter 7A a report of the state tax revenues and allowable state tax revenues for the next preceding fiscal year.

**SECTION 12.** Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 464 the words "one hundred and seventy-five dollars" and inserting in place thereof the following:- \$250.



**SECTION 13.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 498 and 499 the words "one hundred and seventy-five dollars" and inserting in place thereof the following:- \$250.

**SECTION 14.** Clause Twenty-second of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following paragraph:-

(g) For the purposes of this clause, \$2,000.00 of this exemption or up to the sum of \$175.00, whichever basis is applicable shall be borne by the city or town; the balance, up to the sum of \$75 shall be borne by the commonwealth.

**SECTION 15.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 541 and 547, the words "three hundred and fifty dollars" and inserting in place thereof, in each instance, the following:- \$425.

**SECTION 16.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 556, the words "one hundred and seventy-five dollars" and inserting in place thereof the following:- \$250.

**SECTION 17.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 577 and 582, the words "seven hundred dollars" and inserting in place thereof, in each instance, the following:- \$775.- and by striking out, in line 592, the words "five hundred and twenty-five dollars" and inserting in place thereof the following:- \$600.

**SECTION 18.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 610 and 611, and in lines 616 and 617, the words "eight hundred and seventy-five dollars" and inserting in place thereof, in each instance, the following:- \$950.

**SECTION 19.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 626, the words "seven hundred dollars" and inserting in place thereof the following:- \$775.

**SECTION 20.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 631 and 632, the words "one hundred and seventy-five dollars" and inserting in place thereof the following:- \$250.

**SECTION 21.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in lines 655 and in lines 660 and 661, the words "five hundred and twenty-five dollars" and inserting in place thereof, in each instance, the following:- \$600.

**SECTION 22.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 672, the following words "three hundred and fifty dollars" and inserting in place thereof the following:- \$425.

**SECTION 23.** Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the word "television", in line 194, the following words:- internet access services, electronic mail services, electronic bulletin board services, web hosting services or similar on-line computer services.

**SECTION 24.** Section 8 of chapter 70 of the General Laws, as so appearing, is hereby amended by inserting after the word "budget", in line 4, the following words:- ; provided, however, that effective July 1, 1997, school or school districts which are deter-



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mined to be under-performing or chronically under-performing within the meaning of sections 1J and 1K of chapter 69 may not allocate any such funds to cover legal expenses incurred in challenging such determination or in challenging actions taken by the board, the department or the commissioner in connection with such determination.

**SECTION 25.** Section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words "be appointed for more than two consecutive terms" and inserting in place thereof the following words:- serve for more than ten years.

**SECTION 26.** Section 9 of chapter 118E of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "age or disability," and inserting in place thereof the words:- age, disability or blindness.

**SECTION 27.** Subsection (2) of section 9A of said chapter 118E, as so appearing, is hereby amended by striking out clause (e) and inserting in place thereof the following clause:-

(e) persons who are disabled, blind or chronically ill and eligible for benefits under the provisions of sections 16 and 16A.

**SECTION 28.** Section 16 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 3, the following words:- including persons who are blind.

**SECTION 29.** Section 16A of said chapter 118E, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 2, the following words:- , including children who are blind.

**SECTION 30.** Chapter 151A of the General Laws is hereby amended by inserting after section 29E the following section:-

Section 29F. (a) An individual filing a new initial claim for unemployment benefits shall, at the time of filing such claim, disclose whether or not he owes an uncollected overissuance of food stamp coupons, as defined in section 13 (c) (1) of the Food Stamp Act of 1977. The commissioner shall notify the state food stamp agency enforcing such obligation of an individual who discloses that he owes an uncollected overissuance of food stamp coupons and who is determined to be eligible for unemployment benefits.

(b) The commissioner shall deduct and withhold from any unemployment benefits payable to an individual who owes an uncollected overissuance of food stamps:

(1) the amount specified by the individual to the commissioner to be deducted and withheld under this clause;

(2) the amount, if any, determined pursuant to an agreement submitted to the state food stamp agency under section 13 (c) (3) (A) of the Food Stamp Act of 1977; or

(3) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13 (c) (3) (B) of said Food Stamp Act.

(c) Any amount deducted and withheld under this section shall be paid by the commissioner to the appropriate state food stamp agency.

(d) Any amount deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment benefits and paid by such

individual to the state food stamp agency as repayment of the individual's uncollected over-issuance.

(e) For the purposes of this section, the term "unemployment benefits" shall mean benefits payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.

(f) This section shall apply only if arrangements have been made for reimbursement by the state food stamp agency, so-called, for the administrative costs incurred by the commissioner under this section which are attributable to the repayment of uncollected overissuance to said state food stamp agency.

**SECTION 31.** Section 46 of said chapter 151A, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 48, the words "section 453 (e)" and inserting in place thereof the following:- sections 453 (e) and 453 (f).

**SECTION 32.** Said chapter 151A is hereby further amended by inserting after section 62 the following section:-

Section 62A. (a) The division of employment and training shall provide a minimum level of in-person assistance at the following regional offices: Worcester, Milford, Dudley, Springfield, Gardner, Greenfield, Pittsfield, North Adams, New Bedford, Northampton, Taunton, Brockton, Boston, Lawrence and Framingham.

(b) At said regional offices, in addition to such other access by telephone to offices of the division in existence on July 1, 1997, the deputy director shall maintain walk-in services, including the provision of general information, application assistance, claims information and orientation.

(c) The division shall provide an orientation to individuals who have applied for unemployment compensation within 15 days from the date upon which said application was made. At the orientation the claimant shall be informed of the determination process, eligibility criteria and requirements, including those mandated by worker profiling, and the address and telephone number to report to for division services. The division shall also provide claimants with information relative to the medical security plan and training benefit extensions established pursuant to section 30. The orientation may be provided through multilingual audio-visual methods, but the claimant shall have the opportunity for face-to-face interaction with division staff.

(d) The deputy director shall take any such actions as may be necessary to ensure that any notice to an individual issued by the division:

(i) is written in simple and clear language;

(ii) includes the address and telephone number of the regional office of the division which serves the recipient and the statewide toll free telephone number; and

(iii) that not later than January 1, 1998 the division shall issue all notices and materials explaining the provisions of this section in English, Spanish, Chinese, Haitian Creole, Italian, Portuguese, Vietnamese, Laotian, Khmer, Russian and any other language that is the primary language of at least 10,000 or 1/2 of 1% of all residents of the commonwealth. If the division fails to issue a bilingual notice in the claimant's primary

language and such omission results in the claimant's failure to meet a deadline or requirement, the division's omission shall constitute good cause for the claimant's failure.

(e) Whenever an employee who, at the time has been employed for at least one week, is separated from work permanently, for an indefinite period or for a period of seven or more days, the employer, at the time of the separation, shall deliver to such employee written information furnished or approved by the division which shall contain the name and address of the employer, the identification number assigned to the employer by the division, instructions on how to file a claim for unemployment compensation, the address and telephone number of the regional office of the division which serves the recipient and the telephone claims number. An employer who fails to provide such information to a separated employee shall have no standing to contest such employee's claim and any benefits paid shall remain charged to the employer's account.

(f) A claimant shall be deemed to have initiated a claim for unemployment compensation benefits on the first day that the claimant contacts or attempts to contact the division, whether or not such employee is able to speak with a division representative at the time.

**SECTION 33.** Section 1 of chapter 166A of the General Laws, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by inserting after the definition of "Director" the following definition:-

"Division", the community antenna television commission established under section 2.

**SECTION 34.** The first paragraph of section 2 of said chapter 166A, as amended by section 111 of said chapter 43, is hereby further amended by adding the following sentence:- The director shall be appointed by the governor for a term coterminous with the governor and shall serve at the pleasure of the governor.

**SECTION 35.** The second paragraph of said section 2 of said chapter 166A, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 11 and 12, the word "executive" and inserting in place thereof, in each instance, the following word:- assistant.

**SECTION 36.** Section 1 of chapter 176N of the General Laws is hereby amended by striking out the definition of "Late enrollee", as amended by section 16 of chapter 47 of the acts of 1997, and inserting in place thereof the following definition:-

"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 30 days after termination of coverage provided under another health insurance plan or arrangement where such coverage has ceased due to termination of the spouse's employment or death of the spouse or if the request for enrollment is made pursuant to section 9A, 9C or 18 of chapter 118E.

**SECTION 37.** The third paragraph of section 10 of chapter 218 of the General Laws,



as appearing in the 1996 Official Edition, is hereby amended by striking out the line reading "district court of Newburyport".

**SECTION 38.** The fourth paragraph of said section 10 of said chapter 218, as so appearing, is hereby amended by inserting after the line "fourth district court of eastern Middlesex" the following line:- district court of Newburyport.

**SECTION 39.** Paragraph (a) of section 12 of chapter 372 of the acts of 1984 is hereby amended by striking out the fifth sentence, as most recently amended by section 1 of chapter 14 of the acts of 1997, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed \$3,910,000,000 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 40.** Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as most recently amended by section 2 of said chapter 14, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed the sum of \$3,910,000,000 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 41.** Section 4 of chapter 268 of the acts of 1990 is hereby repealed.

**SECTION 42.** Section 5 of said chapter 268 is hereby repealed.

**SECTION 43.** Chapter 110 of the acts of 1993 is hereby amended by striking out section 340 and inserting in place thereof the following section:-

*Section 340.* Notwithstanding the provisions of any general or special law to the contrary, the Martha's Vineyard commission may, by majority vote of its members, incur a one time debt not to exceed the sum of \$400,000 for the purpose of purchasing, rehabilitating and bringing into compliance with all local, state and federal codes the Olde Stone Building on New York avenue in the town of Oak Bluffs for the purpose of providing office and meeting room facilities for said commission.

**SECTION 44.** Item 8800-0051 of section 2A of chapter 120 of the acts of 1995 is hereby amended by inserting after the word "means", in line 28, the following words:- ; and provided, further, that \$5,000 shall be obligated for the Worcester Tornado Memorial.

**SECTION 45.** The second paragraph of section 3 of chapter 71 of the acts of 1996 is hereby amended by adding the following sentence:- Members in service of the state retirement system who are eligible for said creditable service under this act on the effective date of this act shall make application for said creditable service no later than October 15, 1997.

**SECTION 46.** Item 0321-1510 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out, in line 8, the word "only" and inserting in place thereof the following words:- and prior years bills.

**SECTION 47.** Said item 0321-1510 of said section 2 of said chapter 151 is hereby further amended by inserting after the figure "0321-1512", in line 15, the following:- and to



item 0321-1520.

**SECTION 48.** Item 0321-1512 of said section 2 of said chapter 151 is hereby amended by striking out, in line 8, the word "only" and inserting in place thereof the following words:- and prior years bills.

**SECTION 49.** Said item 0321-1512 of said section 2 of said chapter 151 is hereby further amended by inserting after the figure "0321-1510", in line 9, the following:- and to item 0321-1520.

**SECTION 50.** Item 0321-1520 of said section 2 of said chapter 151 is hereby amended by striking out, in line 7, the word "only",- and by inserting after the word "ninety-seven", in line 9, the following words:- and prior years bills; and 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 committees on ways and means 30 days prior to any such transfer.

**SECTION 51.** Item 0526-0100 of said section 2 of said chapter 151 is hereby amended by inserting after the word "appropriation", in line 17, the following words:- ; provided, further, that not less than \$400,000 shall be expended for a grant to the town of Framingham for funding restoration of the Hollis Street fire station; provided, further, that \$25,000 shall be obligated for the Worcester women's history project to preserve and exhibit historic artifacts; and provided further, that \$35,000 be obligated for the patriot squadron of the Association of Naval Aviation, Inc. for the development and maintenance of the Norfolk-Plymouth memorial grove, so-called.

**SECTION 52.** Section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out item 2100-0005 and inserting in place thereof the following item:-

2100-0005 For the department of environmental management pursuant to the purposes of sections 10A½ of chapter 91 of the General Laws; provided, that \$120,000 shall be expended for the Martha's Vineyard commission; provided further, that \$200,000 be expended for the dredging of Pillings pond in the town of Lynnfield; provided further, that \$100,000 shall be expended for the dredging of Gleason and Norton ponds in the town of Framingham; provided further, that not less than \$30,000 shall be expended for the planning and engineering of a dredging project of the Wareham river; provided further, that not less than \$1,000,000 shall be expended for the continuation of the Hardy pond restoration in the city of Waltham, including dredging; provided further, that \$200,000 shall be expended for the restoration and protection of Chandler pond in Brighton, including but not limited to dredging; provided further, that not less than \$200,000 shall be expended for direct removal of

debris, obstructions, and siltation in the Aberjona river located in the town of Winchester; provided further, that not less than \$75,000 shall be expended to inspect dams in the towns of Carver, Halifax, Plymouth and Middleborough; provided further, that not less than \$150,000 shall be expended for the restoration of Milford pond, also known as Cedar Swamp pond, in the town of Milford; provided further, that not less than \$938,100 shall be expended for the state share of costs associated with the dredging of the non-federal anchorage areas in Scituate Harbor and the channels in the North and South River, jointly with the town of Marshfield; provided further, that not less than \$500,000 shall be expended for the state share of costs associated with the dredging of Wellfleet Harbor; provided further, that not less further, that not less than \$400,000 shall be expended for the costs associated with the dredging of Quincy public landing in Boston harbor; and provided further, that the department shall enter into an agreement with the city of Pittsfield to fund up to 50 per cent of a project for the removal of the accretion and revetment of the bank of the Housatonic river near Fairfield street in the city of Pittsfield, not to exceed \$25,000 ..... \$10,652,014  
General Fund ..... 71.782%  
Harbors and Inland Water Maintenance Fund .. 28.218%.

**SECTION 53.** Item 2100-2030 of said section 2 of said chapter 151 is hereby amended by striking out, in lines 20 to 22, inclusive, the words "enter into an intragovernmental service agreement with the department of fisheries, wildlife, and environmental law enforcement" and inserting in place thereof the following words:- give a grant to the city of Newburyport.

**SECTION 54.** Item 4180-1100 of said section 2 of said chapter 151 is hereby amended by striking out, in line 2, the words "one hundred thirty-two thousand dollars" and inserting in place thereof the following:- \$280,000.

**SECTION 55.** Item 4190-1100 of said section 2 of said chapter 151 is hereby amended by striking out, in line 2, the words "eighty-eight thousand dollars" and inserting in place thereof the following:- \$200,000.

**SECTION 56.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4405-2000 and inserting in place thereof the following item:-  
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 7A of chapter 118A 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 \$1,200,000 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 \$25,000 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 19D 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 60 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 notwithstanding provisions of any general or special law to the contrary, persons receiving services under the provisions of subsection (a) of section 6 of chapter 354 of the acts of 1994 on June 30, 1996 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; provided further, that the department is authorized to expend not more than \$3,300,000 from this item solely for the purpose of meeting calendar year 1996 maintenance of effort requirements in accordance with the rules of the supplemental security income program; and provided further, that the department is authorized to expend up to \$2,500,000 from this item to reimburse recipients for half of the federal administrative cost assessed to the state for issuing state supplemental payments that were paid from a corresponding portion of said payment during the months of January, 1997 to June, 1997, inclusive

..... \$194,921,619

**SECTION 57.** Said section 2 of said chapter 151 is hereby further amended by striking out item 4513-1000 and inserting in place thereof the following item:-

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 \$250,000 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 \$21,535,639 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 such units of service paid by the department, the division of medical assistance and 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 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 notwithstanding the provisions of 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 expend funds for said program in excess of the amount made available herein; provided further, that not less than \$107,000 shall be expended for the Our Babies/Our Future program; provided further, that \$100,000 shall be expended for the "Women Enjoying Longer Lives" program; provided further, that not less than \$100,000 shall be expended for the purposes of section 51 of chapter 111 of the General Laws and section 10 of chapter 218 of the acts of 1995; provided further, that said department shall file a report with the joint committee on health care not later than December 31, 1996 for the purpose of establishing a mechanism for the collection of data concerning the implementation of and hospital compliance with said chapter 218 of the acts of 1995; provided further, that not less than \$35,000 shall be expended for the Framingham teen parenting program; provided further, that an amount not to exceed \$1,300,000 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 \$1,783,500 shall be expended for rape prevention and victim services; provided further, that not less than \$3,263,000 shall be expended for family planning services provided by agencies certified as comprehensive family planning agencies; provided further, that not less than \$75,000 shall be expended for a program for the promotion of preventive medicine through physical fitness and sports activities to be administered by the governor's committee on physical fitness and sports; provided further, that not less than \$1,290,063 shall be expended for school and community-based teen health programs;

provided further, that not less than \$200,000 shall be provided to the Northeastern University conflict resolution program; provided further, that not less than \$79,200 shall be expended for the North Quabbin domestic violence prevention program created by this act; and provided further, that not less than \$100,000 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 mothers recently reunified with children . . . . . \$31,987,472

**SECTION 58.** Item 1599-3800 of section 2A of chapter 154 of the acts of 1996, as re-appropriated by paragraph I of section 2C of chapter 204 of the acts of 1996, is hereby amended by striking out the second clause and inserting in place thereof the following clause:- ; 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 1996 and 1997 such amounts as may be 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 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.

**SECTION 59.** Item 1599-3802 of said section 2A of said chapter 154, as re-appropriated by paragraph I of section 2C of said chapter 204, is hereby amended by inserting after the word "means", in line 27, the following words:- ; 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 13.84 per cent of the amounts of said transfers.

**SECTION 60.** Item 1599-3803 of said section 2A of said chapter 154, as amended by section 135 of chapter 204 of the acts of 1996 and re-appropriated by paragraph I of section 2C of said chapter 204, is hereby further amended by striking out the second clause and inserting in place thereof the following clause:- ; 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 1996 and 1997 such amounts as may be necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an alloca-

tion 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.

**SECTION 61.** Item 1599-7500 of said section 2A of said chapter 154, as amended by section 134 of chapter 204 of the acts of 1996 and re-appropriated by paragraph I of section 2C of said chapter 204 is hereby amended by inserting after the word "means", in line 22, the words:- ; and provided further, that an amount not to exceed \$400,000 shall be available in fiscal year 1998 to meet the costs of the classification study required by section 21.04 of Article XXI of said collective bargaining agreement, and may be transferred by said secretary from this item to item 7066-0000 of section 2 of chapter 43 of the acts of 1998 in order to be expended for said purpose.

**SECTION 62.** Item 1750-0103 of section 2A of chapter 10 of the acts of 1997 is hereby amended by striking out the item number "1750-0103" and inserting in place thereof the following item number:- 1750-0104.

**SECTION 63.** Section 2 of chapter 43 of the acts of 1997 is hereby amended by striking out item 0330-2205 and inserting in place thereof the following item:-

0330-2205 For the costs associated with maintaining and operating courthouse facilities owned by the commonwealth; provided, that two additional maintenance personnel positions shall be funded from this item in fiscal year 1998 and that said additional employees shall be assigned to the trial court building in Fall River at the former Durfee High School; provided further, that four custodians employed by Franklin county in fiscal year 1997 shall be reclassified as state employees for fiscal year 1998 and shall be compensated from this item; and provided further, that any court maintenance personnel employed by Middlesex county that have been reclassified as state employees pursuant to section 5 of chapter 48 of the acts of 1997 shall be compensated from this item and shall not suffer a lapse in compensation between service as employees of said Middlesex county and service as state employees ..... \$17,701,280

**SECTION 64.** Said section 2 of said chapter 43 is hereby further amended by striking out item 0330-3200 and inserting in place thereof the following item:-

0330-3200 For the court security program, including personnel and expenses; provided, that \$790,000 shall be expended for additional security guards; provided further, that \$720,625 shall be expended for 25 additional court officers;

provided further, that said security guards and court officers may be available for assignment in accordance with juvenile court expansion funded pursuant to item 0337-0003 of this act; provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements; and provided further, that \$460,000 shall be expended for 23 additional security guards to be assigned to the Middlesex county courthouses in Cambridge and Lowell ..... \$28,178,857

**SECTION 65.** Said section 2 of said chapter 43 is hereby amended by striking out item 0332-2800 and inserting in place thereof the following item:-

0332-2800 For the district court of Newburyport; provided, that two additional probation officers, one additional sessions clerk, one additional assistant clerk magistrate, and one additional procedures clerk I position shall be funded from this item in fiscal year 1998 ..... \$1,311,876.

**SECTION 66.** Item 0332-6500 of said section 2 of said chapter 43 is hereby amended by striking out the word "associate".

**SECTION 67.** Said section 2 of said chapter 43 is hereby further amended by inserting after item 0540-1100 the following two items:-

0540-1400 For the Middlesex northern district registry of deeds; provided, that the payroll expenditures for said registry paid from item 0511-0000 prior to the enactment of the final supplemental appropriation act for fiscal year 1997 may be charged to this item ..... \$1,392,737

0540-1500 For the Middlesex southern district registry of deeds; provided, that the payroll expenditures for said registry paid from item 0511-0000 prior to the enactment of the final supplemental appropriation act for fiscal year 1997 may be charged to this item ..... \$3,634,297

**SECTION 68.** Item 1102-3301 of said section 2 of said chapter 43 is hereby amended by adding after the words "Massachusetts arts commission;" the following proviso:- provided, that not less than \$12,000 shall be made available to fund capital improvements to the commonwealth children's center, so-called, located in the McCormack state office building for the purpose of renovating the children's bathrooms to conform with the provisions of the Americans With Disabilities Act and the safety and health standards required by the office of child care services;.

**SECTION 69.** Said section 2 of said chapter 43 is hereby amended by striking out item 2010-0100 and inserting in place thereof the following item:-



2010-0100 For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment grants, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that not less than \$100,000 shall be expended for a public education campaign to encourage participation in existing curbside pick-up recycling programs in the city of Boston; provided further, that not less than \$1,125,000 shall be expended for the recycling loan fund; provided further, that not less than \$625,000 shall be expended for business assistance and research and development, including, the strategic envirotechnology partnership, so-called, at public, private, and quasi-public educational and research institutions; provided further, that not less than \$500,000 of the amount appropriated herein shall be expended for a recycling industry reimbursement program pursuant to section 241A; provided further, that not more than \$2,200,000 shall be expended on municipal recycling incentive programs, so-called; and provided further, that the secretary of environmental affairs shall prepare a strategic plan to assess and evaluate the supply of recyclable materials and demand of recyclable materials, and promote the use of recyclable materials in manufacturing and production pursuant to section 291 ..... \$7,000,000  
Clean Environment Fund ..... 100.0%

**SECTION 70.** Item 2320-0200 of said section 2 of said chapter 43 is hereby amended by inserting after the word "canal" the following words:- ; and provided further, that not less than \$50,000 shall be expended for the following projects at the Quabbin reservoir: (1) erection of educational signs which describe the species of fish within said reservoir, including maps delineating areas where such species frequent and how such species may be caught; (2) the production of a professionally developed booklet which describes the species of fish within said reservoir, including maps delineating areas where such species frequent and how such species may be caught; (3) the construction of a jetty at the boat landing at gate 8, so-called; and (4) improvements which enhance the handicapped accessibility of public rest rooms at said reservoir.

**SECTION 71.** Item 4000-0300 of said section 2 of said chapter 43 is hereby amended by inserting after the word "attendants" in line 39 the following word:- provided further, that notwithstanding any general or special law to the contrary, \$1,500,000 shall be used for a program of marketing, education and outreach about the benefits available pursuant to chapter 203 of the acts of 1996.

**SECTION 72.** Item 4000-0314 of said section 2 of said chapter 43 is hereby amended by adding after the word "Reform" the following words:- ; provided, that only federal funds received from the allocation established by the Personal Responsibility and Work Opportunity Reconciliation Act may be credited to this item.

**SECTION 73.** Said section 2 of said chapter 43 is hereby further amended by inserting after item 4000-0830 the following item:-

4000-0842 For a program of MassHealth payments, so-called, to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals, under an agreement with the division relating to such payments and transfers, and established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the state medicaid plan; provided, that funds may be expended from this item only for services rendered during fiscal year 1998; provided further, that expenditures from this item shall reduce payments from the uncompensated care pool, established pursuant to section 18 of chapter 118G of the General Laws, to said entities by a comparable amount; provided further, that the division shall notify the house and senate committees on ways and means should expenditures from this item be rendered ineligible for federal reimbursement; provided further, that all expenditures from this item shall be reported quarterly to the house and senate committees on ways and means; provided further, that this appropriation shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other nonfederal public funds; and provided further, that the Boston Public Health Commission and the Cambridge Public Health Commission shall transfer to the General Fund not less than ½ the gross amounts, so-called, made by the division under managed care contracts with said commissions ..... \$206,256,201

**SECTION 74.** Item 4110-1000 of said section 2 of said chapter 43 is hereby amended by inserting after the word "program", the following words:- ; provided, that not less than \$400,000 be expended for the Talking Information Center.

**SECTION 75.** Item 4403-2000 of said section 2 of said chapter 43 is hereby amended by striking out the words "Transitional Aid to Needy Families Fund . . . 61.98%" and "General Fund . . . .38.02%" and inserting in place thereof the following words:-

"Transitional Aid to Needy Families Fund . . . 55.37%  
General Fund . . . . . 44.63%".

**SECTION 76.** Said section 2 of said chapter 43 is hereby amended by striking out item 4405-2000 and inserting in place thereof the following item:-

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 7A of chapter 118A of the General Laws, may be paid from this item; provided further, that the department of transitional assistance, in collaboration with the division of medical assistance, is hereby authorized to fund an 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 19D 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 notwithstanding the provisions of any general or special law to the contrary, persons receiving services under the provisions of subsection (a) of section 6 of chapter 354 of the acts of 1994 on June 30, 1996 shall continue to receive said services until the implementation of said optional category of payments; and 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, prior appropriation continued . . . . . \$177,329,659

**SECTION 77.** Said section 2 of said chapter 43 is hereby further amended by striking out item 4510-0712 and inserting in place thereof the following item:-

4510-0712 The department of public health is hereby authorized to expend an amount not to exceed \$473,500 in revenues collected from the licensure of health facilities, for program costs of the division of health care quality; provided, that the department is hereby further authorized to expend an amount not to exceed \$800,000 from revenues collected from individuals applying for emergency medical technician licensure and recertification; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing 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 therefor as reported in the state accounting system . . . . . \$1,273,500

**SECTION 78.** Said section 2 of said chapter 43 is hereby further amended by inserting after item 4513-1112 the following item:-

4516-0263 The department of public health is hereby authorized to expend an amount not to exceed \$1,400,000 from fees collected from insurers and individuals for various blood lead testing; provided, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing 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 therefor as reported in the state accounting system . . . . . \$1,400,000

**SECTION 79.** Item 4800-0017 of said section 2 of said chapter 43 is hereby amended by striking out the words "with a Boys and Girls club".

**SECTION 80.** Item 7004-9005 of said section 2 of said chapter 43 is hereby amended by inserting after the words "Chelsea housing authority" the following words:- ; provided further, that \$75,000 shall be expended for the establishment of community technology centers at the Commonwealth Housing Development and Jackson Mann Community Center in the Allston-Brighton section of the city of Boston.

**SECTION 81.** Said section 2 of said chapter 43 is hereby further amended by striking item 8910-0000 and inserting in place thereof the following two items:-

8910-0000 For a reserve to fund county correctional programs; provided, that not more than \$385,000 shall be expended for an intermediate sanctions program at the New Bedford district court; provided further, that not less than \$4,900,531 shall



be made available to Barnstable county; provided further, that not less than \$3,630,303 shall be made available to Berkshire county; provided further, that not less than \$22,473,767 shall be made available to Bristol county; provided further, that not less than \$775,592 shall be made available to Dukes county; provided further, that not less than \$20,610,564 shall be made available to Essex county; provided further, that not less than \$34,015,834 shall be made available to Hampden county; provided further, that not less than \$6,940,500 shall be made available to Hampshire county; provided further, that not less than \$59,714 shall be made available to Nantucket county; provided further, that not less than \$13,928,823 shall be made available to Norfolk county; provided further, that not less than \$25,188,320 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 3 and 4 of the Memorandum of Agreement signed May 14, 1992; provided further, that not less than \$63,032,618 shall be made available to Suffolk county; provided further, that not less than \$22,009,212 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 prior 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 247 of chapter 38 of the acts of 1995, all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements 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 including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all vehicles leased, owned or operated by each county sheriff; provided further, that said delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased, and vehicle primary use; provided further, that no sheriff shall purchase any new vehicles or major equipment in fiscal year 1998 unless such purchase is made pursuant to a multicounty 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, so-called, 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 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 not later than December 30, 1997 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 30, 1998; provided further, that the daily count sheet for county facilities, so-called, compiled by the executive office of public safety, shall be filed with the Massachusetts Sheriffs' Association not less than monthly; provided further, that all revenues including, but not limited to, revenue received from housing federal prisoners, United States Marshal's, canteen revenues, inmate industries and work-crew revenues shall be tracked and reported quarterly to the house and senate committees on ways and means and the Massachusetts Sheriff's Association; provided further, that on or before October 15, 1997, each county sheriff shall submit a final spending plan for fiscal year 1998 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 95 per cent of the rate of expenditure for fiscal year 1997, 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 not later than October 15, 1997; provided further, that on or before November 15, 1997, the county government finance review board shall have approved final fiscal year 1998 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 December 15, 1997; provided further, that said budgets shall include distribution schedules for the final two quarters of fiscal year 1998, 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 1998, 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 102.5 per cent of the amount expended in fiscal year 1997 for such purposes from own-source revenues, which shall not be less than 5 per cent of total county revenues including, but not limited to, amounts levied pursuant to sections 30 and 31 of chapter 35 of the General Laws and amounts provided pursuant to sections 11 to 13, inclusive, of chapter 64D of the General Laws; provided further, that in fiscal year 1998, 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 8.75 per cent 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 15, 1998 that all municipalities have appropriated and transferred to their respective county treasuries, not less than 102.5 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 2 and from funds made available from the state lottery fund distribution in section 3 of this act; provided further, that on or before August 1, 1998, said commissioner shall report all



such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 1998, notwithstanding the provisions of section 20A of chapter 59 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 6 of chapter 193 of the acts of 1989 on or before July 31, 1998 or which borrowed in fiscal year 1989 under the provisions of section 36A of chapter 35 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 35 of the General Laws and section 12 of chapter 64D of the General Laws, as may be applicable; and provided further, that each sheriff shall continue to report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws. . \$250,094,030  
Local Aid Fund ..... 100.0%

8910-0107 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Middlesex county; provided, that the spending plan required by this item shall be detailed by subsidiary and in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plan shall be accompanied by a delineation of all personnel employed by such correctional facility; provided further, that said spending plan shall be accompanied by a delineation of all vehicles leased, owned or operated by said sheriff; provided further, that said delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased, and vehicle primary use; provided further, that said sheriff shall not purchase any new vehicles or

major equipment in fiscal year 1998 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; provided further, that the daily count sheet for county facilities, so-called, compiled by the executive office of public safety, shall be filed with the Massachusetts Sheriffs' Association not less than monthly; provided further, that on or before October 15, 1997, said sheriff shall submit a final spending plan for fiscal 1998 to the Massachusetts Sheriffs' Association, detailing the level of resources deemed necessary for the operation of each correction facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that said sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of said spending plan not later than October 15, 1997; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated herein, and said sheriff shall make all necessary adjustments to ensure that expenditures do not exceed said appropriation; and provided further, that said sheriff shall continue to report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant to the provisions of section 27 of chapter 29 of the General Laws . . . . . \$41,737,543

**SECTION 82.** Said section 2 of said chapter 43 is hereby amended by inserting after item 9110-9002 the following:-

*Federal Appropriations*

- 9110-0850 For the purposes of a federally funded grant entitled, Coordinated Aging, Rehabilitation and Disability Services. . . . . \$83,922
- 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 .....	\$1,950,000
9110-1181	For the purposes of a federally funded grant entitled, Cash in Lieu of Commodities Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies .....	\$3,850,000

**SECTION 83.** Subsection (d) of section 210 of said chapter 43 is hereby amended by striking out the words "clause (1) and (2)" and inserting in place thereof the following words:- clauses (1), (2) and (3).

**SECTION 84.** Section 211 of said chapter 43 is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Notwithstanding the provisions of subsection (a), a person who is not a citizen of the United States, but who either is a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641, or is otherwise permanently residing in the United States under color of law, may receive different benefits which shall be no less than the same benefits provided on July 1, 1997, to the eligibility group described in clause (g) of subsection (2) of section 9A of chapter 118E, unless said person (i) is residing in a nursing facility, as defined by 42 U.S.C. section 1396r, as of June 30, 1997, (ii) was receiving services or benefits pursuant to said chapter 118E as of June 30, 1997, (iii) had an application for long-term care services pending on July 1, 1997, or (iv) is eligible for federally reimbursed services or benefits; provided that services or benefits other than emergency services shall not be provided to undocumented aliens unless required by federal law.

**SECTION 85.** Said chapter 43 is hereby further amended by inserting after section 240 the following new section:-

*Section 241A.* (a) Notwithstanding the provisions of any general or special law to the contrary, for the purposes of this section, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:-

"Designated feed stock materials", postconsumer waste material, as defined in this section, and as specified by the department of environmental protection, including, but not limited to, paper, glass and plastic bottles, and tires, which has been through a reclaiming process, as defined in this section, and is ready for use as an input to a system that transforms them, and any other inputs, into products of economic value; said materials shall not include post-industrial waste materials or metals.

"Designated unprocessed materials", those materials shall be limited exclusively to postconsumer waste material, as defined in this section, and as specified by the department of environmental protection, including, but not limited to, theretofore unprocessed loose paper, glass and plastic bottles and tires; provided, however, that said materials shall not include metals.

"Eligible business", a company or corporation, which (A) either: (i) uses designated unprocessed materials in their reclaiming process; or (ii) uses designated feed stock materials, generated by an eligible business, in their manufacturing process; and (B) has at least 50 per cent of its full-time equivalent non-salaried workforce in the commonwealth. A business shall not be considered eligible which: (i) has been convicted of violating any state or federal civil or criminal environmental law in the past three years; or (ii) acts as an intermediary or broker between companies and corporations engaged in the manufacturing process or reclaiming process.

"Manufacturing process", those activities by which designated materials are used as an input to a system that transforms them, and any other inputs, into products of added economic value and resold to a nonaffiliated business.

"Postconsumer waste material", any product generated by a business or consumer that has served its intended use, and that has been separated from solid waste for the purposes of collection, recycling and disposition and that does not include postindustrial waste material.

"Postindustrial waste material", internally generated scrap or fragments of products commonly returned to industrial or manufacturing processes, including home scrap or mill broke.

"Reclaiming process", those activities which densify, shred, bale, grind, culletize or otherwise process theretofore designated unprocessed material.

"Virgin feed stock materials", those materials extracted from their natural resource base and that are prepared for input into a system that transforms them and any other inputs, into products of economic value.

(b) The department of environmental protection, subject to the provisions of this section, shall promulgate final regulations by April 1, 1998, which establish the recycling industries reimbursement grant program for eligible businesses in the commonwealth, hereafter referred to as the program, for implementation 30 days after said final regulations are submitted to the house and senate committees on ways and means for review, subject to appropriation. Said program shall be funded, subject to appropriation, by the Clean Environment Fund, established pursuant to section 323F of chapter 94 of the General Laws.

(c) The department of environmental protection shall determine which materials within the designated unprocessed materials and the designated feed stock materials shall be eligible for a reimbursement grant; provided, that no materials that are hazardous waste under applicable state and federal environmental laws shall be eligible for said reimbursement grant. Said department shall evaluate and report the potential for successful recycling of each designated material under investigation, including an objective analysis which identifies materials with stable or mature markets and problematic materials with un-



stable immature markets. Said problematic materials may include, but not be limited to, green glass, mixed paper, newspaper and plastics. Said department shall also identify materials which may require stimulation by inclusion as a designated unprocessed materials and designated feed stock material.

(d) The department of environmental protection shall determine the amount of the reimbursement grants for eligible businesses, which amount shall be based upon the following factors including, but not limited to: (i) the differences between market prices or price quotations for virgin feed stock materials and the price paid for designated feed stock materials by an eligible business engaged in the manufacturing process in the commonwealth; (ii) the amount of designated feed stock material sold by eligible businesses engaged in the reclaiming process in the commonwealth; (iii) the amount of designated feed stock material used by eligible businesses engaged in the manufacturing process in the commonwealth; and (iv) the market history and price fluctuations of materials. Said department shall make periodic adjustments to reimbursement grant rates as deemed necessary, based on the condition of the markets. Said department shall also have the authority to establish additional criteria upon which to award reimbursement grants; provided that within 6 months of the effective date of this section, said department shall submit the initial implementation plan for the program including, but not limited to, proposed additional materials and criteria, to the house and senate committees on ways and means and the joint committee on natural resources and agriculture. Said department shall determine a maximum annual reimbursement grant limit per eligible business.

(e) The department of environmental protection shall design a promotional strategy for the reimbursement grant program that will reach the maximum number of potentially eligible businesses. Said department shall coordinate said promotion strategy with existing programs in business development and the recycling loan fund to achieve the efficient use of activities and funds.

(f) The department of environmental protection shall design and implement controls to prevent fraud and waste of program funds, including, but not limited to: (i) awarding reimbursement grants to companies or corporations which attempt to reclaim the same batch of designated unprocessed materials multiple times; or (ii) awarding reimbursement grants to companies or corporations which purchase designated feed stock materials, but do not use said materials in the manufacturing process.

(g) The department of environmental protection may enter into interagency service agreements or other cooperative agreements with any agency of the commonwealth which it deems appropriate to develop and implement said program including, but not limited to, the department of economic affairs, and the strategic envirotechnology partnership, so called, to promote, evaluate or analyze said program.

(h) The department of environmental protection, in cooperation with the department of revenue, shall review and approve applications for the reimbursement grants allowed in this section. Application for reimbursement grant shall be made in writing on a form prescribed by said department and shall contain information including, but not limited to,

and where applicable, on the purchase of designated unprocessed materials, the sale of designated feed stock materials, a description of the designated feed stock materials, the amount of designated materials, the percentage of designated feed stock materials, the percentage of postindustrial waste material and the percentage of virgin feed stock materials used in manufacturing and the products manufactured. Reimbursement grants shall be processed and awarded in a timely fashion. Any business which falsifies any information contained in its application for reimbursement grant shall be subject to a fine of double the amount of said reimbursement grant.

(i) An annual report detailing the reimbursement grant program as implemented, including but not limited to: amounts and numbers of reimbursement grants requested and awarded shall be submitted to the house and senate committees on ways and means and the joint committee on natural resources and agriculture by January 1 of each year for the most recent fiscal year.

**SECTION 86.** Said chapter 43 is hereby further amended by striking out section 310 and inserting in place thereof the following section:-

*Section 310.* The provisions of sections 50, 160, and 237 shall take effect on June 30, 1997.

**SECTION 87.** Section 5 of chapter 48 of the acts of 1997 is hereby amended by adding the following sentence:- All persons employed by the former Franklin county or by an abolished county as that term is defined in section 1, whose work functions primarily concern the operation and maintenance of such county's court facilities assumed by the state pursuant to section 567 of chapter 151 of the acts of 1996 or pursuant to this section, shall be transferred to the employment of the commonwealth in the manner provided in section 21 of chapter 203 of the acts of 1988.

**SECTION 88.** Paragraph (b) of the second paragraph of section 11 of said chapter 48 is hereby amended by adding the following sentence:- Employees shall be transferred without change in union representation.

**SECTION 89.** Notwithstanding the provisions of any general or special law to the contrary, an amount not to exceed \$190,000 of the balance which otherwise would revert on June 30, 1997, from item 1599-3790 of section 2A of chapter 204 of the acts of 1996 shall remain available for expenditure until June 30, 1999.

**SECTION 90.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of June 30, 1997, to the Children's and Seniors' Health Care Assistance Fund the unexpended balance in the public sector responsibility account established pursuant to section 16 of chapter 118F of the General Laws and subsequently repealed by section 274 of chapter 151 of the acts of 1996. The division of health care finance and policy may expend in fiscal year 1998 an amount not to exceed \$200,000 of the amount so transferred for a comprehensive survey of the uninsured and underinsured of the commonwealth pursuant to section 25 of chapter 203 of the acts of 1996, as amended; provided, that said survey shall also report on the number of

persons potentially eligible for the senior pharmacy program authorized pursuant to section 16B of chapter 118E of the General Laws.

**SECTION 91.** Notwithstanding the provisions of any general or special law to the contrary, the group insurance commission is hereby authorized to transfer from item 1108-5230 of section 2 of chapter 151 of the acts of 1996 to item 1108-5200 of said section 2 of said chapter 151 such amounts as may be necessary to carry out the provisions of said item 1108-5200 where the amounts otherwise available are insufficient.

**SECTION 92.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of October 1, 1997, \$33,300,000 from the General Fund to the uncompensated care pool pursuant to the provisions of section 20 of chapter 47 of the acts of 1997. Said transfer is hereby deemed a temporary start-up loan to the uncompensated care pool; provided, that the loan authorized herein shall be repaid to the General Fund on or before June 30, 1998.

**SECTION 93.** Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission is hereby authorized to expend \$15,801.25 for services provided by the CAPRON lighting and sound company in prior fiscal years, and \$1,277.50 for services provided by McGinley Hart and Associates in prior fiscal years.

**SECTION 94.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, any and all revenues collected from the operation of the function of the jail, house of corrections, and registries of deeds of the former Middlesex county shall become revenues of the commonwealth on July 1, 1997. All revenues collected from the operation of said functions prior to the effective date of chapter 48 of the acts of 1997 which have not been expended or encumbered before said effective date shall be transferred to the commonwealth. All revenues collected under the provisions of this section shall be deposited in the General Fund.

**SECTION 95.** Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 8312-1000 of section 2 of this act shall be expended only to fund a one-time payment to a former bureau of special investigations' employee, which specifically relates to a mediation settlement regarding the status of his departure.

**SECTION 96.** Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 8900-0001 of section 2 of this act shall be expended only to fund violence pay, so-called, to employees and former employees of the department of correction, owed to them as a result of the class action arbitration opinion of the office of employee relations between the Massachusetts Correction Officers Federated Union and the Commonwealth of Massachusetts - ARB#1489 (OER #92-0214).

**SECTION 97.** Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 4110-1000 of section 2 of this act shall be expended only to fund for retroactive pay for children's service workers incurred in prior fiscal years.

**SECTION 98.** Notwithstanding the provisions of any general or special law to the contrary, the enrollment period for the senior pharmacy program, so-called, established pur-



suant to section 16B of chapter 118E of the General Laws, is hereby extended until December 31, 1997.

**SECTION 99.** The department of social services is hereby authorized and directed to submit to the house and senate committees on ways and means and the executive office of administration and finance on a monthly basis, commencing September 1, 1997, a monthly status report on expenditures from item 4800-1100 in section 2 of the general appropriation act for the fiscal year ending June 30, 1998 detailing monthly expenditures from the AA subsidiary, by object code. Said report shall compare AA expenditures, by object code, to expenditures made during the same fiscal accounting periods in fiscal years 1996 and 1997 for employees of bargaining unit 8. Said report shall include a projection of total expenditures from said item 4800-1100 in fiscal year 1998 which shall be based in part on reported year to date expenditures. Said department shall be prohibited from hiring new employees to fill positions funded from item 4800-0015 during any month that projected annual expenditures from item 4800-1100 exceed the total amount appropriated therein until such time as the executive office of administration and finance certifies in writing to the house and senate committees on ways and means that the total amounts available in item 4800-1100 shall be sufficient to meet projected fiscal year 1998 obligations.

**SECTION 100.** Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management is hereby authorized to issue grants to non-governmental entities from the following accounts as reported on the Massachusetts management accounting and reporting system, so-called: 2121-8889, 2121-8884 and 2121-8962; provided further, that the department may issue grants to non-governmental entities from fund 290 authorizations, so-called.

**SECTION 101.** Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management is hereby authorized to obtain copyrights and trademarks to and in materials prepared by private vendors or department employees and to enter into agreements with private entities to license the right to reproduce, manufacture, adapt, distribute, publish, perform and display products incorporating such copyrighted or trademarked materials; provided, that such materials may be sold either by said private entities or by the department; and provided further, that the department shall deposit all proceeds received under any said agreements and from the sale of merchandise by the department in the Second Century Fund established by section 2EE of chapter 29 of the General Laws.

**SECTION 102.** Notwithstanding the provisions of any general or special law to the contrary, to the extent that a taxpayer has been assessed a sales tax on internet access services, electronic mail services, electronic bulletin board services, web hosting services or similar on-line computer services, the commissioner, upon application of the taxpayer, shall abate the tax so assessed. As part of any such abatement, the taxpayer shall refund to its customers any sums collected as sales tax on sales of internet access services, electronic mail services, electronic bulletin board services, web hosting services or similar on-line computer services.



**SECTION 103.** The special commission on taxation of telecommunication services' established pursuant to section 670 of chapter 151 of the acts of 1996 is hereby revived and continued. Said special commission shall file its final report on or before December 1, 1998.

**SECTION 104.** Notwithstanding the provisions of chapter 716 of the acts of 1989 or any other general or special law to the contrary, the Cape Cod Regional Transportation Authority's intermodal transportation project, so-called, in the town of Barnstable shall not be subject to the jurisdiction of the Cape Cod Commission established by said chapter 716.

**SECTION 105.** Notwithstanding the provisions of any general or special law to the contrary, \$320,000 of the amount appropriated in item 4512-0200 of section 2 of chapter 151 of the acts of 1996 shall be encumbered and expended for the Center for Health and Human Services, Inc. of New Bedford.

**SECTION 106.** The state treasurer is hereby authorized and directed to transfer the sum of \$20,200,000 from revenues credited to the Local Aid Fund in fiscal year 1997 to (a) the Water Pollution Abatement Revolving Fund for the purposes of the commonwealth's match to federal capitalization grants pursuant to section 3 of chapter 29C of the General Laws, and (b) the Water Treatment Facilities Revolving Fund established pursuant to section 20 of chapter 275 of the acts of 1989 or any successor fund established for the purpose of creating a safe drinking water revolving fund program, so-called; provided, however, that \$7,600,000 of the amount transferred herein shall be transferred to said Water Pollution Abatement Revolving Fund as the state match for federal capitalization grants received under Title VI of the Federal Clean Water Act for application by the Water Pollution Abatement Trust to the purposes specified in said chapter 29C; provided further, that \$12,600,000 of the amount transferred herein shall be transferred to said Water Treatment Facilities Revolving Fund, or any successor fund established for the purpose of creating a safe drinking water revolving fund program as the state matching requirements for federal capitalization grants under Title XIV of the Federal Public Health Service Act, commonly known as the Safe Drinking Water Act, 42 USC 300f et seq., as amended, for application by the Water Pollution Abatement Trust.

**SECTION 107.** Notwithstanding the provisions of any general or special law to the contrary, there is hereby established on the books of the commonwealth the Capital Investment Trust Fund, the sole purpose of which shall be to fund items appropriated in section 2E of this act. The comptroller is hereby authorized and directed to transfer to said fund, effective June 30, 1997, \$229,800,000 from the General Fund. Said fund shall be established as a separate expendable trust, subject to the control of the secretary of administration and finance, who shall serve as the trustee of said fund. Said fund shall expire on June 30, 1999 and any unexpended balance in said fund at said time shall be transferred to the Commonwealth Stabilization Fund established pursuant to section 2H of chapter 29 of the General Laws. Said fund may be credited with other appropriations, grants, gifts, or other contributions explicitly made to said fund. Income derived from the investment of amounts credited to said fund shall be credited to said Commonwealth Stabilization Fund.

**SECTION 108.** Notwithstanding the provisions of sections 2H, 2I, 5, 5B and 5C of chapter 29 and section 6 of chapter 29B of the General Laws or any other provisions of general or special law to the contrary, the treasurer is hereby authorized and directed to credit and transfer not less than \$100,000,000 from the General Fund to the Commonwealth Stabilization Fund as of June 30, 1997. Nothing contained herein shall prohibit the transfer of further 1997 revenue from the General Fund to the Commonwealth Stabilization Fund pursuant to the statutory plan contained in said sections 2H, 2I, 5, 5B and 5C of said chapter 29 and said section 6 of said chapter 29B.

**SECTION 109.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of June 30, 1997, the sum of \$128,000,000 from the General Fund to the Caseload Increase Mitigation Fund established by section 2NN of chapter 29 of the General Laws, said sum representing the commonwealth's unanticipated federal revenue increase attributable to the provisions of federal welfare reform, so-called.

**SECTION 110.** Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, or any other general or special law to the contrary, the commissioner of environmental management is hereby authorized to enter into lease agreements for the placement of communications antennas on buildings, communications towers, and properties under the control of said department of environmental management, on such terms and conditions as said commissioner deems appropriate. Said agreements may include, without limitation, provisions for access to buildings, communications towers, and properties and for placement and use of ancillary equipment, facilities, and fixtures. Said agreements shall have a maximum duration, including extensions, of 15 years. The lease rate paid for any agreement entered into pursuant to this section shall be for the full and fair market value. Any such antenna installations must comply with all applicable federal, state, and local laws, regulations, and ordinances and shall be subject to a public hearing in a municipality in which said antennas are proposed to be located. Said public hearing shall be advertised in a newspaper of general circulation in said municipality not less than 30 days prior to said public hearing.

The chief executive authority in any such municipality may appeal to the secretary of administration and finance a decision by said commissioner of said department of environmental management to enter into a lease agreement for the placement of such communication antennas in said municipality. Said secretary shall render a decision on any such appeal within 60 days after receipt of said appeal.

Said commissioner of the department of environmental management shall, 30 days before the execution of any agreement authorized by this section, submit the agreement to the inspector general for his review and comment. The inspector general may review any agreement and shall report any such findings to the commissioner within 15 days of receipt. The commissioner shall submit the agreement and the comments of the inspector general, if any, to the house and senate committees on ways and means and state administration at least 15 days prior to execution of any such agreement. Said commissioner shall also submit a written report specifically determining: that the agreement is in the public interest; that the

lease payments received by the commonwealth are for the full and fair market value; that any activities authorized by the agreement will not interfere with the commonwealth's current and anticipated future use of the building, tower, or property; and that the activities author-ized by the agreement will not change the essential character of the building or property.

Revenues received from any agreement authorized by this section shall be deposited in the Second Century Fund established pursuant to section 2EE of chapter 29 of the General Laws.

**SECTION 111.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, a nursing home (i) located in the city of Springfield; (ii) in receipt of a determination of need project application approval by the commissioner of public health and the public health council acting as the department of public health during November of 1984 that was amended during August of 1990; and (iii) which commenced operations in 1988 pursuant to the determination of need project application approval described in clause (ii) shall have established as its maximum capital expenditure the amount of \$6,924,043.

**SECTION 112.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the city of Medford, the town of Winchester, the city of Woburn, the city of Revere, the town of Arlington, the city of Malden, the city of Lynn, the city of Waltham, the town of Lincoln, and the town of Lexington shall remain in area code 617.

**SECTION 113.** Notwithstanding the provisions of any general or special law to the contrary, including the provisions of section 3 of chapter 151 of the acts of 1997, an additional \$20,000,000 in revenues derived from the state lottery shall be distributed to the cities and towns as "additional lottery revenues" in accordance with the schedule listed below. After the final reconciliation of lottery revenues, as certified in the comptroller's annual financial report for fiscal year 1997, if actual State Lottery Fund revenue growth for said fiscal year exceeds the \$20,000,000 additional lottery revenues distributed pursuant to this section, the excess shall be carried forward into fiscal year 1998 and final adjustments of lottery distribution to cities and towns shall be made by the state treasurer without further appropriation by adjusting the second quarterly payment of said fiscal year 1998 to distribute said excess through the lottery formula, so-called. If actual State Lottery Fund revenue growth falls short of the \$20,000,000 distributed to cities and towns pursuant to this section, final adjustments of lottery distributions to cities and towns shall be made by the state treasurer by decreasing the second quarterly payment of fiscal year 1998 to recover the shortfall in accordance with said formula. The treasurer shall notify the house and senate committees on ways and means and the secretary of administration and finance of any such adjustments by December 31, 1997.

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**Chap. 88**

MUNICIPALITY	AMOUNT
ABINGTON	51,392
ACTON	37,580
ACUSHNET	39,682
ADAMS	45,051
AGAWAM	93,978
ALFORD	319
AMESBURY	53,250
AMHERST	212,231
ANDOVER	59,468
ARLINGTON	113,733
ASHBURNHAM	21,811
ASHBY	12,325
ASHFIELD	4,443
ASHLAND	34,255
ATHOL	64,945
ATTLEBORO	153,406
AUBURN	43,648
AVON	9,169
AYER	17,847
BARNSTABLE	62,953
BARRE	21,905
BECKET	2,050
BEDFORD	22,006
BELCHERTOWN	40,391
BELLINGHAM	42,157
BELMONT	46,630
BERKLEY	18,763
BERLIN	5,806
BERNARDSTON	6,194
BEVERLY	110,990
BILLERICA	120,698
BLACKSTONE	36,150
BLANDFORD	3,152
BOLTON	6,204
BOSTON	1,737,071
BOURNE	33,770
BOXBOROUGH	8,037
BOXFORD	12,522
BOYLSTON	8,767
BRAINTREE	82,775
BREWSTER	13,247
BRIDGEWATER	95,697
BRIMFIELD	10,974
BROCKTON	432,351
BROOKFIELD	14,126



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**Chap. 88**

MUNICIPALITY	AMOUNT
BROOKLINE	102,780
BUCKLAND	7,624
BURLINGTON	45,846
CAMBRIDGE	223,785
CANTON	40,370
CARLISLE	7,084
CARVER	45,788
CHARLEMONT	4,000
CHARLTON	43,936
CHATHAM	4,263
CHELMSFORD	93,050
CHELSEA	126,955
CHESHIRE	13,832
CHESTER	4,381
CHESTERFIELD	2,697
CHICOPEE	242,506
CHILMARK	126
CLARKSBURG	8,471
CLINTON	55,017
COHASSET	11,898
COLRAIN	5,896
CONCORD	27,156
CONWAY	4,542
CUMMINGTON	2,056
DALTON	26,773
DANVERS	50,120
DARTMOUTH	67,937
DEDHAM	55,341
DEERFIELD	14,859
DENNIS	15,227
DIGHTON	17,116
DOUGLAS	23,309
DOVER	6,269
DRACUT	106,129
DUDLEY	38,791
DUNSTABLE	6,063
DUXBURY	28,503
EAST BRIDGEWATER	40,478
EAST BROOKFIELD	6,497
EAST LONGMEADOW	36,282
EASTHAM	4,228
EASTHAMPTON	63,026
EASTON	65,416
EDGARTOWN	1,504
EGREMONT	1,561

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**Chap. 88**

MUNICIPALITY	AMOUNT
ERVING	1,978
ESSEX	7,102
EVERETT	92,376
FAIRHAVEN	51,720
FALL RIVER	501,103
FALMOUTH	39,615
FITCHBURG	177,923
FLORIDA	1,963
FOXBOROUGH	39,267
FRAMINGHAM	186,121
FRANKLIN	73,575
FREETOWN	25,703
GARDNER	108,300
GAY HEAD	45
GEORGETOWN	20,262
GILL	5,926
GLOUCESTER	71,921
GOSHEN	2,007
GOSNOLD	17
GRAFTON	46,120
GRANBY	20,780
GRANVILLE	4,576
GREAT BARRINGTON	18,950
GREENFIELD	74,359
GROTON	23,038
GROVELAND	17,945
HADLEY	9,193
HALIFAX	27,336
HAMILTON	17,562
HAMPDEN	14,662
HANCOCK	914
HANOVER	29,152
HANSON	32,789
HARDWICK	8,576
HARVARD	45,725
HARWICH	12,818
HATFIELD	7,874
HAVERHILL	219,072
HAWLEY	616
HEATH	2,445
HINGHAM	36,776
HINSDALE	6,262
HOLBROOK	39,523
HOLDEN	46,301
HOLLAND	5,496

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**Chap. 88**

MUNICIPALITY	AMOUNT
HOLLISTON	34,464
HOLYOKE	206,740
HOPEDALE	20,722
HOPKINTON	21,473
HUBBARDSTON	11,922
HUDSON	54,392
HULL	31,476
HUNTINGTON	9,325
IPSWICH	28,493
KINGSTON	27,694
LAKEVILLE	22,213
LANCASTER	24,250
LANESBOROUGH	7,198
LAWRENCE	517,880
LEE	14,920
LEICESTER	42,027
LENOX	9,995
LEOMINSTER	145,336
LEVERETT	5,016
LEXINGTON	44,350
LEYDEN	2,349
LINCOLN	14,919
LITTLETON	16,126
LONGMEADOW	35,252
LOWELL	505,727
LUDLOW	72,321
LUNENBURG	29,894
LYNN	401,929
LYNNFIELD	21,056
MALDEN	211,208
MANCHESTER	6,529
MANSFIELD	51,094
MARBLEHEAD	35,588
MARION	6,555
MARLBOROUGH	90,234
MARSHFIELD	58,091
MASHPEE	11,521
MATTAPOISETT	10,022
MAYNARD	32,044
MEDFIELD	25,170
MEDFORD	179,227
MEDWAY	32,611
MELROSE	80,194
MENDON	12,766
MERRIMAC	21,842

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MUNICIPALITY	AMOUNT
METHUEN	146,443
MIDDLEBOROUGH	67,275
MIDDLEFIELD	1,042
MIDDLETON	9,493
MILFORD	80,304
MILLBURY	45,633
MILLIS	24,075
MILLVILLE	10,459
MILTON	66,068
MONROE	82
MONSON	31,022
MONTAGUE	30,520
MONTEREY	699
MONTGOMERY	2,203
MOUNT WASHINGTON	128
NAHANT	8,018
NANTUCKET	2,377
NATICK	69,301
NEEDHAM	45,636
NEW ASHFORD	282
NEW BEDFORD	514,211
NEW BRAINTREE	3,367
NEW MARLBOROUGH	1,144
NEW SALEM	2,028
NEWBURY	14,771
NEWBURYPORT	42,758
NEWTON	148,600
NORFOLK	32,992
NORTH ADAMS	93,850
NORTH ANDOVER	59,320
NORTH ATTLEBOROUGH	87,144
NORTH BROOKFIELD	20,183
NORTH READING	30,200
NORTHAMPTON	95,092
NORTHBOROUGH	30,943
NORTHBRIDGE	57,797
NORTHFIELD	10,248
NORTON	55,949
NORWELL	17,617
NORWOOD	69,174
OAK BLUFFS	2,240
OAKHAM	5,222
ORANGE	40,028
ORLEANS	5,030
OTIS	840



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**Chap. 88**

MUNICIPALITY	AMOUNT
OXFORD	57,145
PALMER	45,225
PAXTON	12,339
PEABODY	136,092
PELHAM	4,191
PEMBROKE	46,970
PEPPERELL	39,033
PERU	3,390
PETERSHAM	2,611
PHILLIPSTON	5,241
PITTSFIELD	182,779
PLAINFIELD	1,113
PLAINVILLE	22,390
PLYMOUTH	123,040
PLYMPTON	7,267
PRINCETON	9,110
PROVINCETOWN	3,765
QUINCY	269,135
RANDOLPH	104,553
RAYNHAM	29,731
READING	58,549
REHOBOTH	24,403
REVERE	166,586
RICHMOND	2,806
ROCHESTER	11,204
ROCKLAND	58,533
ROCKPORT	14,825
ROWE	172
ROWLEY	14,419
ROYALSTON	3,757
RUSSELL	6,058
RUTLAND	21,267
SALEM	111,936
SALISBURY	15,896
SANDISFIELD	766
SANDWICH	36,370
SAUGUS	67,140
SAVOY	2,789
SCITUATE	36,204
SEEKONK	28,827
SHARON	39,440
SHEFFIELD	6,036
SHELBURNE	5,415
SHERBORN	5,523
SHIRLEY	36,495

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**Chap. 88**

MUNICIPALITY	AMOUNT
SHREWSBURY	67,386
SHUTESBURY	4,749
SOMERSET	37,304
SOMERVILLE	285,553
SOUTH HADLEY	62,740
SOUTHAMPTON	15,504
SOUTHBOROUGH	12,191
SOUTHBRIDGE	77,332
SOUTHWICK	27,501
SPENCER	48,869
SPRINGFIELD	810,184
STERLING	19,390
STOCKBRIDGE	2,510
STONEHAM	60,880
STOUGHTON	89,832
STOW	12,385
STURBRIDGE	22,248
SUDBURY	24,677
SUNDERLAND	13,251
SUTTON	22,711
SWAMPSCOTT	29,160
SWANSEA	46,310
TAUNTON	216,888
TEMPLETON	30,263
TEWKSBURY	83,061
TISBURY	2,568
TOLLAND	152
TOPSFIELD	11,974
TOWNSEND	34,693
TRURO	797
TYNGSBOROUGH	30,835
TYRINGHAM	291
UPTON	13,623
UXBRIDGE	43,501
WAKEFIELD	66,347
WALES	6,993
WALPOLE	52,703
WALTHAM	139,136
WARE	40,742
WAREHAM	56,429
WARREN	18,677
WARWICK	1,721
WASHINGTON	1,827
WATERTOWN	77,170
WAYLAND	19,347

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MUNICIPALITY	AMOUNT
WEBSTER	63,047
WELLESLEY	37,913
WELLFLEET	1,765
WENDELL	3,425
WENHAM	9,985
WEST BOYLSTON	18,268
WEST BRIDGEWATER	14,680
WEST BROOKFIELD	11,864
WEST NEWBURY	8,949
WEST SPRINGFIELD	78,601
WEST STOCKBRIDGE	2,747
WEST TISBURY	1,072
WESTBOROUGH	29,653
WESTFIELD	148,579
WESTFORD	42,900
WESTHAMPTON	4,065
WESTMINSTER	17,639
WESTON	10,405
WESTPORT	30,217
WESTWOOD	21,587
WEYMOUTH	187,293
WHATELY	2,809
WHITMAN	56,689
WILBRAHAM	31,594
WILLIAMSBURG	7,869
WILLIAMSTOWN	21,596
WILMINGTON	40,399
WINCHENDON	44,072
WINCHESTER	35,429
WINDSOR	2,274
WINTHROP	64,839
WOBURN	82,002
WORCESTER	809,635
WORTHINGTON	3,090
WRENTHAM	29,459
YARMOUTH	35,495

**SECTION 113A.** Notwithstanding the provisions of any general or special law to the contrary, the town of Southbridge is hereby authorized to expend the remaining balances in item 3722-9020 of section 2 of chapter 748 of the acts of 1987 and item 3722-9110 of section 2 of chapter 749 of the acts of 1987 for the following infrastructure improvements to the Hamilton Mills site, so-called, consistent with the recovery from the fire of April 16, 1987; installation of a water line, a sewer line and lift station; construction of a new entranceway from Main street; demolition of a certain three-story brick building designated

IE on a site plan prepared by Earth Tech and dated November 20, 1996 and facade improvements to buildings designated 2E and 10E on said site plan, with the consent of the present owners of said buildings; paving of the area indicated on the site plan prepared by Earth Tech and dated November 20, 1996; and landscaping within the 30 feet front setback and 20 feet side setback within 60 feet of Main street to screen the site; provided, that Southbridge shall present plans for execution of said infrastructure improvements to the executive office for administration and finance for review; and provided further, that any outstanding balances from such funds shall be returned to the commonwealth.

**SECTION 114.** Sections 2 to 2E, inclusive, sections 4 to 11, inclusive, sections 41 and 42, sections 46 to 62, inclusive, sections 90 and 91, sections 93, 95 to 97, inclusive, sections 105 to 109, inclusive, and section 113 shall take effect as of June 30, 1997. Sections 30 and 31 shall take effect on September 28, 1997. Sections 87 and 88 shall take effect as of July 11, 1997. Section 23 shall take effect as of September 1, 1990 and shall expire on July 1, 1999. The remainder of this bill shall take effect as of July 1, 1997.

*This bill was returned on August 29, 1997, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following sections therein: **SECTIONS 32, 99 and 112.***

*The remainder of the bill was approved by the Governor August 29, 1997.*

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on November 5, 1997 in the House of Representatives and on November 13, 1997 in the Senate the following Section: **SECTION 32**, was passed and therefore has the force of law.*



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**Chapter 89. AN ACT AUTHORIZING THE TOWN OF METHUEN TO GRANT A PENSION TO TIMOTHY P. HENRICK.**

*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 town of Methuen retirement board is hereby authorized and directed to retire Timothy P. Henrick, a police officer in the town of Methuen who, as a result of injuries sustained while in the performance of his duties on December 25, 1991, is totally and permanently incapacitated as for services as a police officer. The annual amount of the pension payable shall be fixed in an amount equal to 72 per cent of the rate of compensation which would have been paid had he continued in service as a police officer in said town at the grade held by him at the time of his retirement.

Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation.

Said retirement board shall further forthwith pay to Timothy P. Henrick all amounts standing to his credit in the annuity savings fund of the retirement system of said town.

**SECTION 2.** The provisions of section 100B of chapter 41 of the General Laws shall continue to apply to Timothy P. Henrick relative to his indemnification by the town of Methuen 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.** Notwithstanding the provisions of section 9 of chapter 32 of the General Laws, if the Methuen retirement board, upon proper proof, finds that said Timothy P. Henrick died as the natural and proximate result of the personal injuries sustained on December 25, 1991, the town of Methuen shall pay to the wife of Timothy P. Henrick an annual annuity equal to the sum of three-quarters of the pension payable to him at the time of his death and the town shall pay the sum of \$312 for each child of said Timothy P. Henrick for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working. If the wife of Timothy P. Henrick receiving the annuity herein mentioned shall remarry, the town shall pay to her, in lieu of the aforesaid annuity, an annual annuity of \$520 for each child of Timothy P. Henrick for such time as any such child is residing with her and is either under 18 years of age on January 1 of the year in question or is totally physically or mentally incapacitated from working.

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

Approved September 4, 1997.

**Chapter 90. AN ACT AUTHORIZING THE TOWN OF GRAFTON TO ABATE CERTAIN TAXES.**

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

**SECTION 1.** The board of assessors of the town of Grafton is hereby authorized to abate all real and personal property taxes and interest and charges thereon due and owing on the parcels of land shown as Lots 2, 121 and 122 on assessors plan 115; provided, however,

said abatement shall be granted only upon the conveyance of said property to the Central Massachusetts Economic Development Authority.

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

Approved September 4, 1997.

**Chapter 91. AN ACT AUTHORIZING AND DIRECTING THE RETIREMENT BOARD OF THE CITY OF LEOMINSTER TO RETIRE THOMAS KENT.**

*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 city of Leominster is hereby authorized and directed to retire Thomas Kent, a police officer of said city, who, as a result of injuries sustained while in the performance of his duties on September 15, 1995, is totally and permanently incapacitated from further service as a police officer. The annual amount of pension payable to said Thomas Kent shall be fixed in an amount equal to the regular rate of compensation which would have been paid to him had he continued in service as a police officer of said city at the grade held by him at the time of his retirement. Such retirement shall become effective as of the date following the last day on which he received regular compensation. Upon such retirement, said retirement board shall forthwith pay to him the amount credited to him as accumulated total deductions in the annuity savings of the Leominster retirement system.

**SECTION 2.** Thomas Kent shall be entitled to receive such indemnification for all hospital, medical and related expenses that have been or may be incurred after the date of his retirement as a result of the injuries sustained by him while in the performance of his duties, in accordance with the provisions of chapter 41 of the General Laws.

**SECTION 3.** Upon the death of Thomas Kent, if his wife survives him, the retirement board of the city of Leominster shall pay to her, so long as she remains unmarried, an annuity in the amount of three-fourths of the amount of the pension payable to him, per month at the time of his death. If said wife remarries, said city shall pay in lieu of the aforesaid annuity, an annuity of \$520 per month to her.

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

Approved September 5, 1997.

**Chapter 92. AN ACT RELATIVE TO THE MATTAPOISETT RIVER VALLEY WATER SUPPLY PROTECTION ADVISORY COMMITTEE.**

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

Chapter 407 of the acts of 1983 is hereby amended by adding the following three sections:-

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## Chap. 92

*Section 2.* The committee may establish regulations and procedures for the assessment and collection of a fee to be paid by each town which withdraws water from the Mattapoissett river aquifer. Such fee shall be assessed in proportion to the quantity of water withdrawn by each town; provided, however, that such fee shall not exceed \$.01 per one hundred gallons; and provided, further, that a two-thirds vote of the committee shall be required to establish such fee; provided, further, that a two-thirds vote of the voters of town meeting of a member community shall be required to assess a fee on said member community. Registered private water withdrawals as required by the water management act shall be assessed at the same fee as for municipalities, however, no fee shall be assessed for either registered or permitted municipal or private water withdrawals used for the purposes of agriculture as defined by section 1A of chapter 128 of the General Laws. A bill to collect such fee shall be sent by the treasurer of the committee by February 15 of each year and shall be based upon the pumpage from January to December, inclusive.

*Section 3.* The committee shall establish a separate account to be known as the Water Supply Protection Fund. Said Fund shall consist of all monies received by the committee: (1) from the fee established under section 2; (2) from public or private sources as gifts, grants and donations; (3) from federal and state funding programs available to member towns and for which the committee is hereby authorized to apply; and (4) from any other sources authorized by law.

All monies credited under this section to said Fund shall be deposited or invested pending disbursements for purposes of water supply protection. Said Fund may be expended for the purpose of assisting a town within the Mattapoissett river valley to acquire land for protection of the aquifer and for land or easement purchases, engineering or other studies and services, public education relating to water conservation plans and programs and water supply protection. The committee may issue bonds and notes to raise funds for the purposes of water supply protection. Land purchased by the committee shall be held by the town in which the land is situated and shall be under the control of the board of selectmen of said town; provided, however, that the committee shall have, by a two-thirds vote, established the permitted use of the land in accordance with 310 CMR 22.00 and any existing local aquifer protection by-laws in accordance with said 310 CMR 22.00.

No monies shall be expended under this section without a two-thirds vote of the members of the committee present and voting. A quorum shall be 50 per cent of the members of the committee with at least one representative from each community. Checks issued by the committee shall be co-signed by the chairman and treasurer of the committee.

*Section 4.* In the event that the committee is dissolved, any funds which were collected shall be used to pay all existing obligations of the committee and any funds not used shall revert to member municipalities based upon the average contributions of those municipalities over the preceding five years. All deed restrictions and sanitary easements acquired through funds generated by said committee shall remain in effect.

Approved September 12, 1997.

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**Chapter 93. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NEWBURY AS THE HENRY A. WALKER MEMORIAL BRIDGE.**

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

The bridge on Route 1 spanning the Massachusetts Bay Transportation Authority railroad tracks in the town of Newbury, shall be designated and known as the Henry A. Walker Memorial Bridge, in honor of Henry A. Walker, a former member of the Massachusetts house of representatives. 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 September 12, 1997.

**Chapter 94. AN ACT DESIGNATING CERTAIN PROPERTY IN THE TOWN OF HINGHAM AS THE FRANCIS J. AND ELIZABETH H. THOMPSON RESERVATION.**

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

The property in the town of Hingham, acquired by the metropolitan district commission in 1995 from the Thompson Estate shall be designated and known as the Francis J. and Elizabeth H. Thompson Reservation, in honor of the many contributions of Francis J. and Elizabeth H. Thompson of said town of Hingham.

Said property is described in a deed from Francis J. Thompson to Francis J. and Elizabeth H. Thompson recorded with the Plymouth county registry of deeds, Book 3327, Page 645.

Approved September 12, 1997.

**Chapter 95. AN ACT AUTHORIZING TRANSFER OF THE MEEKINS LIBRARY TO THE TOWN OF WILLIAMSBURG.**

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

**SECTION 1.** The trustees of the Meekins Library Corporation, incorporated by chapter 317 of the acts of 1907, are hereby authorized to grant by quitclaim deed to the inhabitants of the town of Williamsburg, a municipal corporation duly established by law and located in Hampshire county, the land and buildings of the Meekins Library and to delegate and transfer to the board of library trustees of the said town, upon establishment of said board, title, custody and possession of the contents thereof, and sole authority for operation as free public library for the inhabitants of said town of Williamsburg, of the library known as the Meekins Library, including without limitation custody, management and control of the library premises, books and other tangible personal property of said Meekins Library. Said board of library trustees is authorized to receive from any source, property, real or personal, or funds, by gift, bequest, devise or otherwise, in trust or other-



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## Chap. 95

wise, after the effective date of this act.

**SECTION 2.** Chapter 317 of the acts of 1907 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

*Section 2.* The trustees of the Meekins Library Corporation shall consist of the trust and cemetery commission of the town of Williamsburg, as established by chapter 62 of the acts of 1991.

**SECTION 3.** Section 3 of said chapter 317 is hereby amended by striking out, in lines 5 to 8, inclusive, the words ", to an amount not exceeding in the whole one hundred thousand dollars, and to hold, use and expend the same under the trusts and for the objects set forth in said will" and inserting in place thereof the words:- and to hold, use and expend the same for the benefit of public libraries in the town of Williamsburg.

**SECTION 4.** Section 2 shall take effect as of the transfer of the land and buildings in accordance with section 1.

**SECTION 5.** The power granted by this act shall be exercised only in conformity with such decree, if any, of the probate court for Hampshire county, sitting in equity, or any other court of competent jurisdiction, as may be entered within nine months of the effective date of this act; provided that all the authority conferred by this act is hereby declared to be limited to such authority as the general court may constitutionally grant.

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

Approved September 12, 1997.

## Chapter 96. AN ACT RELATIVE TO ELECTIONS IN THE TOWN OF NORTH ANDOVER.

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

Chapter eight of the charter of the town of North Andover, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 1-1 and inserting in place thereof the following section:-

Section 1-1. The regular election for all town offices shall be by official ballot held on the first Tuesday of March in each year.

Approved September 17, 1997.

## Chapter 97. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TOWN CLERK IN THE TOWN OF LANCASTER.

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

**SECTION 1.** Notwithstanding the provisions of section 1 of chapter 41 of the General Laws to the contrary, the clerk of the town of Lancaster shall be appointed by the

board of selectmen of said town for a term of three years and upon such terms and conditions as said board of selectmen shall determine.

**SECTION 2.** Notwithstanding the provisions of section 1, the incumbent in the office of the town clerk upon the acceptance of this act by the voters of the town of Lancaster shall continue to hold said office and perform the duties thereof until the expiration of his term or an earlier vacating of office.

**SECTION 3.** This act shall be submitted to the voters of the town of Lancaster at a regular or special town election to be held in said town 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 1997, entitled 'An Act providing for the appointment of the town clerk in the town of Lancaster', be accepted?"

If a majority of the votes in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved September 17, 1997.

**Chapter 98. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND REGARDING TOWN OFFICIALS.**

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

**SECTION 1.** Section 2.01 of Article II of the charter of the town of Rockland, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection D and inserting in place thereof the following subsection:-

D. Elected and appointed town officials must be registered voters in the town of Rockland. The term appointed town officials shall only apply to those persons appointed to serve on the various boards and commissions. All full time administrative personnel shall not be town officials for the purpose of this section.

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

Approved September 17, 1997.

**Chapter 99. AN ACT RELATIVE TO THE MATURITIES OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE TOWN OF RUTLAND.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the treasurer and board of selectmen of the town of Rutland may provide that the maturities of the bonds and notes authorized under Article 1 of the warrant for the special town meeting held on March 7, 1996 shall be so arranged that for each issue the amounts payable on the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of said treasurer and said board of selectmen or in the alternative,

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## **Chap. 99**

in accordance with a schedule providing a more rapid amortization of principal.

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

Approved September 18, 1997.

## **Chapter 100. AN ACT RELATIVE TO UNEMPLOYMENT INSURANCE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to lower forthwith unemployment insurance costs, 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 14 of chapter 151A of the General Laws, the experience rate of an employer qualifying therefor under subsection (b) of said section 14 of said chapter 151A shall be the rate which appears in the column designated "C" for calendar year 1998.

Approved September 23, 1997.

## **Chapter 101. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GINA B. O'NEILL, AN EMPLOYEE OF THE TRIAL COURT OF THE COMMONWEALTH.**

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

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

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the trial court of the commonwealth is hereby authorized and directed to establish a sick leave bank for Gina B. O'Neill, an employee of the Dukes division of the probate and family court department of said 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 Gina B. O'Neill.

*The foregoing was laid before the Governor on the fifteenth day of September, 1997 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.*

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**Chapter 102. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DAVID I. FLEMING, AN EMPLOYEE OF THE TRIAL COURT.**

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

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

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the trial court is hereby authorized and directed to establish a sick leave bank for David I. Fleming, an employee of the Norfolk 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 David I. Fleming.

*The foregoing was laid before the Governor on the fifteenth day of September, 1997 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 103. AN ACT AUTHORIZING CERTAIN STRUCTURES TO BE EXEMPTED FROM CERTAIN HARBOR LINES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize certain structures to be exempted from certain harbor lines, 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 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection is hereby authorized to grant a license and prescribe any conditions it deems necessary relative to such license to Bosport Docking Co., Inc. to continue to maintain, use and repair existing docks and moorings, as shown on a plan on file with the department of environmental protection. Said dock is located in whole or in part beyond the harbor lines in the vicinity and adjacent to the wharfing facilities of the Constitution Marina along the Constitution road waterfront and to the south of said Constitution road waterfront in the Boston harbor area, such harbor lines having been established and authorized by certain laws including, but not limited to, chapter 486 of the acts of 1897 and chapter 733 of the acts of 1966.



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**SECTION 2.** Nothing in this act shall be construed to exempt the piers, docks and moorings described in section 1 from compliance with the provisions of chapter 91 of the General Laws and the rules and regulations promulgated pursuant thereto, except with respect to the harbor line requirements of sections 14 and 34 of said chapter 91 as specifically authorized in this act.

Approved September 26, 1997.

## **Chapter 104. AN ACT AUTHORIZING THE CITY OF BEVERLY TO ENTER INTO A CERTAIN CONTRACT FOR THE DISPOSAL OF SEWAGE.**

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

Notwithstanding the provisions of chapter 339 of the acts of 1925, the city of Beverly is hereby authorized to enter into a contract for the disposal of sewage emanating from a certain parcel of land in the town of Wenham, shown as Parcel 4C on a plan entitled "Plan of Land in Wenham prepared for Elizabeth P.L. McKean", dated July 23, 1971, recorded at Essex south district registry of deeds in Plan Book 120, Plan 100 and known and numbered as 26 Hull street in said town, said contract to be approved by the board of the South Essex Sewage District and said city of Beverly.

The contract may allow for the use of the system of sewer mains, or any portion thereof, belonging to said city of Beverly. The contract may be entered into at any time. The city council of said city of Beverly shall have the authority to enter into, extend, renew, amend or alter the contract, or any part thereof in agreement with Gregory W. and Lael D. Cook, or their heirs, assigns, or successors in interest, and with the approval of said board of the South Essex Sewage District.

Said Gregory W. and Lael D. Cook shall pay all costs, charges, and fees arising from, or incidental to utilizing the mains, pumping stations and related facilities owned by or available to said city of Beverly, including:

(A) engineering, planning and drawing fees for the design or redesign of any mains or systems necessary to carry the sewage flow from said parcel;

(B) obtaining, utilizing and protecting easements or other rights from said Gregory W. and Lael D. Cook necessary for laying mains to transport sewage from said parcel to the mains of said city of Beverly;

(C) the laying, maintaining and servicing of the mains laid from said parcel to the mains of said city of Beverly;

(D) all legal, engineering or other costs and fees connected with, or incidental to, the preparation for, connection with, or operation of the connection of mains appurtenant to said parcel to the mains of said city of Beverly;

(E) the periodic cost of operation, as determined by said city of Beverly;

(F) a contribution toward bonded indebtedness as determined by said city of Beverly.

Approved September 26, 1997.

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**Chapter 105. AN ACT EXEMPTING A CERTAIN POSITION IN THE CITY OF LYNN FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of Spanish speaking clerk typist in the office of the city clerk in the city of Lynn shall be exempt from the provisions of chapter 31 of the General Laws. A person holding such position on the effective date of this act shall continue to be subject to the provisions of said chapter 31.

**SECTION 2.** The provisions of section 1 shall not impair the civil service status of any person employed as a Spanish speaking clerk typist in the office of the city clerk in the city of Lynn on the effective date of this act.

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

Approved September 26, 1997.

**Chapter 106. AN ACT RELATIVE TO THE ENHANCEMENT OF FORENSIC TECHNOLOGY.**

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

**SECTION 1.** It shall be the policy of the commonwealth to assist local, state and federal criminal justice and law enforcement agencies in: (1) deterring and discovering crimes and recidivistic criminal activity; (2) identifying individuals for, and excluding individuals from, criminal investigation or prosecution; and (3) searching for missing persons. Said policy shall be served by establishing facilities for comparing biological evidence recovered during criminal investigations with biological material obtained from offenders convicted of crimes in the commonwealth.

**SECTION 2.** Deoxyribonucleic acid, hereinafter referred to as DNA, is located in the nuclei of human cells and encodes genetic information that is the basis of human heredity and forensic identification. DNA is recovered frequently from the scenes of violent crimes against the person, including sexual offenses. The legislature finds that the collection and analysis of DNA samples is an integral part of the investigation and prosecution of criminal offenses and that such technology is an important tool in the defense of individuals charged with criminal offenses in the commonwealth.

**SECTION 3.** Chapter 6 of the General Laws is hereby amended by inserting after section 178 O, as appearing in the 1996 Official Edition, the following section:-

Section 178P. Whenever a police officer has probable cause to believe that a sex offender has failed to comply with the registration requirements of sections 178C to 178 O, inclusive, such officer shall have the right to arrest such sex offender.

**SECTION 4.** Section 1 of chapter 22A of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Missing child or children" the following definition:- "Person", any individual, whether an adult or a child.

**SECTION 5.** Section 6 of said chapter 22A, as so appearing, is hereby amended by striking out, in lines 1, 3 and 11, the word "child", each time it appears, and inserting in place thereof, in each instance, the following word:- person.

**SECTION 6.** Said section 6 of said chapter 22A, as so appearing, is hereby further amended by striking out, in line 7, the word "children" and inserting in place thereof the following word:- persons.

**SECTION 7.** The General Laws are hereby amended by inserting after chapter 22D, as so appearing, the following chapter:-

**CHAPTER 22E.**

**STATE DNA DATABASE.**

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

"CODIS" or "combined DNA index system", the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

"Colonel", the colonel of state police.

"DNA", deoxyribonucleic acid.

"DNA analysis", DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

"DNA record", DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

"DNA sample", biological evidence of any nature that is utilized to conduct DNA analysis.

"Department", the department of state police.

"Director", the director of the crime laboratory within the department of state police.

"FBI", the Federal Bureau of Investigation within the United States department of justice.

"State DNA database", the DNA identification records system maintained and administered by the director.

Section 2. There is hereby established within the department of state police a state DNA database under the direction of the director. The director shall be a person knowledgeable in the field of forensic sciences and shall be paid an annual salary which shall be set by the colonel in consultation with the secretary of public safety and the secretary for administration and finance. Such salary shall be competitive with comparable or similar positions in other jurisdictions. The director shall have responsibility for DNA analysis and the management and administration of the state DNA database.

Section 3. Any person who is convicted of an offense under the provisions of section 1, 13, 13B, 13F, 13H, 14, 15, 16, 17, 18, 18A, 18B, 18C, 22, 22A, 23, 24, 24B or 26 of chapter 265, section 14 or 15 of chapter 266 or section 2, 3, 4A, 4B, 16, 17, 29, 29A, 29B, 35, 35A or 53A of chapter 272 or of an attempt or a conspiracy to commit any of the aforementioned offenses shall submit a DNA sample which shall be collected by a person

authorized pursuant to section 4, to the department within 90 days of such conviction, in accordance with regulations or procedures established by the director. The results of such sample shall become part of the state DNA database. The submission of such DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post conviction motion or petition.

Section 4. (a) The director may establish regulations or procedures for the collection of DNA samples, including standards for training and licensing personnel who may collect such samples. Only a physician, registered professional nurse, licensed practical nurse, phlebotomist, health care worker with phlebotomist training or a person licensed and trained by the director shall collect DNA samples pursuant to section 3. No person authorized under this section to collect DNA samples, including blood samples, shall be subject to civil liability for the act of withdrawing blood, or any other act directly related to the taking of a DNA sample; provided, however, that they shall employ recognized medical procedures and comply with all regulations or procedures promulgated by the director for the collection of DNA samples. Duly authorized law enforcement and correction personnel may employ reasonable force to assist in collecting DNA samples in cases where an individual refuses to submit to such collection as required under this chapter; provided, further, that such law enforcement and correction personnel shall not be subject to criminal prosecution or civil liability for the use of such reasonable force.

(b) The cost of preparing, collecting and processing a DNA sample shall be assessed against the person required to submit a DNA sample, unless such person is indigent as defined in section 27A of chapter 261. The cost of preparing, collecting and processing a DNA sample shall be determined by the secretary for administration and finance in consultation with the director and shall be paid to the department and retained by it to offset costs associated with creating, maintaining and administering the state DNA database.

Section 5. The department shall provide all blood sample vials, collection tubes, mailing tubes, other DNA sample collection materials, labels and instructions for the collection of DNA samples pursuant to this chapter.

Section 6. All DNA samples collected pursuant to sections 3 and 4 shall be forwarded to the director for the purpose of DNA analysis. The director shall provide for the receipt and analysis of DNA samples and for the filing and storage of DNA records derived from such DNA analysis in the state DNA database. The director shall promulgate regulations governing the collection, submission, receipt, identification, storage and disposal of DNA samples.

Section 7. The department is hereby authorized to establish such laboratories and facilities within the commonwealth as may be necessary to conduct forensic and DNA analysis. Notwithstanding the provisions of any general or special law to the contrary, the department is hereby authorized to enter into such contracts, agreements or partnerships with governmental or nongovernmental entities, including educational, scientific, medical or not for profit entities, as the director may deem necessary to meet the purposes of this chapter.



Section 8. The director shall establish procedural rules governing the testing and analysis of DNA samples and a quality assurance program, which shall include proficiency standards for laboratories and analysts responsible for performing DNA testing and analysis. Such procedural rules and quality assurance program shall be compatible with the procedural rules and quality assurance program utilized by the FBI and shall establish compatible laboratory techniques, laboratory equipment, supplies, computer software and acceptance criteria for DNA records in CODIS. The director may employ independent forensic laboratories to perform the DNA analysis required under section 3; provided, however, that such laboratories shall comply with the regulations established pursuant to this section and the procedural rules and quality assurance program established pursuant to this section. With respect to any independent forensic laboratory that performs or seeks to perform the DNA analysis required under section 3, the director may audit such laboratory for compliance with such regulations or procedures as may be adopted under this chapter and may revoke such laboratory's right to create and exchange DNA records on the ground that such laboratory has failed to comply with any regulations, procedures, rules or quality assurance programs established pursuant to this section.

Section 9. All DNA records collected pursuant to this chapter shall be confidential and shall not be disclosed to any person or agency unless such disclosure shall be authorized by this chapter. DNA records shall not be stored in a criminal offender record information system operated by the criminal history systems board pursuant to sections 167 to 178, inclusive, of chapter 6.

Section 10. (a) The director shall furnish records in his possession, including DNA records and analysis, to police departments in cities and towns, to the department, to the department of correction, to a sheriff's department, to the parole board or to prosecuting officers within the commonwealth upon request in writing or electronically.

(b) The director shall make DNA records available upon written or electronic request to: (1) local, state and federal criminal justice and law enforcement and prosecuting agencies, including forensic laboratories serving such agencies, for identification purposes in order to further official criminal investigations or prosecutions; provided, however, that any DNA sample obtained directly from a person not otherwise required to provide a DNA sample under this chapter and delivered to the director for comparison with DNA records in the state DNA database shall have been obtained pursuant to a warrant; (2) the FBI for storage and maintenance in CODIS; and (3) any person who has been identified and charged with a criminal offense as a result of a search of DNA records stored in the state DNA database; provided, however, that such access shall be limited to DNA information pertaining to such individual.

(c) The director shall make DNA records available upon written or electronic request to meet such purposes or comply with such statutory obligations as may be required under federal law as a condition to obtaining federal grants or funding.

(d) The director may, in his discretion, make DNA records available to authorized persons or organizations, upon written or electronic request, for the limited purpose of (1) advancing DNA analysis methods and supporting statistical interpretation of DNA analysis,

including development of population databases; provided, however, that personal identifying information shall be removed from DNA records disclosed for such purposes; (2) assisting in the identification of human remains from mass disasters; (3) assisting the identification and recovery of missing persons; and (4) advancing other humanitarian purposes.

Section 11. Any person required to provide a DNA sample pursuant to this chapter and who refuses to provide such DNA sample shall be subject to punishment by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 12. Any person who, by virtue of employment or official position, has possession of, or access to, a DNA sample or record or portion thereof contained in the state DNA database and who purposely discloses such record or portion thereof in any manner to any person or agency not authorized to receive such record or portion thereof shall be subject to punishment by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 13. Any person who, without proper authorization, willfully obtains a DNA record or a portion thereof contained in the state DNA database shall be subject to punishment by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for not more than six months or both.

Section 14. Any person who tampers with or attempts to tamper with a DNA sample or DNA record with the intent to interfere with DNA analysis shall be subject to punishment by a fine of not more than \$5,000 or imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and a half years or both such fine and imprisonment.

Section 15. Any person whose DNA record has been included in the state DNA database may apply to the superior court to have such record expunged on the grounds that the conviction or judicial determination that resulted in the inclusion of the person's DNA record in the state DNA database has been reversed and the case dismissed; provided, however, that one year shall have elapsed from the date the judgment reversing or dismissing the conviction became final or such person shall have obtained, in writing, authorization from the district attorney that no further prosecution is contemplated under the original offense for which such person was convicted or for which the original judicial determination was entered.

**SECTION 8.** Any person convicted of any offense listed in section 3 of chapter 22E of the General Laws, who is incarcerated in any prison or house of correction on the effective date of this act, notwithstanding the date of such conviction, shall submit a DNA sample to the department within 90 days of the effective date of this act or prior to release from custody, whichever first occurs. Any person currently on probation or parole as the result of a conviction or judicial determination resulting from a charge of any of the above listed offenses, notwithstanding the date of such conviction or judicial determination, shall submit a DNA sample to the department within 90 days of the effective date of this act.

Approved September 30, 1997.

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**Chapter 107. AN ACT AUTHORIZING THE CITY OF MELROSE TO PLACE A CERTAIN BINDING QUESTION ON THE BALLOT TO BE USED IN THE CITY OF MELROSE AT THE MUNICIPAL ELECTION.**

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

The clerk of the city of Melrose shall cause to be placed on the official ballot to be used at the municipal election to be held in the year 1997 the following question:-

"Shall the salary of the Mayor be \$48,000 per year starting January 1, 1998?

YES

NO"

☐☐

If a majority of the votes in answer to said question is in the affirmative, then the amendment to Section 2-91 of Division 2 of Article II of Chapter 2 of the revised ordinances of the city of Melrose, passed by the board of aldermen on October 7, 1996 and approved by the mayor on October 9, 1996, shall take full effect, but not otherwise.

Approved October 1, 1997.

**Chapter 108. AN ACT PROVIDING FOR THE PAYMENT BY THE CITY OF WORCESTER OF MEDICAL EXPENSES OF POLICE OFFICER PETER KNEELAND.**

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

Notwithstanding the provisions of section 100B of chapter 41 of the General Laws or any other general or special law to the contrary, the city of Worcester shall be responsible for payment of all medical expenses of police officer Peter Kneeland as a result of injuries sustained while in the performance of his duties on September 28, 1991. Said medical expenses shall include those incurred beyond the effective date of said police officer Peter Kneeland's retirement.

Approved October 3, 1997.

**Chapter 109. AN ACT RELATIVE TO THE DEVELOPMENT OF FORGES FIELD IN THE TOWN OF PLYMOUTH.**

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

**SECTION 1.** For the purpose of this act, the following words shall, unless the context requires otherwise, have the following meanings:-

"Golf course", a golf course and related facilities to be opened to the public on a fee basis.

"Recreational facilities", facilities for active and passive recreational uses including but not limited to fields, tennis courts, basketball courts, playgrounds, hiking and jogging trails, open space and parking areas related hereto.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the town of Plymouth is hereby authorized to enter into a lease for a term not to exceed 40 years of a park or all of the land located in said town known as Forges Field; provided, however, that said lease shall be subject to the provisions of section 16 of chapter 30B of the General Laws. Said lease may provide that the lessee shall be responsible for the design, development, construction and operation of a golf course and recreational facilities on said land.

**SECTION 3.** If the lessee is responsible for the design, development and construction of the golf course and recreational facilities, then the design and construction of the golf course and recreational facilities shall be exempt from the provisions of sections 38A½ to 38O, inclusive, of chapter 7, and sections 44A to 44H, inclusive, of chapter 149 of the General Laws.

Approved October 3, 1997.

**Chapter 110. AN ACT RELATIVE TO THE LEASING OF A FIELD HOUSE AND  
AQUATICS CENTER AT HOLYOKE COMMUNITY COLLEGE.**

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

Chapter 489 of the acts of 1996 is hereby amended by adding the following section:-

**Section 4.** Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, the commissioner of the division of capital planning and operations, in consultation with the president of Holyoke Community College, is hereby authorized to enter into a lease with the Greater Holyoke Young Men's Christian Association, on terms and conditions acceptable to said commissioner, to permit said association to utilize the facility described in section 2, for a term not to exceed a total of 50 years. During the term of the lease, said association shall pay as rent to said college an amount proportionate to the use of the facility by said association and the cost of maintaining, staffing, replacing, renovating, and operating said facility.

Said lease shall include provisions concerning the ongoing operation and maintenance of said facility and other areas, including an allocation of responsibility and costs between said association and said college. Said college is hereby authorized to receive and retain all rent and other revenues from the use or operation of said facility and other areas and to expend the same for said college's share of the cost to operate, maintain, repair, replace and renovate said facility.

Approved October 3, 1997.



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**Chapter 111. AN ACT RELATIVE TO THE TOWN OF WINTHROP SCHOLARSHIP FUND.**

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

**SECTION 1.** Chapter 334 of the acts of 1984 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

*Section 3.* A scholarship committee to consist of the superintendent of schools or the superintendent's designee, and four citizens of the town, one of whom shall be the treasurer-collector of the town, shall be appointed to a three year term by the town moderator.

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

Approved October 3, 1997.

**Chapter 112. AN ACT RELATIVE TO THE ELIGIBILITY OF EDWARD GOURDEAU TO SERVE AS CONSTABLE FOR THE CITY OF NEWTON.**

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

**SECTION 1.** Notwithstanding the provisions of section 20 of chapter 268A of the General Laws or any other general or special law to the contrary, Edward Gourdeau may simultaneously hold the positions of full-time firefighter for the city of Newton and constable of said city of Newton, if duly appointed in accordance with applicable law.

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

Approved October 3, 1997.

**Chapter 113. AN ACT AUTHORIZING THE TOWN OF FOXBOROUGH TO CONVEY CERTAIN CONSERVATION LAND.**

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

**SECTION 1.** The town of Foxborough, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of conservation land located in said town to Alan J. Antokal and Lawrence D. Gitlitz, trustees of the Alan Lawrence Realty Trust, to be used for business purposes. Said parcel is shown as Lot A, Lot B1, Lot B3, Lot B4 and Lot B5 on a plan of land entitled "Plan of Land in Foxborough, MA" dated October 22, 1992 drawn by Bay Colony Group, Inc., a copy of which is on file in the Norfolk county registry of deeds as Plan No. 436 of 1993 in Plan Book 414.

**SECTION 2.** In consideration and as a condition of the conveyance authorized in section 1, Alan J. Antokal and Lawrence D. Gitlitz, trustees of the Alan Lawrence Realty Trust, shall convey to the town of Foxborough two parcels of land, located in said town, to be used for conservation purposes. The first parcel is shown as Area-680,200 on a plan of

land entitled "Plan of Land in Foxborough, MA" dated July 22, 1988, drawn by GLM Engineering Consultants, Inc., a copy of which is on file in the Norfolk county registry of deeds as Plan No. 81 of 1989 in Plan Book 377; the second parcel of land is shown as Lot 3A on a plan of land entitled "Plan of Land in Foxborough, MA 38 Lakeview Road" dated October 29, 1996 drawn by Bay Colony Group, Inc., a copy of which is on file in the Norfolk county registry of deeds as Plan No. 266 of 1997 in Plan Book 447.

**SECTION 3.** The town of Foxborough shall arrange and pay for an independent appraisal, under the direction of the town, to determine the full and fair market value of all the parcels to be conveyed pursuant to sections 1 and 2. The inspector general shall review and approve said determinations of value and said review shall include an examination of the methodology utilized for said appraisal. The town shall convey the parcels authorized by section 1 only if the inspector general certifies in writing that the total value of the parcels to be conveyed pursuant to section 2, as so determined, is not less than the total value of the parcels to be conveyed pursuant to section 1, as so determined. The inspector general shall prepare a report of his review and certification and shall file said report with the joint committee on state administration of the general court.

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

Approved October 3, 1997.

**Chapter 114. AN ACT AUTHORIZING THE PARK COMMISSION OF THE TOWN OF HOLLISTON TO LEASE A CERTAIN PARCEL OF PARK LAND.**

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

**SECTION 1.** Notwithstanding the provisions of sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30, chapter 30B and sections 44A to 44M, inclusive, of chapter 149 of the General Laws, the park commission of the town of Holliston, is hereby authorized to lease a certain parcel of park land located in said town for a term not to exceed 20 years, upon such terms and conditions as it shall deem appropriate, to a town of Holliston based youth sports organization to be used for recreational purposes. Said parcel is shown as Parcel B on a plan of land prepared by Commonwealth Engineers and Consultants, Inc., dated November 1, 1988 and revised December 7, 1988 and January 3, 1989, a copy of which plan is on file with said park commission.

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

Approved October 3, 1997.

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**Chapter 115. AN ACT PROVIDING FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE JOHN A. RYAN ICE SKATING ARENA IN THE TOWN OF WATERTOWN.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Watertown is hereby authorized to enter into an agreement with Bentley College, on such terms and conditions as it shall deem to be in the best interests of the town, whereby Bentley College shall construct, at its sole expense, certain improvements to the John A. Ryan ice skating arena owned by the town, including, as a minimum, two locker room facilities, one to be designated for the private use of the town of Watertown, the other to be designated for the private use of the Bentley College hockey team, in exchange for which the town of Watertown shall enter into successive five-year fixed-price agreements with Bentley College for exclusive ice time for practice and the playing of the intercollegiate hockey games of the Bentley College hockey team, subject to the conditions stated in this act, and such additional terms and conditions as the town manager of the town of Watertown shall deem to be in the best interests of the town. The private use of one of the locker room facilities by Bentley College shall continue for as long as Bentley College shall sponsor a collegiate hockey team. The successive five-year agreements for exclusive ice time for practice and intercollegiate hockey games shall be based upon an hourly rental rate which shall be discounted by not more than 10 per cent from the standard published hourly rental fee for such time in each year of the agreement. Such discounted rental rates shall continue until the total savings realized by Bentley College as a result of the discounted rental fees equals the total initial expenditure of Bentley College for the construction of the improvements authorized by this act. Thereafter, any subsequent agreements for the exclusive use of ice time shall be at the then prevailing rate for such use.

**SECTION 2.** The design and construction of the improvements described in section 1 to be performed by Bentley College shall be subject to the approval of the town of Watertown and shall be exempt from the provisions of the General Laws related to the construction of additions to public buildings, including, but not limited to, sections 38A½; to 38O, inclusive, of chapter 7, sections 44A to 44H, inclusive, of chapter 149, but not including the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws. No public funds of the town of Watertown shall be expended for the design or construction of the said improvements.

**SECTION 3.** Prior to the initiation of any construction pursuant to this act, Bentley College shall provide the town of Watertown with a performance and payment bond in the amount of 100 per cent of the value of the improvements to be constructed and with certificates of insurance indicating the existence of such coverages as the town manager shall determine to be in the best interests of said town.

**SECTION 4.** All facilities constructed pursuant to this act shall become and shall remain the property of the town of Watertown upon acceptance by the town manager. At the termination of the use of the John A. Ryan ice skating arena by Bentley College pursuant to

the authority provided by this act, Bentley College shall surrender possession of the locker room designated for its private use, in such condition as such improvement shall be constructed pursuant hereto, ordinary wear and tear excluded.

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

Approved October 3, 1997.

## **Chapter 116. AN ACT DESIGNATING CERTAIN BRIDGES IN THE TOWN OF MIDDLEBOROUGH.**

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

**SECTION 1.** The bridge located on Center street spanning the Massachusetts Bay Transportation Authority tracks in the town of Middleborough shall be designated and known as the Sergeant William M. Smith Memorial Bridge, in memory of the late William M. Smith for his distinguished service to his country in the Vietnam War. 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 Cross street spanning the Massachusetts Bay Transportation Authority tracks in the town of Middleborough shall be designated and known as the Captain Hubert P. Loheed Memorial Bridge, in memory of the late Hubert P. Loheed for his distinguished service to his country in the Vietnam War. 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 West Grove street spanning the Massachusetts Bay Transportation Authority tracks in the town of Middleborough shall be designated and known as the PFC Gerald B. Dorr Memorial Bridge, in memory of the late Gerald B. Dorr for his distinguished service to his country in the Vietnam War. 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 Nemasket street spanning the Nemasket river in the town of Middleborough shall be designated and known as the PFC William F. Hitchcock Memorial Bridge, in memory of the late William F. Hitchcock for his distinguished service to his country in the Vietnam War. 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 located on East Grove street spanning the Nemasket river in the town of Middleborough shall be designated and known as the F2C Leo A. Gamache Memorial Bridge, in memory of the late Leo A. Gamache for his distinguished service to his country in the Korean War. 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 8, 1997.



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**Chapter 117. AN ACT PROVIDING FOR APPORTIONMENT OF ROAD IMPROVEMENT BETTERMENT ASSESSMENTS AND TO ESTABLISH A BETTERMENT FUND FOR THE TOWN OF DENNIS.**

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

**SECTION 1.** Notwithstanding the provisions of section 13 of chapter 80 of the General Laws, the board of assessors of the town of Dennis may, and at the request of the owner of the land assessed shall, apportion assessments for the laying out of private ways as town ways and the improvement thereof, or unpaid balances thereof, made under said chapter 80, into such number of equal portions so that if the assessment is for an amount between \$500 and \$1,500, the period of time shall not exceed three years, for an amount between \$1,501 and \$2,000, the period of time shall not exceed five years, and for an amount of \$2,001 or greater, the period of time shall not exceed ten years; provided, however, that if the assessment is for an amount less than \$500, there shall be no apportionment.

**SECTION 2.** The town of Dennis is hereby authorized to establish a fund which shall be known as the Private Ways Laid Out as Town Ways Betterment Fund into which fund shall be deposited all payments received from property owners assessed betterment assessments for the costs of laying out of private ways as town ways and the construction, reconstruction and repair of such ways upon acceptance as public ways, and into which may be deposited such other funds as may be appropriated by the town for such purposes. Such funds shall continue from year to year without the necessity of town meeting authorization annually. The town may appropriate from such fund, by majority vote at any special or annual town meeting, funds to be expended by the board of selectmen for the laying out, construction, reconstruction and repair of such ways.

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

Approved October 9, 1997.

**Chapter 118. AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO USE LAND CURRENTLY USED FOR PARK AND PLAYGROUND PURPOSES FOR THE CONSTRUCTION, MAINTENANCE AND USE OF A SCHOOL AND EDUCATIONAL FACILITY.**

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

**SECTION 1.** The city of Somerville is hereby authorized to use certain parcels of land located in said city and currently used for park and playground purposes for the construction, maintenance and use of a school and educational facility.

Said parcels are shown as Block A, parcels 28, 41, 47, 48 and portions of parcels 21 and 26 on the city of Somerville Assessor's Map 104.

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

Approved October 9, 1997.

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**Chapter 119. AN ACT REQUIRING DIVESTMENT OF TOBACCO STOCKS, SECURITIES OR OTHER OBLIGATIONS FROM PUBLIC PENSION FUNDS.**

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

**SECTION 1.** Subdivision (2) of section 23 of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "policy", in line 205, the following words:- and no new investment of funds shall be made in stocks, securities, or other obligations of any company which derives more than 15 per cent of its revenues from the sale of tobacco products;.

**SECTION 2.** Said subdivision (2) of said section 23 of said chapter 32, as so appearing, is hereby further amended by adding the following paragraph:-

(h) Clauses (i), (ii), and (iii) of paragraph (g) shall apply to any retirement system named in paragraph (a).

**SECTION 3.** Paragraph (h) of subdivision (2A) of said section 23 of said chapter 32, as so appearing, is hereby amended by inserting after the first sentence the following two sentences:- No public pension funds under this subdivision shall remain invested in the stocks, securities, or other obligations of any company which derives more than 15 per cent of its revenues from the sale of tobacco products; provided, however, that if sound investment policy so requires, the PRIM board may vote to spread the sale of such stocks, securities or other obligations of such company over no more than three years, so that no less than one-third the value of said investment is sold in any one year. So long as any funds remain invested in any stocks, securities, or other obligations of any such company, the PRIM board shall annually, on or before January 31, file with the clerk of the senate and the clerk of the house of representatives a report listing all such related investments held by the fund and their book value as of the preceding December first.

Approved October 15, 1997.

**Chapter 120. AN ACT AUTHORIZING THE SIMULTANEOUS HOLDING OF CERTAIN ALCOHOLIC BEVERAGE LICENSES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the simultaneous holding of certain alcoholic beverage 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:*

Notwithstanding the provisions of sections 12, 19, and 19C of chapter 138 of the General Laws or any other general or special law to the contrary, a direct or indirect shareholder, member, general partner or limited partner of The Brew House Limited Partnership, a Massachusetts limited partnership, which holds licenses pursuant to the pro-

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visions of said section 19 or said section 19C of said chapter 138, may hold a direct or indirect interest in a corporation headquartered in the commonwealth which has significant operations in the commonwealth and which holds licenses pursuant to the provisions of said section 12 of said chapter 138. A direct or indirect shareholder, member, general partner or limited partner of any such corporation which holds licenses pursuant to the provisions of said section 12, may hold a direct or indirect interest in The Brew House Limited Partnership.

Approved October 16, 1997.

**Chapter 121. AN ACT AUTHORIZING THE TOWN OF GREAT BARRINGTON TO CONTRACT FOR THE RESTORATION AND REPAIR OF GRAVE MARKERS AND MONUMENTS IN THE MAHAWE CEMETERY.**

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

**SECTION 1.** Notwithstanding the provisions of section 39M of chapter 30 and section 29 of chapter 149 of the General Laws, the board of selectmen of the town of Great Barrington is hereby authorized to contract for the restoration, repair or replacement of grave stones, fencing and other monuments in the Mahaiwe cemetery, including the preservation of those of historic significance, damaged by the tornado of 1995, on such terms and conditions as it shall deem appropriate.

**SECTION 2.** The availability of funds for the purposes described in section 1 provided pursuant to item 8800-0051 of section 2 of chapter 120 of the acts of 1995, and extended by section 2C of chapter 204 of the acts of 1996, is hereby further extended to July 31, 1998.

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

Approved October 17, 1997.

**Chapter 122. AN ACT ESTABLISHING A BOARD OF SEWER COMMISSIONERS IN THE TOWN OF NORTH BROOKFIELD.**

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

There is hereby established a three member board of sewer commissioners in the town of North Brookfield. The members of the board of sewer commissioners shall be appointed by the board of selectmen of said town. On the effective date of this act, the board of selectmen shall appoint one commissioner for a term of one year, one commissioner for a term of two years, and one commissioner for a term of three years. Thereafter, at the expiration of each term of office, the board of selectmen shall appoint each commissioner for a term of three years. The commission shall have all powers and duties vested by law

in the office of the sewer commissioner. Any vacancy in such office shall be filled in like manner. The board of selectmen may after a hearing remove a person so appointed for cause.

Approved October 17, 1997.

**Chapter 123. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN PARCELS OF LAND TO THE TAUNTON DEVELOPMENT CORPORATION.**

*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 40E to 40G, inclusive, and section 40J of chapter 7 of the General Laws, to sell and convey by deed three certain parcels of land located in the city of Taunton to the Taunton Development Corporation for municipal industrial development purposes, in accordance with and subject to all terms, conditions, covenants, easements, reservations and restrictions established therefor pursuant to section 3, said land being described in section 7.

The purchase price payable by the Taunton Development Corporation for said parcels shall be the full and fair market value of the property as of the time of conveyance to the Taunton Development Corporation, as determined by the commissioner of capital planning and operations based on an independent appraisal. The inspector general shall review and approve said appraisal and said review shall include a review 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 house and senate chairmen of the joint committee on state administration in accordance with section 5. Said Taunton Development Corporation shall pay said purchase price in full at the time of said conveyance and shall pay all costs associated with the transaction, including without limitation, the costs for the survey, the appraisals and the preparation of the deed.

**SECTION 2.** If the commissioner of capital planning and operations determines to sell the property described in section 7 to the Taunton Development Corporation, said commissioner shall not be required to comply with the provisions of section 40H of chapter 7 of the General Laws; provided, however, that the purchase price and other terms and conditions of such sale comply with section 1 and all other requirements of this act applicable thereto.

**SECTION 3.** Prior to the sale of property described in section 7, the commissioner of the division of capital planning and operations shall work in consultation with the commissioner of mental retardation to determine what terms and conditions and covenants, easements, reservations and restrictions shall be prescribed as part of any disposition of said property and the validity of any deed or any rental agreement, if any, executed by or on behalf of the commonwealth by said commissioner of the division of capital planning and



operations. Such provisions shall include, but not be limited to, proper control of the industrial park traffic and noise and environmental impact on the Dever State School, reservation of easements on said property for water, power, sewer and other utilities and access for said Dever State School, implementation of proper protections for said Dever State School's present water and sewer and other utility systems, the creation of an appropriate physical barrier between the Taunton Industrial Park and said Dever State School to ensure the privacy and safety of employees and residents thereof and to preserve the ambiance of said Dever State School.

**SECTION 4.** The purchase price paid pursuant to section 1 shall be deposited in the General Fund of the commonwealth.

**SECTION 5.** The commissioner of the division of capital planning and operations shall, 30 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 general shall issue his review and comment within 15 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 house and senate chairmen of the joint committee on state administration at least 15 days prior to execution.

**SECTION 6.** From and after any transfer of the property described in section 7 to the Taunton Development Corporation, the use thereof shall be subject to any and all covenants, easements, reservations and restrictions established pursuant to section 3.

**SECTION 7.** The parcels referred to in section 1 are described as follows:

**PARCEL 1.**

Beginning at a point, said point being the intersection of the westerly sideline of Fremont Street with the easterly line of land now or formerly of the Taunton Municipal Lighting Plant, formerly being the easterly sideline of the Penn Central Railroad right of way;

Thence N 34°48'28" W, 3710 feet more or less to a point;

Thence N 8°01'32" E, 9.17 feet to a point;

Thence N 34°48'28" W, 216.34 feet to land of the Taunton Development Corporation;

The last three courses being by said easterly line of land now or formerly of the Taunton Municipal Lighting Plant and the westerly line of land now or formerly of the Commonwealth of Massachusetts.

Thence N 31°09'18" E, 1076.65 feet by land of the Taunton Development Corporation to a point;

Thence N 74°24'00" E, 300 feet more or less to a point;

Thence S 28°32'58" E, 1315 feet more or less, to a point 5 Feet westerly of the westerly edge of a roadway surface;

Thence in a general southerly direction, along a line parallel to and 5 feet westerly of the westerly edge of a roadway surface, 335 feet more or less to a point;

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Thence S 55°11'32" W, to a point being 800 feet easterly of and perpendicular to the easterly line of said land now or formerly of the Taunton Municipal Lighting Plant and easterly sideline of said former railroad right-of-way;

Thence S 34°48'28" E, along a line being parallel to and 800 feet easterly of the easterly line of said land now or formerly of the Taunton Municipal Lighting Plant and easterly sideline of said former railroad right-of-way, to a point along the westerly sideline of said Fremont Street;

Thence southerly along the westerly sideline of said Fremont Street to its intersection with the easterly line of said land now or formerly of the Taunton Municipal Lighting Plant and easterly sideline of said former railroad right-of-way to the point of beginning.

### PARCEL 2.

Beginning at a point, said point being on the easterly side of a 217.9 acre parcel described in section one of chapter three hundred and fifty-one of the acts of nineteen hundred and ninety-three, said point also being S 24°03'45" E, 142.49 feet from the northernmost corner of parcel:

Thence S 47°31'35" E, 51.23 feet to a point;

Thence along a curve, as it deflects to the right, having a radius of 455.00 feet, an arc length of 418.63 feet to a point on the easterly side of said 217.9 acre parcel;

The last two courses being by land now or formerly of the commonwealth of Massachusetts;

Thence N 24°03'45" W, 450.59 feet by said 217.9 acre parcel to the point of beginning.

Parcel 3 is shown as the Sewerage Treatment Plant parcel, Parcel No. 2 on a plan entitled: "Camp Myles Standish Taunton, Mass. Boundary Survey Map, Scale 1" = 400', Sheet No. 1, U.S. Engineer Office, Providence, R.I. dated February 26, 1943, File No. TA-4-153".

All of said boundaries being subject to confirmatory field survey to be performed at a later date.

**SECTION 8.** In the event that the property described in section 7 is not used for the purposes described in section 1 within three years of the effective date of this act, or if the use for the aforementioned purpose is abandoned at any time or if any other use is undertaken on the property, the property shall revert to the commonwealth upon notice by the commissioner of the division of capital planning and operations.

Approved October 17, 1997.

## Chapter 124. AN ACT ESTABLISHING A SEWER DISTRICT IN THE TOWN OF COLRAIN.

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

**SECTION 1.** The inhabitants of the town of Colrain, liable to taxation in said town

and residing within the territory served by the Colrain Sewer District, and bounded and described as follows:

*LOT ONE.*

Beginning at the intersection of the centerline of McClellan Brook with the east line of Call Road and running thence southerly along the east line of Call Road five hundred feet to a point; thence N. 86°45' E. seven hundred feet to a corner; thence northerly to a point that is N. 77°44'50" E. seven hundred feet from an iron pin at the southeast corner of Lot F as shown on Plan of Subdivision For The Kendall Company and filed in Franklin County Registry of Deeds, Plan Book Twenty-two, Page Twenty-four, these last two courses being along land to be conveyed to Griswoldville Water District by The Kendall Company; thence N. 38°26'50" W. seven hundred four and two tenths feet through land of The Kendall Company to an iron pin at the southeast corner of land of Joseph V. King, et ux; thence N. 23°46'25" W. two hundred twenty-eight and seventy-eight one hundredths feet to an iron pin; thence N. 27°09' W. two hundred thirty-three and thirty-three one hundredths feet to an iron pin; thence N. 21°16' W. one hundred thirty-one and eighty-four one hundredths feet to an iron pin at the southeast corner of land of Robert M. Shaw, et ux; thence N. 4°53'45" E. five hundred twenty and eighty-four one hundredths feet to a stone bound at the southeast corner of land of Frank C. Dewey, et ux; thence northerly along the east line of the house lots on the east side of High Street to land of Leon E. Dennison, et ux; thence northerly through land of said Dennison, et ux, land of Hermon G. Herzig, et ux and land formerly of H. J. Smith Estate to a stone bound at the northeast corner of land of George F. Graziola, et ux, and the southeast corner of land of William F. Tetreault, et ux; thence N. 31°17'15" E. five hundred three and eighty-three one hundredths feet to an iron pin; thence N. 1° E. four hundred feet through land of The Kendall Company to a corner; thence N. 89° W. through land of The Kendall Company to the east line of Main Street (state highway from Griswoldville to Colrain Village); thence southerly along the east line of Main Street to Call Road; thence southerly along the east line of Call Road to the place of beginning.

*LOT TWO.*

*TRACT ONE.*

Beginning at an iron pin on the westerly line of Main Street (also known as Route 112), said iron pin being at the southeasterly corner of land now or formerly of American Fiber & Finishing, Inc. (See Book 2036, Page 69); thence S 17°12'32" W a distance of 126.69 feet to a point; thence S 12°30'13" W a distance of 276.30 feet to a point; thence S 15°23'03" W a distance of 167.05 feet to a point; thence S 22°05'33" W a distance of 96.31 feet to a point; thence S 27°58'33" W a distance of 86.38 feet to a point; thence S 35°05'33" W a distance of 62.11 feet to a point, the last six courses being along the westerly line of said Main Street; thence S 60°49'38" W in part along the westerly line of said Main Street and in part across the North River a distance of 290.52 feet to a point; thence N 9°22'50" W a distance of 92.73 feet to an iron pin; thence N 16°36'20" W a distance of 123.42 feet to an iron pin; thence N 19°56'50" W a distance of 217.55 feet to an iron pin; thence N 49°55'50" W a distance of 88.90 feet to a point at land now or formerly of Wayne D. Wood, the last



four courses being along other land of The Kendall Company; thence N 12°40'54" E a distance of 122.15 feet to a point; thence N 25°24'43" W a distance of 190.84 feet to a point at other land of The Kendall Company, the last two courses being along land now or formerly of said Wayne D. Wood; thence N 71°07'44" E along said other land of The Kendall Company a distance of 69.00 feet to a point in the centerline of said North River; thence in a generally southerly direction along the centerline of said North River a distance of 275 feet, more or less, to a point; thence N 72°12'19" E a distance of 69.00 feet to an iron pin; thence continuing N 72°12'19" E a distance of 275.74 feet to an iron pin; thence N 25°38'42" E a distance of 346.65 feet to an iron pin; thence S 73°35'27" E a distance of 130.33 feet to the point of beginning, the last five courses being along land of said American Fiber & Finishing, Inc. Containing 6.8 acres, more or less.

Together with and subject to the rights and agreements set forth in a document entitled "Grant of Cross-Easements and Shared Plant Services", between The Kendall Company and American Fiber & Finishing, Inc., dated April 17, 1986 and recorded in the Franklin County Registry of Deeds in Book 1945, Page 122.

Being shown as Parcel 1 on a Plan entitled "LAND IN COLRAIN (Franklin Co.) MA SURVEYED FOR THE KENDALL COMPANY" dated November 9, 1987 and recorded in the Franklin County Registry of Deeds in Plan Book 67, Pages 70, 71, and 72.

*TRACT TWO.*

Beginning at an iron pin on the Westerly line of Shelburne Falls-Colrain Street (also known as Route 112), said pin also being at the southeasterly corner of land now or formerly of Robert M. Levenson (Book 1463, Page 288); thence on a curve to the left with a radius of 800 feet an arc length of 178.52 feet to a Massachusetts Highway Bound; thence S 10°35'52" E a distance of 561.45 feet to a Massachusetts Highway Bound; thence S 17°50' E a distance of 442.76 feet to a point; thence S 1°48'23" E a distance of 220.54 feet to a Massachusetts Highway Bound; thence S 0°14' E a distance of 34.73 feet to an iron pin at other land of The Kendall Company, the last five courses being along said Shelburne Falls-Colrain Street; thence N 87°43'43" W along a dam and along land of The Kendall Company and land now or formerly of Edward A. Slowinski and Theresa A. Slowinski a distance of 246.46 feet to an iron pin situated at the end of said dam; thence N 21°18' W a distance of 70.93 feet to an iron pin; thence N 3°20' W a distance of 100.92 feet to an iron pin; thence N 32°17' W a distance of 76.93 feet to an iron pin; thence S 68°00' along another dam a distance of 112.42 feet to an iron pin; thence S 73°44' W along said second dam a distance of 77.03 feet to an iron pin; thence N 40°38'43" W a distance of 33.90 feet to an iron pin; thence N 62°17'56" W a distance of 96.76 feet to an iron pin; thence N 64°17' W a distance of 231.55 feet to an iron pin; thence N 64°59' W a distance of 106.82 feet to an iron pin, the last nine courses being along land now or formerly of said Edward A. Slowinski and Theresa A. Slowinski; thence N 14°33'34" W a distance of 24.83 feet to a concrete post; thence N 29°53' W a distance of 90.30 feet to a concrete post; thence N 58°31' W a distance of 86.77 feet to a concrete post; thence N 55°13' W a distance of 92.76 feet to a concrete post; thence N 78°58' W a distance of 130.5 feet to a concrete post; thence N 36°38' W a dis-



tance of 74.17 feet to a concrete post; thence N 23°34' W a distance of 80.46 feet to a concrete post; thence N 17°54' W a distance of 117.90 feet to a concrete post, the last eight courses being along land now or formerly of Sarah Lucile Lively; thence N 40°36' E along land now or formerly of said Sarah Lucile Lively and land now or formerly of Benjamin R. Eastman, et ux a distance of 263.23 feet to an iron pin; thence continuing N 40°36' E a distance of 116.58 feet to an iron pin; thence continuing N 40°36' E a distance of 26 feet, more or less, to the centerline of the West Branch of the North River, the last two courses being along land now or formerly of said Benjamin R. Eastman, et ux; thence in a generally southerly direction along the centerline of the West Branch of said North River to a point; thence S 87°42' E to an iron pin; thence continuing S 87°42' E a distance of 206.38 feet to an iron pin; thence continuing S 87°42' E to the centerline of the East Branch of said North River; thence in a generally northerly and northwest direction along the centerline of the East Branch of said North River to a point, the last four courses being along land now or formerly of Leroy A. Lively, et ux and Alphonse E. Lively, et ux; thence N 28°29' E a distance of 36 feet, more or less, to an iron pin; thence continuing N 28°29' E a distance of 285.67 feet to an iron pin; thence S 78°17' E a distance of 440.87 feet to the point of beginning, the last three courses being along land now or formerly of Robert M. Levenson.

Together with right of way over a driveway, through a ravine, to Adamsville Road.

SUBJECT TO power line rights of way of New England Power Company as recorded in the Franklin County Registry of Deeds in Book 1089, Page 428 and Book 1111, Page 268 to the extent the same may affect the premises.

SUBJECT TO power line rights of way now or formerly of the Connecticut River Transmission Company as recorded in said Registry in Book 564, Page 305 and Book 570, Page 124 to the extent the same may affect the premises.

Being shown on an unrecorded plan of land entitled "Plan for THE KENDALL COMPANY at Griswoldville, Colrain, Massachusetts" dated September 24, 1981 and prepared by F. Deane Avery Associates.

*TRACT THREE.*

*Parcel One.*

A certain piece of land situated in Colrain and bounded and described as follows: Beginning on the west side of North River, so called, at the westerly end of a dam; thence eastwardly across said River to a County road; thence Southerly by said County road to a bridge; thence eastwardly across said County road; thence Southwardly on the bank of the canal to land formerly of Joseph Griswold, Jr.; thence westwardly across said canal to the said County road; thence northwardly by the east side of said County road to said bridge; thence across said road; thence west twenty feet; thence northwardly parallel with said County road to said dam; thence across said river to the first mentioned bound. Meaning to convey a privilege of keeping up a dam and flowing the land and from the said dam to the bridge a piece of land twenty feet wide with a privilege of going to and from said canal for the purpose of repairing.

*Parcel Two.*

A piece of land situated in said Colrain on the west side of said County Road, beginning at a stake and stones by said County road; thence westwardly to east bank of said river; thence northwardly by said river one hundred feet to a stake and stones; thence easterly to said road to a stake and stones; thence Southerly by said road one hundred feet to the first mentioned bound.

Subject to the reservation of surplus water described in deed of John Smith and Edward G. Smith to Joseph Griswold, Jr. dated April 8, 1836 and recorded in the Franklin County Registry of Deeds in Book 95, Page 85.

The foregoing *Parcel One* and *Parcel Two* are described in deed of John Smith and Edward G. Smith to Joseph Griswold, Jr., dated April 8, 1836 and recorded in the Franklin County Registry of Deeds in Book 95, Page 85.

*TRACT FOUR.*

Bounded on the west by Main Street (also known as Route 112); bounded on the north by land now or formerly of Wesley A. Stanley; bounded on the east by land now or formerly of said Wesley A. Stanley and Church Street; and bounded on the south by other land of The Kendall Company. (TRACT FIVE herein)

*TRACT FIVE.*

Bounded on the west by said Main Street (also known as Route 112); bounded on the north by other land of The Kendall Company (TRACT FOUR herein); bounded on the east by High Street and land now or formerly of John E. Coutu, et ux and land now or formerly of Sylvane and Dorella LaPierre and bounded on the South by land now or formerly of American Fiber & Finish, Inc.

*TRACT SIX.*

Beginning at an iron pin located at the easterly sideline of Main Street (also known as Route 112), said pin also marking the southwest corner of land now or formerly of Wilfred J. Coutu (see Book 1131, Page 147); thence S 84°17' E along land now or formerly of said Wilfred J. Coutu a distance of 143.80 feet to an iron pin at land now or formerly of Ernest A. Bruno, et ux; thence S 2°04' E along land now or formerly of said Ernest A. Bruno, et ux a distance of 134.70 feet to an iron pin at land now or formerly of Robert M. Shaw, et ux; thence N 87°39'30" W a distance of 52.35 feet to an iron pin; thence S 3°31' W a distance of 130.18 feet to an iron pin in the northerly side of a proposed street, the last two courses being along land now or formerly of said Robert M. Shaw, et ux; thence N 76°32'30" W along said proposed street a distance of 153.26 feet to an iron pin at the easterly sideline of said Main Street; thence N 22°16'30" E a distance of 92.0 feet to an iron pin; thence N 16°23'30" E a distance of 101.75 feet to the iron pin at the point of beginning, the last two courses being along the easterly sideline of said Main Street.

Being shown as "Dr. B. J. Kendall Co. Land of The Kendall Company" on a plan of land entitled "Subdivision for The Kendall Company at Griswoldville, Colrain, Massachusetts", dated October 6, 1961, drawn by F. Deane Avery Associates, and recorded in the Franklin County Registry of Deeds in Plan Book 22, Page 23.

Meaning and intending to convey all the remaining real estate owned by The Kendall Company located in Colrain, Franklin County, Massachusetts, EXCEPT for the following two parcels, bounded and described as follows:

*PARCEL ONE.*

Beginning at a point located at the intersection of two stone walls, said point being at the northwesterly corner of land now or formerly of Wayne D. Wood (Book 900, Page 100); thence N 01°47'29" W along a stone wall a distance of 104.46 feet to a point; thence N 05°12'29" W along said stone wall a distance of 318.67 feet to a point; thence N 10°22'29" W along said stone wall a distance of 187.17 feet to a point; thence N 06°24'29" W along said stone wall a distance of 270.99 feet to a point; thence S 76°22'31" E in part along another stone wall a distance of 497.53 feet to an iron pin; thence S 48°41'15" E a distance of 62.57 feet to an iron pin; thence S 02°26'51" E a distance of 151.89 feet to an iron pin; thence N 81°42'45" E a distance of 60.94 feet to an iron pin; thence continuing N 81°42'45" E a distance of 24 feet, more or less, to a point in the centerline of an old river bed; thence in a generally easterly direction along the centerline of said old river bed 485 feet, more or less, to a point in the centerline of the North River, the last ten courses being along land now or formerly of the Trustees of the Slowinski Family Trust; thence Southwesterly and southerly along the centerline of said North River a distance of 575 feet, more or less, to a point; thence S 71°07'44" W a distance of 69.00 feet to a point at the end of a stone wall; thence continuing S 71°07'44" W along said stone wall and along land now or formerly of said Wayne D. Wood a distance of 577.76 feet to the point of beginning. Containing 11.1 Acres, more or less.

Being shown as Parcel 3 on a Plan entitled "LAND IN COLRAIN, (Franklin Co.), MA SURVEYED FOR THE KENDALL COMPANY" dated November 10, 1987 and recorded in the Franklin County Registry of Deeds in Plan Book 67, Pages 70, 71, and 72.

*PARCEL TWO.*

Beginning at an iron pin on the northwesterly line of Main Street (also known as Route 112), said pin being at the intersection of the northwesterly line of said Main Street with the northerly line of a ten foot traveled gravel way; thence N 78°11'16" W along said 10 foot traveled gravel way a distance of 165.45 feet to an iron pin; thence N 30°41'16" W a distance of 38.45 feet to an iron pin; thence N 14°20'44" E a distance of 296.60 feet to a stone bound; thence N 69°57'38" W a distance of 67.03 feet to a stone bound in a stone wall; thence N 12°40'54" E along said stone wall a distance of 123.58 feet to a point, the last five courses being along land now or formerly of Wayne D. Wood; thence S 49°55'50" E a distance of 88.09 feet to a point; thence S 19°56'50" E a distance of 217.55 feet to a point; thence S 16°36'20" E a distance of 123.42 feet to a point; thence S 9°22'50" E a distance of 92.73 feet to a point on the northwesterly line of said Main Street, the last four courses being along other land of The Kendall Company (*PARCEL 1* hereinabove); thence S 60°49'38" W along the northwesterly line of said Main Street a distance of 55.08 feet to the point of beginning. Containing 1.471 Acres, more or less.



Being shown as Parcel 2 on a Plan entitled "LAND IN COLRAIN, (Franklin Co.), MA SURVEYED FOR THE KENDALL COMPANY" dated November 9, 1987 and recorded in the Franklin County Registry of Deeds in Plan Book 67, Pages 70, 71, and 72, shall constitute a sewer district and are hereby made a corporate by the name of the Colrain Sewer District, hereinafter called the district, for the purpose of supplying themselves with sewage collection and disposal system for domestic and other purposes, with power to establish and to relocate and discontinue the same, to regulate the use of such sewer system and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of the district, subject to all General Laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall have the power to prosecute and defend all actions relating to its property and affairs.

**SECTION 2.** For the purposes of aforesaid, the district, acting by and through its board of sewer commissioners hereinafter provided for, may contract with any municipality, acting through its sewer department, authority to furnish same being hereby granted, and may take by eminent domain under chapter 79 or chapter 80A of the General Laws, or acquire by lease, purchase or otherwise, and hold land, or any portion thereof, within the town of Colrain and not already appropriated for public purposes; and for said purposes may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collection, storing, holding, processing, purifying and disposing of effluent and for conveying the same to any part of the district. The district may construct and maintain on the lands acquired and held under this act proper tanks, pumping plants, buildings, processing plants, fixtures and other structures including also the establishment and maintenance of a collection system and treatment facility, and may make excavations, procure and operate machinery and provide such other means and appliances, and do such other things as may be necessary for the establishment and maintenance of complete and effective sewage collection and disposal system; and for that purpose may construct pipelines and establish pumping works, and may construct, lay, acquire and maintain conduits, pipes and other works under or over any land, water courses, railroad, railways and public or other ways, and along such ways, in said town, in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining, operating and repairing such conduits, pipes and other works, and for all proper purposes of this act, the district may dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such ways; provided, that the manner in which all things are done upon any such way shall be subject to the direction of the selectmen of the town of Colrain. The district shall not enter upon, or construct or lay any conduit, pipe or other works within, the location of any railroad corporation except at such time and in such manner as it may be agreed upon with such corporation, or, in case of failure so to agree, as may be approved by the department of public utilities. The district may enter upon any land for the purpose of making surveys, test wells or pits and borings, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act.



**SECTION 3.** Any person sustaining damages in his property by any taking under this act or any other thing done under authority thereof may recover such damages from the district under chapter 79 or chapter 80A of the General Laws.

**SECTION 4.** For the purpose of paying the necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, the district may borrow, in addition to amounts authorized by chapter 44 of the General Laws, \$5,000,000 from time to time as may be necessary, and may issue bonds or notes therefor, which shall bear on their face the words Colrain Sewer District Loan Act of 1997. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than 30 years from their dates. Indebtedness incurred under this act shall be subject to the provisions of said chapter 44 pertaining to such districts.

**SECTION 5.** The district shall, at the time of authorizing said loan or loans, provide for the payment thereof in accordance with section 4 of this act; and, when a vote to that effect has been passed, a sum which, with the income derived from sewer rates, will be sufficient to pay the annual expenses of operating its sewer works and the interest as it accrues on the bonds or notes issued as aforesaid by the district, and to make such payments on the principal as may be required under this act, shall without further vote be assessed upon the district by the assessors of said town of Colrain annually thereafter until the debt incurred by said loan or loans is extinguished.

**SECTION 6.** Any land taken or acquired under this act shall be managed, improved and controlled by the board of sewer commissioners hereinafter provided for, in such manner as they shall deem for the best interest of the district. All authority vested in said board by this section shall be subject to section 9.

**SECTION 7.** Whenever a tax is duly voted by the district for the purposes of this act, the clerk shall send a certified copy of the vote to the assessors of said town, who shall assess the same on property within the district in the same manner in all respects 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 sewer system under this act if, in the judgement of the board of sewer commissioners hereinafter provided for, after a hearing, due notice whereof shall have been given, such estate is so situated that it will receive no aid from the said sewer system, or if such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with sewer from said 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 such tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by said board of sewer commissioners to said assessors, at the same time at which the clerk shall send a certified copy of the vote as aforesaid. The assessment shall be committed to the town collector, who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes.

**SECTION 8.** Any meeting of the voters of the territory included within the boundaries set forth in section 1 to be held prior to the acceptance of this act, and any meeting of the voters of the district to be held prior to the qualification of a majority of the sewer commissioners, shall be called, on petition of ten or more legal voters therein, by a warrant from the selectmen of said town, or from a justice of the peace, directed to one of the petitioners, requiring him to give notice of the meeting by posting copies of the warrant in two or more public places in the district seven days at least before the time of the meeting. Such justice of the peace, or one of the selectmen, shall preside at such meeting until a clerk is chosen and sworn, and the clerk shall preside until a moderator is chosen. At any meeting held hereunder prior to the acceptance of this act, after the choice of a moderator for the meeting, the question of the acceptance of this act shall be submitted to the voters, and if it is accepted by a majority of the voters present and voting thereon it shall thereupon take effect, and the meeting may then proceed to act on the other articles in the warrant. After the qualification of a majority of the sewer commissioners, meetings of the district shall be called by warrant under their hands, unless some other method be provided by by-law or vote of the district.

**SECTION 9.** The district shall, after the acceptance of this act as aforesaid, elect by ballot, either at the same meeting at which this act shall have been accepted, or thereafter, at an annual meeting or at a special meeting called for the purpose, four persons, inhabitants of and voters in the district, one person from Zone C (Call Road/Griswoldville Street), said four commissioners shall appoint a fifth commissioner who shall be a representative from the industries contained within the district, to hold office, two until the expiration of three years, two until the expiration of two years, and one who is appointed until the expiration of one year, from the day of the next succeeding annual district meeting, to constitute a board of sewer commissioners; and at every annual district meeting following such next succeeding annual district meeting such commissioners as are elected shall be elected by ballot for the term of three years to fill those expired terms and shall appoint annually the fifth commissioner. The date of the next annual meeting shall be fixed by by-law or by vote of the board of sewer commissioners, but in no event shall it be later than 15 months subsequent to the date on which the sewer commissioners were first elected. All the authority granted to the district by this act, except sections 4 and 5, and not otherwise specifically provided for, shall be vested in said board of sewer commissioners, who shall be subject, however, to such instructions, rules and regulations as the district may by vote impose. At the meeting at which said sewer commissioners are first elected and at each annual district meeting held thereafter, the district shall elect by ballot, each for a term of one year, a clerk and a treasurer of the district. The treasurer shall not be a sewer commissioner, and shall give bond to the district in such an amount as may be approved by said sewer commissioners and with a surety company authorized to transact business in the commonwealth as surety. A majority of said sewer commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by said district at any legal meeting called for the purpose. No money shall be drawn from the treasury of the district on account of its sewer works

except upon a written order of said sewer commissioners or a majority of them.

**SECTION 10.** Said board of sewer commissioners shall fix just and equitable prices and rates for the use of the sewer, and shall prescribe the time and manner of payment. The income of the sewer works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they shall accrue upon any bonds or notes issued under authority of this act. If there should be a net surplus remaining after providing for the aforesaid charges, it may be appropriated for such future new construction as said sewer commissioners may recommend, and in case a surplus should remain after payment for such new construction, the sewer rates may be reduced proportionately. If in any year there should be a deficit of revenue, the sewer commissioners shall in the following year fix the rate so as to meet such deficit together with the estimated operating costs including interest and debt. Said sewer commissioners shall annually, and as often as the district may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of receipts and expenditures.

**SECTION 11.** The district may adopt by-laws, prescribing by whom and how meetings of the district may be called, notified, and conducted; and, upon the application of ten or more legal voters in the district, meetings may also be called by warrant as provided in section 8. The district may also establish rules and regulations for the management of its sewer works, not inconsistent with this act or with any other provision of law, and may choose such other officers not provided for in this act as it may deem necessary or proper.

**SECTION 12.** Whoever wilfully or wantonly corrupts or diverts any effluent obtained under this act, or wilfully or wantonly injures any pipe or other property owned or used by the district for any of the purposes of this act, shall forfeit and pay to the district three times the amount of damages assessed therefor, to be recovered in an action of tort, and upon conviction of any of the above wilful or wanton acts shall be punished by a fine of not more than \$300 or by imprisonment for not more than one year, or both.

**SECTION 13.** Upon a petition in writing addressed to said board of sewer commissioners requesting that certain real estate, accurately described therein, located in said town and not otherwise served by a public sewer system be included within the limits thereof, and signed by the owners of such real estate, or a major portion of such real estate, said sewer commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall within ten days file with the town clerk of said town and with the state secretary an attested copy of said petition and vote; and thereupon said 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 1.

**SECTION 14.** This act shall take full effect upon its acceptance by a majority vote of the voters of the territory included within the district by section 1 present and voting thereon, by the use of a check list, at a district meeting called, in accordance with section 8, within four years after its passage.

Approved October 17, 1997.



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## **Chapter 125. AN ACT AUTHORIZING THE WAREHAM FIRE DISTRICT TO ESTABLISH A BETTERMENT RESERVE FUND.**

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

Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the Wareham Fire District is hereby authorized to establish a separate fund to be known as the Betterment Reserve Fund, which shall be kept separate and apart from other monies of said district by the treasurer of said district. All betterment payments, apportioned and unapportioned and received by said district shall be deposited into said fund.

The treasurer may invest such funds in the manner authorized by sections 54 and 55 of said chapter 44.

The principal and interest thereon shall be reserved for appropriation for the payment of said district's betterment debt. Any excess in said fund may be transferred to the general fund of said fire district.

Approved October 17, 1997.

## **Chapter 126. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF BELCHERTOWN.**

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

**SECTION 1.** Any holder of an elective office in the town of Belchertown may be recalled therefrom by the qualified voters of the town as provided in this act.

**SECTION 2.** Any qualified voter of the town may make and file with the town clerk an affidavit containing the name of the elected official sought to be recalled and a statement of grounds for removal. The town clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of petition blanks for recall. Said blanks shall be issued by the town clerk with his signature and official seal attached thereto and shall be dated and addressed to the selectmen. Said blanks shall contain the name of the person to whom issued, the number of blank copies so issued, the name of the elected official 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 said office. A copy of the petition shall be entered in a record book to be kept in the office of town clerk. Said recall petition shall be returned and filed with the town clerk within 21 days after the filing of the affidavit. Said petition before being returned and filed shall be signed by qualified voters of the town, equal in number to at least 25 per cent of the average total vote in the three most recent annual town elections, but not less than 500 qualified voters of the town. To every signature shall be added the place of residence of the signer, giving the street and number. Said recall petition shall be submitted at or before five o'clock in the afternoon of the Monday preceding the day on which it must be filed, to the registrars of voters in said town, and the registrars shall forthwith certify thereon the number of signatures which are names of voters in said town.



**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the selectmen within three business days, and the selectmen shall forthwith give written notice to said elected officer of the receipt of said certificate and shall, if the said officer sought to be 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 65 nor more than 90 days after the date of the town clerk's certificate that a sufficient petition is filed; provided, however, that if any other town election is to occur within 85 days after the date of said certificate, the selectmen may, at their discretion, postpone the holding of the removal 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 in this section.

**SECTION 4.** Any elected officer who has been removed by a vote at the removal election may be a candidate to succeed himself in an election to be held to fill such vacancy. The nomination of all candidates, the publication of the warrant for the removal election and any election to fill a vacancy caused by a removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided by this act. A majority of those voting at the removal election shall be sufficient to recall such elected officer.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the removal election. If said incumbent is not removed, he shall continue in office for the remainder of his unexpired term, subject to recall as before. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office for the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall be deemed removed and the office vacant.

**SECTION 6.** Ballots used in the recall election in said town shall submit the following propositions in the following 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 mark may vote for either of such propositions. Under the proposition shall appear the word "candidates" and the direction "Vote for One" and beneath this the names of candidates nominated as hereinbefore provided. In the case of machine voting, or punch card balloting, or other forms of balloting, appropriate provision shall be made to allow the same intent of the voter. If a majority of the votes cast on the recall question is in the affirmative, then the candidate receiving the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast on the recall question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted, or take any action relative thereto.

**SECTION 7.** No recall petition shall be filed against an elected officer of said town within six months after he takes office, nor in the case of an elected officer subjected to a recall election and not removed thereby, until at least six months after such recall election.

**SECTION 8.** No person who has been recalled from an elected office in said town, or 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 resignation.

**SECTION 9.** This act shall take effect upon its passage.

Approved October 23, 1997.

## **Chapter 127. AN ACT ESTABLISHING THE QUINEBAUG AND SHETUCKET RIVERS VALLEY HERITAGE DISTRICT AND COMMISSION.**

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

**SECTION 1.** There is hereby established the Quinebaug and Shetucket Rivers Valley Heritage District, hereinafter referred to as the district, which shall include the towns of Charlton, Dudley, Oxford, Southbridge, Sturbridge and Webster, to recognize the significant historic, cultural, and natural resources of the Quinebaug and Shetucket Rivers Valley, and the French River, and to preserve and interpret them for the education and inspiration of present and future generations; and nothing herein shall be construed to limit the rights of private property owners, or the towns of the commonwealth to develop the lands, buildings and resources in the manner they determine appropriate. It is the purpose of this act to provide a management framework to assist the commonwealth and the units of local government of the district in the development and implementation of integrated cultural, historical, land and water resource management programs in cooperation with the federal government and the state of Connecticut in order to retain, enhance and interpret the significant values of the lands, water and structures in the district.

**SECTION 2.** There is hereby established a commission to be known as the Quinebaug and Shetucket Rivers Valley Heritage District Commission, hereinafter referred to as the commission, which may coordinate the activities and establish cooperative agreements with federal, state and local governments and private business and organizations to further historic preservation, cultural conservation, natural area protection, tourism and compatible revitalization and development; establish guidelines and prepare or assist in the preparation of programs and exhibits including recognition, preservation, promotion, interpretation and economic revitalization of historic and natural resources; advise and assist with loan or grant applications; provide loans and grants from funds appropriated for that purpose to buildings, sites, resources and objects which are included or eligible for including on the National Register of Historic Places, the State Register of Historic Places or for the purpose of providing educational and cultural programs which encourage appreciation of the resources of the district; and prepare and implement a unified historic preservation and interpretive plan for the district consistent with the Cultural Heritage and Corridor Management Plan prepared by the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission in accordance with the provisions of Public Law 103-449 (16 USC 461), and any subsequent amendments or plans insofar as said plans relate to the district.

**SECTION 3.** The commission shall consist of nine persons to be appointed by the governor, four of whom shall be representatives of local government from the towns within the district, who shall serve for three years, two of whom shall be persons who are residents of the district to represent other interests the governor deems appropriate, who shall serve for three years, and three of whom shall be persons who shall be the commissioner of the department of environmental management, the state historic preservation officer, and the director of the Massachusetts office of travel and tourism or their designees who shall serve ex officio.

A vacancy in the commission shall be filled in the manner in which the original appointment was made. Any member of the commission appointed for a definite term may serve after the expiration of such term until a successor is appointed and qualified.

Members of the commission shall receive no pay on account of their service on the commission, but may receive reasonable expenses for travel when engaged in commission business, provided such expenses are not reimbursed by any other source.

The chairperson of the commission shall be elected by the members of the commission for a term of one year, and may be eligible for reelection to subsequent terms. A simple majority of the members shall constitute a quorum for the transaction of business. The commission shall meet at least quarterly and at the call of the chairperson or a majority of its members.

**SECTION 4.** The commission may for the purpose of carrying out this act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the commission may deem advisable. The commission may adopt such by-laws, and promulgate such rules and regulations, consistent with this act, as it deems necessary to carry out its functions. When so authorized by the commission, any member or agent of the commission may take action which the commission is authorized to take.

The commission may establish and appoint one or more technical advisory groups and subcommittees to provide technical advice in financing, historic preservation, natural resource preservation, recreation, tourism, and intergovernmental coordination. Notwithstanding any other provision of law, the commission may seek and accept, and dispose of donation of funds, property, or services from individuals, foundations, corporation, and other private entities and from public entities, for the purpose of carrying out its duties. The commission may use funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money. The commission may obtain by purchase, rental, donation or otherwise, such property, facilities, and services as may be needed to carry out its duties. The commission may acquire real property, or interests in real property in the district by gift, by rental or by purchase from a willing seller with money which was given, bequeathed or appropriated to the commission on the condition that such money would be used to purchase real property, or interest in real property in the district.

The commission may establish such advisory groups as the commission deems necessary to ensure open communication with, and assistance from, the Secretary of the United States Department of the Interior, the commonwealth, political subdivisions of the



commonwealth and interested persons.

The commission may enter into cooperative agreements with the Secretary of the United States Department of the Interior, the commonwealth, with any political subdivision of the commonwealth or with any person.

The commission is authorized to: coordinate activities of and establish cooperative agreements with federal, state, and local governments and private businesses and organizations in order to further historic preservation, cultural conservation, natural area protecting and compatible revitalization; establish guidelines and standards for projects and prepare programs and exhibits, consistent with standards established by the National Park Service for preservation of historic properties including interpretive methods, that will further the recognition, preservation, promotion, interpretation and economic revitalization of the historic and natural resources in the district; provide advice and assistance in preparation of loan or grant application to the commission and application for loan or grants from the federal or nonfederal sources in furtherance of the purposes of this act; make loans and grants, from funds appropriated for that purpose from funds donated or otherwise made available to the commission, for the purpose of conserving and protecting sites, buildings, resources and objects which are included or eligible for inclusion on the National Register of Historic Places or for the purposes of providing educational and cultural programs which encourage appreciation of the resources in the district; prepare and implement a study report which shall incorporate in whole or in part the plan prepared by the Quinebaug and Shetucket Rivers Valley Heritage District Commission and shall present a unified historic preservation and interpretive plan for the district. The report shall include an analysis of the methods and means of inventorying, preserving, and interpreting the historical, cultural and natural resources of the district along with recommendations concerning utilization of these resources and coordination of activities within the district.

Approved October 24, 1997.

## **Chapter 128. AN ACT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF BELMONT.**

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

**SECTION 1.** Notwithstanding any limitations imposed by section 11 of chapter 138 of the General Laws as to the time and manner of voting on the questions or section 17 relative to the number of such licenses authorized to be held or any other general or special law to the contrary, the board of selectmen of the town of Belmont shall cause to be placed on the official ballot used in said town of Belmont by the registered voters for the election of officers at the annual town meeting to be held in the year 1998 the following two questions:-



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**Chap. 128**

(a) "Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine to be drunk on the premises in restaurants having at least 39 but not more than 125 seats; provided, that not more than eight such licenses shall be in effect?"

YES \_\_\_\_\_

NO \_\_\_\_\_

If a majority of the votes cast in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of beer and wine to be drunk on the premises in restaurants having at least 39 but not more than 125 seats; provided, that not more than eight such licenses shall be in effect. Such licenses shall be subject, however, to all other provisions of said chapter 138.

(b) "Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages to be drunk on the premises in restaurants having at least 100 but not more than 125 seats; provided, that not more than eight restaurant alcohol licenses of any type shall be in effect?"

YES \_\_\_\_\_

NO \_\_\_\_\_

If a majority of the votes cast in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of all alcoholic beverages in restaurants having at least 100 but not more than 125 seats; provided, that not more than eight restaurant alcohol licenses of any type shall be in effect. Such licenses shall be subject, however, to all other provisions of said chapter 138.

**SECTION 2.** The board of selectmen of the town of Belmont is hereby authorized and directed to include a summary of the aforesaid question including a statement of its position on the ballot with said questions.

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

Approved October 24, 1997.

**Chapter 129. AN ACT EXTENDING THE EFFECTIVE DATE OF THE LAW  
RELATIVE TO LISTS OF RESIDENTS OF CITIES AND TOWNS.**

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

Section 58 of chapter 475 of the acts of 1993 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Section 2A shall take effect on January 1, 1999.

*Emergency Letter: 10/27/97 @ 3:55 P.M.*

Approved October 24, 1997.

**Chapter 130. 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.** Section 1 of chapter 322 of the acts of 1996 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Parcel No. 2. A parcel known as the Chase Street Playground, consisting of two parcels of land; the first being the land with the buildings thereon, numbered 30-32 Chase Street, supposed to contain 3,765 square feet, being on Lot 24, C. and W. Plan and being the same premises described in deed recorded at the north Essex registry of deeds, Book 1223, Page 136; said parcel having been acquired by an Instrument of Taking recorded at said registry of deeds, Book 1257, Page 640, and the second parcel being known as the land and buildings thereon numbered 26-28 Chase Street, being part of Lots 24 and 25, C. and W. Plan, supposed to contain approximately 4,860 square feet and being the same premises described in deed recorded at the north Essex registry of deeds, Book 1223, Page 136; said parcel having been acquired by an Instrument of Taking recorded at said registry of deeds, Book 1318, Page 667.

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

Approved October 28, 1997.

**Chapter 131. AN ACT AUTHORIZING AND DIRECTING THE CITY OF QUINCY RETIREMENT BOARD TO GRANT CREDITABLE SERVICE TO A CERTAIN EMPLOYEE.**

*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 city of Quincy retirement board is hereby authorized and directed to credit Fred J. Prezioso with creditable service, for the period from January 1976 to March 1978, inclusive, for the purpose of determining his superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws; provided, however, that before the date any retirement allowance becomes effective for him, he shall pay into the annuity savings fund of the city of Quincy retirement system in one sum or installments, upon such terms and conditions as the board may prescribe, an amount equal to that which would have been withheld as regular deductions from his regular compensation for such previous service, plus interest.

Approved October 28, 1997.

**Chapter 132. AN ACT AUTHORIZING THE CITY OF HOLYOKE TO UNDERTAKE AND FINANCE A HYDROELECTRIC PROJECT.**

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

**SECTION 1.** The following words as used in this act shall, unless the content otherwise requires, have the following meanings:

"Bonds", bonds, notes or other evidences of indebtedness issued under this act.

"City", the city of Holyoke.

"Commission", the municipal gas and electric commission of the city of Holyoke.

"Project", the hydroelectric power project described in section 2.

**SECTION 2.** The city, acting by and through the commission, is hereby authorized to undertake a hydroelectric project that will utilize waters of the Connecticut river, and to apply for a license from the Federal Energy Regulatory Commission under the Federal Power Act to develop and maintain the project. The city is hereby further authorized to construct, purchase, or lease and maintain one or more plants, or any part of any plant, for the manufacture or distribution of electricity within or outside the city limits in accordance with said license, to do all things necessary to comply with the applicable requirements of the Federal Power Act, and to engage in developing, transmitting, utilizing, distributing and selling electric power to any purchasers within or without the geographical limits of the city. Such plants may include suitable land, dams, structures, machinery, transmission lines, conduits, canals, apparatus, reservoirs, power house and all appurtenant works and facilities, and may in part be constructed and maintained in the Connecticut river to the extent permitted by said license.

**SECTION 3.** (a) The city may incur debt for the project in whole or in part under chapter 44 of the General Laws or by and through the commission in accordance with the provisions of this section, when authorized by a two-thirds vote of the city council and the mayor. The principal of, premium, if any, and interest on all bonds issued under this act shall be payable solely from the particular funds provided therefor under the documents governing the issuance of the bonds and this act. The bonds shall be issued in such amounts as the commission may authorize, 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 time or times as may be determined by the commission, except that no bond shall mature more than 40 years from the date of its issue. Bonds may be made redeemable before maturity at such prices and under such terms and conditions as may be fixed by the commission. The commission shall determine the form and details and the manner of execution of bonds. The commission may sell bonds in such manner, either at public or private sale, for such price, at such rate or 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 may include interest during construction and for up to one year after completion of the project 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 the project, 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, acting on behalf of the city, 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 providing 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 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 chapter. Any such trust or security agreement or resolution may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

(d) Any bonds issued under this act may be issued 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 and the city. Bonds 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 by any 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 letters or lines of credit, insurance 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 106 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 city or the commission, irrespective of whether



such parties have notice thereof. Neither the resolution, 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 106.

(f) Any owner of a bond issued under 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 or 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, acting on behalf of the city, may issue refunding bonds for the purpose of paying any bonds issued for the project. Refunding bonds may be issued at such times at or prior to the maturity or upon acceleration or redemption of the funding 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, 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 under this act shall be payable solely from the revenues of the commission. All such bonds shall contain on the face thereof a statement to the effect that neither the full 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 the bonds.

(i) Bonds issued 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, 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 ob-

ligations of the commonwealth is now or may hereafter be authorized by law. Notwithstanding any of the provisions of this act or any recitals in any bonds issued under this act, all such bonds shall be deemed to be investment securities under chapter 106 of the General Laws.

(j) Bonds may be issued under this act without obtaining the consent of any department, board, or agency of the commonwealth or the city, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

**SECTION 4.** The city may acquire by purchase or by right of eminent domain any land, structures, water rights, easements, or real and personal property necessary or useful in the establishment, construction or maintenance of any part of the project. The right of eminent domain, if exercised, shall be exercised by the commission under the provisions of chapter 79 of the General Laws except where inconsistent herewith, which rights shall be in addition to similar rights granted to licensees under the Federal Power Act. Any contracts for acquisition by purchase shall be made by the commission.

**SECTION 5.** The provisions of chapter 164 of the General Laws, relative to the operation, maintenance and management of municipal electric plants, whenever not inconsistent herewith or with the Federal Power Act, shall apply to the project authorized hereunder.

**SECTION 6.** The acquisition of real or personal property for the purposes of this act shall not deprive any city or town in which the said property is taxable of the amount of taxes thereon being paid at the time of acquisition under this act and the commission shall provide for the payment of the aforesaid amounts in lieu of taxes.

**SECTION 7.** All general or special laws or parts thereof which are inconsistent herewith, or which are inconsistent with the provisions of the Federal Power Act, shall not be applicable to any acts done under authority of this act.

**SECTION 8.** This act shall take effect upon its passage.

Approved October 30, 1997.

## **Chapter 133. AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF YARMOUTH.**

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

**SECTION 1.** The following shall be the charter for the town of Yarmouth:-

### **TOWN OF YARMOUTH CHARTER.**

#### **CHAPTER 1.**

##### *Section 1-1 - Incorporation and Powers.*

1-1-1 The inhabitants of the town of Yarmouth within the territorial limits established by law, shall continue to be a body corporate and politic under the name town of Yarmouth.

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## Chap. 133

### *Section 1-2.*

1-2-1 This instrument shall be known and may be cited as the town of Yarmouth home rule charter.

### *Section 1-3 - Division of Powers.*

1-3-1 The legislative powers of the town shall be vested in a town meeting open to all voters. The administration of the fiscal, prudential, and municipal affairs of the town shall be vested in an executive branch headed by a board of selectmen.

### *Section 1-4 - Powers of the Town - Intent of the Voters.*

1-4-1 It is the intent of the voters of the town of Yarmouth, through the adoption of the charter, to secure for the town of Yarmouth all of the powers possible under the constitution and the General Laws of the commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

### *Section 1-5 - Interpretation of Powers.*

1-5-1 The powers of the town under the charter shall be construed liberally in favor of the town and the specific mention of any particular power is not intended to limit the general powers of the town as provided in section 1-4.

### *Section 1-6 - Intergovernmental Relations.*

1-6-1 The town may enter into agreements with any other agency of municipal government, agency of the commonwealth, other states, or the United States government to perform jointly, by contract, or otherwise, any of its powers or functions and may participate in the financing thereof.

## **CHAPTER 2. LEGISLATIVE BRANCH.**

### *Section 2-1 - Open Town Meeting.*

2-1-1 The legislative powers of the town shall be vested in a town meeting open to all voters. A quorum for conducting town business shall be set by by-law.

### *Section 2-2 - Presiding Officers.*

2-2-1 A moderator, elected as provided in chapter three, shall preside and regulate the proceedings of each session of the town meeting.

### *Section 2-3 - Annual Town Meeting.*

2-3-1 The annual town meeting shall be held on a date fixed by by-law and at such time and place as the board of selectmen shall designate.

### *Section 2-4 - Special Town Meetings.*

2-4-1 Special town meetings may be held at the call of the board of selectmen at such times as it may deem appropriate and whenever a special town meeting is requested by voters in accordance with procedures established by section 2-7.

### *Section 2-5 - Warrants.*

Every town meeting shall be called by a warrant issued by the board of selectmen which shall state the time and place at which the town meeting is to convene, and by separate articles, the subjects which are to be acted upon. Publication and distribution of warrants for town meeting shall be in accordance with by-law of the town governing such matters.



*Section 2-6 - Articles Having Fiscal Implications.*

2-6-1 All proposed operating expenses shall be included in a single article in the annual town meeting warrant. All proposed capital improvement expenditures shall also be included in another, single article in the annual town meeting warrant.

2-6-2 The board of selectmen and the finance committee shall review and comment on all articles calling for the appropriation of funds that are to be considered at any annual or special town meeting.

*Section 2-7 - Initiative.*

2-7-1 By written petition to the board of selectmen, ten voters may secure the inclusion of an article in the warrant for the annual town meeting, provided that such petition shall be submitted in accordance with by-law governing town meeting warrants.

2-7-2 By written petition to the board of selectmen, any 100 voters may secure the inclusion of an article for the warrant of any special town meeting, provided that such petition shall be submitted in accordance with by-law governing town meeting warrants.

*Section 2-8 - Town Meeting.*

2-8-1 Town officers, members of boards and commissions, department heads, or their duly designated representatives, shall attend town meeting for the purpose of furnishing information when proposals affecting their particular office, board, commission, or department are included in the warrant.

2-8-2 The town clerk shall prepare, in consultation with the moderator, rules of parliamentary procedure in simplified form, which shall be made available for distribution to all those requesting them, to new voters at time of registration, and to those in attendance at town meetings.

2-8-3 No person shall speak twice on the same question until all those wishing to speak thereon have done so, nor shall any person speak for more than five minutes at one time, except by permission of the town meeting; provided, however, that the restrictions shall apply neither to those persons required to be in attendance under provision of section 2-8-1, nor those persons making the original motion under any article.

2-8-4 The board of selectmen shall, by recorded vote in the warrant, indicate its recommendations on all articles.

2-8-5 No article at an annual or special town meeting can be reconsidered before one additional article has been acted upon or 15 minutes has passed, whichever is later. This provision shall not apply to the last article in any warrant.

2-8-6 No motion, the effect of which would be to dissolve the town meeting, shall be in order until every article in the warrant has been duly considered and acted upon. This requirement shall not preclude the postponement or consideration of any motion to adjourn the meeting to a stated time and place.

2-8-7 All special committees created by any town meeting shall make a report in accordance with the schedule set by the town meeting action which created the committee. Written copies of such reports shall be submitted to the town clerk, town administrator, and the board of selectmen and shall be published in full or in summary form in the next annual town report.



### CHAPTER 3.

#### *Section 3-1 - The Board of Selectmen and Other Elected Officers.*

3-1-1 A board of five selectmen shall be elected at-large for three year overlapping terms.

3-1-2 No selectmen may hold any other elected or appointed town office.

3-1-3 Vacancies in the office of selectmen shall be filled by special election within 90 days, in accordance with the provisions of the General Laws.

3-1-4 The board of selectmen shall hold at least two regularly scheduled meetings per month.

#### *Section 3-2 - Policy Leadership.*

3-2-1 The board of selectmen shall serve as the chief executive goal setting and policy making agency of the town, and as such shall appoint an administrator to carry out day to day policies.

#### *Section 3-3 - Executive Powers.*

3-3-1 Except as otherwise provided by this charter, all executive powers of the town shall be vested in the board of selectmen and it shall have all the powers and duties given to boards of selectmen under the constitution and General Laws, and such additional powers and duties as may be authorized by this charter, by-law, or town meeting vote.

3-3-2 The board of selectmen shall be a licensing board for the town and shall have the power to issue licenses as authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and to impose restrictions on any such licenses as it deems to be in the public interest, and to enforce all laws, rules, regulations, and restrictions relating to all such businesses for which it issues licenses.

3-3-3 Members of the board of selectmen shall possess no individual authority unless such authority shall have previously been granted by a vote of the said board of selectmen.

3-3-4 The board of selectmen shall cause the charter, by-laws, and rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all of its official acts to be kept.

#### *Section 3-4 - Appointments.*

3-4-1 The board of selectmen shall appoint a town administrator by affirmative vote of at least two-thirds of the members of the board of selectmen.

3-4-2 The town administrator shall submit the names of not less than three candidates to the board of selectmen for department head final interviews and subsequent appointments. The group of department heads shall include those who are compensated on a salary rather than an hourly basis. The town administrator shall appoint all other compensated town personnel.

3-4-3 The board of selectmen shall appoint town counsel by affirmative vote of at least two-thirds of the members of the board of selectmen.

3-4-4 The board shall appoint such other town officers and members of multi-member bodies, for which no other provision is made in this charter.

3-4-5 The board of selectmen shall appoint the board of registrars of voters and election officials.

3-4-6 All appointed boards, committees and commissions shall be responsible to the board of selectmen for policy matters and responsible to the town administrator for all administrative items.

3-4-7 The finance committee members shall be appointed by the chairman of the board of selectmen, the chairman of the finance committee, and the town moderator, as provided for in the town by-law 47-4. All other functions and responsibilities of the finance committee shall be as outlined in section 47-4 of the town of Yarmouth code.

*Section 3-5 - Administration.*

3-5-1 The responsibility for the administration of the town affairs shall be vested in the town administrator who shall be the chief administrator of the town.

*Section 3-6 - Prohibitions.*

3-6-1 No member of the board of selectmen shall serve on any appointed town board established by this charter or by by-law, for which the board of selectmen is the appointing authority, except by an affirmative vote of two-thirds of the members of the board of selectmen.

*Section 3-7 - Powers in Intergovernmental Relations.*

3-7-1 Members of the board of selectmen will represent the town on regional or intermunicipal committees, or may designate a town employee or other person to represent the town.

*Section 3-8 - Other Officers and Town Boards.*

3-8-1 There shall be a town moderator elected for a term of three years at an annual town election.

3-8-2 The town moderator shall be the presiding officer of town meetings as provided in section 2-2 of chapter 2, shall regulate its proceedings and shall perform such other duties as may be provided by General Laws, this charter, by-laws, or vote of town meeting. He shall appoint members to special committees as designated by town meeting vote.

3-8-3 There shall be a town clerk appointed by the board of selectmen.

3-8-4 The town clerk shall be the keeper of the vital statistics for the town, the custodian of the town seal, and all town official records, shall administer the oath of office to all town officers, elected and appointed, shall issue permits and licenses required by law, shall supervise and manage the conduct of elections, shall serve as clerk of town meeting, and shall have all other powers and duties which are given to town clerks by General Laws, this charter, by-law, or town meeting vote, consistent with the provisions of this charter.

*Section 3-9 - Codification of By-laws and Regulations.*

3-9-1 The board of selectmen shall cause a compilation of by-laws and regulations to be made within 12 months of the adoption of this charter, and cause the compilation to be updated at least every five years.

*Section 3-10 - Charter Revisions.*

3-10-1 At least once every ten years, a special committee shall be appointed by the town moderator, for the purpose of reviewing the provisions of the charter and to make a report, with recommendations to the town meeting, concerning any proposed amendments or revision which said committee may deem to be necessary or desirable.

## CHAPTER 4.

### *Section 4-1 - Town Administrator; Job Description and Duties.*

4-1-1 The board of selectmen, by an affirmative vote of at least two-thirds of the members, shall appoint a town administrator to serve a term of not less than three years and shall fix the salary for such a person and have a contract with such person as provided by section 108N of chapter 41 of the General Laws. The town administrator shall not have served in an elective office in the town government for at least 12 months prior to the appointment.

### *Section 4-2 - Qualification.*

4-2-1 The town administrator shall be appointed on the basis of education, experience, executive and administrative qualifications. The professional qualifications shall be established by the board of selectmen and may be revised if necessary.

### *Section 4-3 - Powers and Duties.*

4-3-1 The town administrator shall be the chief administrative officer of the town and shall be responsible for administering and coordinating all employees, activities, and departments placed by General Laws or by-laws under the control of the board of selectmen and the town administrator. The administrator shall implement the goals and carry out the policies of the board of selectmen.

4-3-2 The administrator shall devote full time to the duties of the office and shall not hold any other public office, elective or appointive, nor be engaged in any other business, occupation or profession while serving in such office unless such action is approved, in advance and in writing, by the board of selectmen.

4-3-3 The powers and duties of the town administrator shall include but are not limited to the following:

A. Attendance at all meetings of the board of selectmen, unless excused at the town administrator's request, and the right to speak but not to vote at all such meetings.

B. Keep the board of selectmen fully informed as to the needs of the town, and to recommend to the selectmen, for adoption by it, such measures requiring action by it or by the town as the town administrator deems necessary or expedient.

C. Inform the selectmen on all departmental operations, fiscal affairs, general problems, and administrative action, and to this end submit periodic reports.

D. Keep the selectmen fully informed of the availability of all sources of outside funding, both public and private, including inter-governmental grants, so-called in lieu of payments, gifts, grants, contributions, and otherwise, giving special consideration as to how any such funding source might relate to the short and long-range needs of the town.

E. Prepare and present to the board of selectmen, a draft annual budget for the town, and a proposed capital outlay program.

F. Administer during the fiscal year the annual operating budget and capital outlay appropriations as voted by the town to assure all such funds are expended or committed in accordance with General Laws, by-laws, and the town meeting votes relating thereto. The town administrator, with the approval of the selectmen and the finance committee, shall have the authority to transfer funds within the budget as long as the total budget is not increased.



G. Act as the chief procurement officer for the town.

H. Develop, keep and update annually a full and complete inventory of all real and personal property of the town.

I. Possess the right to attend and speak at any regular meeting of any town multi-member body.

J. Negotiate collective bargaining contracts on behalf of the board of selectmen, unless the town administrator, with the approval of the board of selectmen, has designated another negotiator or negotiating team. All such contracts shall be subject to the approval of the board of selectmen.

K. Coordinate the activities of all town agencies serving under the office of the town administrator and the office of the board of selectmen with those under the control of other officers and multi-member bodies elected directly by the voters. For this purpose, the town administrator shall have authority to require the persons so elected, or their representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town.

L. Attend all sessions of all town meetings and answer all questions directed to the town administrator which relate to that office.

M. Perform such duties as assigned by by-law or vote of the board of selectmen.

*Section 4-4 - Powers of Appointment.*

4-4-1 Department heads may employ, terminate, and discipline employees under their departmental jurisdiction, with the approval of the town administrator.

4-4-2 All appointments made or approved by the town administrator shall become effective no later than the fifteenth day following the day on which notice of the proposed appointment is filed with the board of selectmen, unless two-thirds of the members of the board of selectmen shall vote to reject such an appointment within such period.

4-4-3 The town administrator shall have the authority to appoint special single purpose committees after notifying the board of selectmen.

*Section 4-5 - Personnel Administration.*

4-5-1 The town administrator shall administer and enforce collective bargaining agreements, personnel policies and practices, rules and regulations and personnel regulations adopted by the board of selectmen.

4-5-2 The town administrator shall in conjunction with the personnel board, prepare, maintain, and keep current a plan establishing the personnel staffing requirements for each town agency, except those under the jurisdiction of the school committee.

4-5-3 The creation of any new full time compensated position shall require approval by the selectmen, and such action shall not be effective until the position has been funded by town meeting vote.

*Section 4-6 - Administrative Reorganization.*

4-6-1 The town administrator may recommend to the board of selectmen and implement, with the selectmen's approval, reorganization of any department or position placed by this charter under the town administrator's direction or supervision, except as otherwise provided by General Laws, by-laws, or this charter.



*Section 4-7 - Evaluation.*

4-7-1 At least three selectmen shall annually evaluate the performance of the town administrator. The selectmen shall adopt a written set of procedures and criteria which shall form the basis for the evaluation.

4-7-2 The board of selectmen shall provide a copy of the evaluation to the town administrator and a copy shall be kept on file in the office of the board of selectmen for examination by the public.

*Section 4-8 - Removal.*

4-8-1 The board of selectmen, by the affirmative vote of at least two-thirds of the members, may initiate the removal of the town administrator by adopting a resolution to that effect. Said resolution shall state the reason therefor, provided that no such resolution shall be adopted within 60 days following any town election. Any such resolution shall be adopted only at a regularly scheduled public meeting and in open session.

4-8-2 The adoption of said resolution shall serve to suspend the town administrator for not more than 45 days, during which the salary shall continue to be paid. A copy of such resolution shall be delivered in hand, forthwith to the town administrator or sent by registered mail, return receipt requested to the administrator's last known address.

4-8-3 Within five days following receipt of such resolution, the town administrator may file a written request for a public hearing with the board of selectmen. Upon receipt of such request, the board of selectmen shall schedule a public hearing within two weeks. At least seven days prior to the public hearing, the board shall advertise the hearing in a local newspaper and shall cause identical notices stating the purpose, location, time, and date to be posted in the town hall and in every post office in town.

4-8-4 The town moderator shall preside at any such hearing.

4-8-5 At any such hearing the reasons for the removal shall first be read aloud. The town administrator shall then have the right to respond, personally, or through counsel. The board of selectmen and the town administrator shall have the power to compel testimony and to subpoena any town records.

4-8-6 Final removal of any town administrator shall be effected by the affirmative vote of at least two-thirds of the members of the board of selectmen at a public meeting, the time and place of which are announced, held within seven days of such hearing, if any. If no hearing has been requested, final removal may be effected by affirmative vote of at least two-thirds of the members of the board of selectmen, at a meeting of the board of selectmen held not earlier than 14 days after the resolution initiating removal is adopted. The salary of the town administrator shall be paid for a period of 60 days after the vote effecting removal from the office or in accordance with the termination clause in the town administrator's contract.

4-8-7 The town administrator shall provide the board of selectmen with at least 90 days notice of the town administrator's intent to resign. The board of selectmen may shorten or waive this requirement.

*Section 4-9 - Filling Vacancy.*

4-9-1 When a vacancy arises in the office of the town administrator, the board of selectmen shall advertise the vacancy as soon as practical in local and regional publications. The board of selectmen shall fill the vacancy as quickly as possible, but in any case, within six months.

*Section 4-10 - Acting Town Administrator.*

4-10-1 During a vacancy caused by prolonged illness, suspension, removal, resignation or death of the town administrator, the board of selectmen shall designate, within ten days of the vacancy, a town employee or other qualified person to exercise the powers and perform the duties of the town administrator. This designation shall be for a period not to exceed 90 days, and may be renewed in the case of suspension, removal, resignation, or death only once for an additional period not to exceed 90 days.

4-10-2 The town administrator shall, subject to the approval of the board of selectmen, and by letter filed with the board of selectmen and the town clerk, designate a qualified town officer or employee to exercise the powers and perform the duties of the town administrator during a temporary absence.

**CHAPTER 5.**

**TOWN BOARDS, COMMITTEES AND COMMISSIONS.**

*Section 5-1 - Powers.*

5-1-1 Multi-member bodies shall possess and exercise all powers given to them under the constitution and the General Laws, and shall have and exercise such additional powers and duties as shall be granted and delegated by this charter, by-law, or vote of the town meeting. Such committees or boards shall report to the board of selectmen for policy matters and report to the town administrator for administrative matters.

*Section 5-2 - Organizations and Procedures.*

5-2-1 All multi-member bodies shall:

- (a) organize annually;
- (b) elect a chairperson and other necessary officers;
- (c) publish a quorum requirement for their meetings in accordance with General Laws;
- (d) adopt rules of procedure and voting;
- (e) maintain minutes and all other records of proceedings, copies of which shall be a public record and filed monthly with the town clerk; and
- (f) annually submit a report for inclusion in the annual town report.

5-2-2 To maximize communication and cooperation between the board of selectmen and the elected and appointed town boards. All multi-member bodies shall meet with the board of selectmen at least annually.

5-2-3 All multi-member bodies, elected and appointed, shall conduct their meetings in accordance with the open meeting provisions of the General Laws.

5-2-4 Except as provided in this charter nothing shall be deemed to prevent or prohibit a compensated town employee from serving on a multi-member body, provided that such body shall have no administrative responsibility over any such employee, subject only to chapter 268A of the General Laws.

5-2-5 Any person duly appointed to any office or multi-member body shall take up the duties of the office immediately; provided that such person first shall have been sworn to the faithful performance of those duties by the town clerk.

5-2-6 The absence, without appropriate explanation, of a member from four consecutive meetings of any appointed multi-member body shall serve to vacate the office. The legitimacy of the explanation provided by the absent member shall be determined by majority vote of the multi-member board. When such a vacancy occurs, the chairperson shall advise the appointive authority forthwith, who shall fill the vacancy in a timely fashion within 90 days in accordance with the General Laws and this charter.

*Section 5-3 - Compensation.*

5-3-1 Members of appointed multi-member boards may receive such compensation as may be authorized by the town meeting. During the term for which a member is appointed and for one year following expiration of such term, no member of any appointed board under this charter shall be eligible to accept any additional paid position under any such multi-member board.

*Section 5-4 - Change in Composition of Appointed Multi-Member Bodies.*

5-4-1 The town meeting may, by by-law, enlarge or decrease the number of persons to serve as members of multi-member boards established under this chapter; provided, however, that all such boards shall always consist of an uneven number of members and no fewer than three.

## CHAPTER 6.

### FINANCIAL PROVISIONS AND PROCEDURES.

*Section 6-1 - Submission of Budget and Budget Message.*

6-1-1 Annually, prior to the first day of October, the town administrator shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year.

6-1-2 The schedule shall be in accordance with this charter unless deviation therefrom is recommended by the town administrator and approved by the board of selectmen and the finance committee.

6-1-3 Annually, prior to the first day of October, the town administrator shall request and receive from the town treasurer/collector, the town accountant, the board of selectmen, and the board of assessors the estimated revenue for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided by the commonwealth or any other source, the above officials shall revise, update, and submit the data forthwith to the town administrator.

6-1-4 Annually, prior to the first day of November, the board of selectmen, after consulting with the town administrator, shall issue a policy statement that shall establish the general guidelines for the next town budget.

6-1-5 All department heads and all multi-member bodies shall submit their budget requests to the town administrator at least 150 days before the date of the annual town meeting.



6-1-6 At least 120 days prior to the scheduled date of the annual town meeting, the town administrator shall submit to the board of selectmen and the finance committee a comprehensive draft budget for all town functions for the ensuing fiscal year and an accompanying draft budget message.

6-1-7 The draft budget message shall explain the draft budget both in fiscal terms and in terms of what specific projects are contemplated in the year ahead. It shall:

- (a) outline the proposed financial policies of the town for the ensuing fiscal year;
- (b) describe the important features of the budget;
- (c) indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues, together with the reasons for such changes;
- (d) summarize the town debt positions; and
- (e) include such other material as the town administrator may deem appropriate.

6-1-8 The draft budget shall provide a complete financial plan for all town funds and activities and shall be in such form as the town administrator, in consultation with the finance committee, may establish. The draft budget shall indicate proposed expenditures for current operations and for capital projects during the ensuing fiscal year, detailed by each town agency and by specific purposes and projects.

*Section 6-2 - Action on Proposed Budget.*

6-2-1 The finance committee shall, within 60 days following the submission of the draft budget by the town administrator, recommend a proposed budget, with or without amendments, and shall submit it to the board of selectmen. In preparing its review, the committee may require the town administrator, any town department, office, board, commission, or committee to appear or to furnish it with appropriate additional financial reports and budgetary information. The board of selectmen shall also transmit the budget request of the school committee, with its recommendations thereon to the finance committee.

6-2-2 The finance committee shall conduct at least one public hearing on the proposed budget, prior to town meeting, including the school budget, and shall issue printed recommendations and detailed explanations of all financial articles in an annual finance committee report, which shall be published in a local newspaper at least ten days prior to the scheduled date of the annual town meeting.

*Section 6-3 - Budget Adoption.*

6-3-1 The town meeting shall adopt the annual operating budget, with or without amendments prior to the beginning of the fiscal year.

*Section 6-4 - Capital Improvements Plan.*

6-4-1 The town administrator shall prepare a five year capital improvements plan which shall be designed to deal with unmet long-range needs, and to implement the goals and objectives of the official town plan.

6-4-2 The capital improvements plan shall include all town activities and departments.

6-4-3 The capital improvements plan shall include:

- (a) a clear summary of its contents;



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(b) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data;

(c) cost estimates, methods of financing, and recommended time schedules; and

(d) the estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired. The above information may be revised and shall be extended each year with regard to capital improvements pending or in the process of construction or acquisition.

6-4-4 The town administrator shall submit the capital improvements plan to the board of selectmen at least 150 days prior to the date of the annual town meeting. The board of selectmen shall act thereon within 30 days and shall then submit it to the finance committee which shall issue its recommendations as part of the annual finance committee report.

### *Section 6-5 - Notice of Public Hearing on Capital Improvements Plan.*

6-5-1 The board of selectmen shall publish, in one or more local newspapers, the general summary of the capital improvements plan and a notice stating:

(a) the times and places where copies of the capital improvements plan are available for inspection; and

(b) the date, time and place when the board of selectmen and the finance committee shall conduct a joint public hearing on said plan.

### *Section 6-6 - Capital Budget Committee.*

6-6-1 A committee of seven voters shall be appointed by the finance committee to be known as the capital budget committee, in accordance with Article 16 of the annual town meeting held on April 7, 1981.

6-6-2 The requirements of clause 6-6-1 may be waived by a four-fifths vote of the annual meeting.

### *Section 6-7 - Annual Audit.*

6-7-1 Prior to the end of each fiscal year, the board of selectmen and the town administrator shall retain a certified public accountant or qualified accounting firm to conduct an independent annual audit.

## **CHAPTER 7. ELECTIONS.**

### *Section 7-1 - Town Elections.*

7-1-1 The regular election for all town offices shall be by official ballot held on the date established by by-law.

### *Section 7-2 - Town Elections to be Nonpartisan.*

7-2-1 All town elections shall be nonpartisan and election ballots shall be printed without any party mark or designation.

### *Section 7-3 - Eligibility of Voters.*

7-3-1 Any voter shall be eligible for election to any elective office or multi-member body of the town; provided, however, that no person shall hold, concurrently, more than one paid executive or town office.

*Section 7-4 - Time of Taking Office.*

7-4-1 Any person duly elected to any office or multi-member body shall forthwith be sworn and assume the duties of the office.

*Section 7-5 - Recall Election.*

7-5-1 Any recall election shall be conducted under the provisions of chapter 344 of the acts of 1989.

**CHAPTER 8.  
EXISTING LAWS.**

*Section 8-1 - Continuation of Existing Laws.*

8-1-1 Except as specifically provided in this charter, all general and special laws, by-laws, votes, rules and regulations of or pertaining to the town of Yarmouth which are not inconsistent with the provision of this charter shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

*Section 8-2 - Continuation of Boards, Committees and Agencies.*

8-2-1 Except as specifically provided in the charter, all committees, boards, commissions, councils, departments, offices, and other agencies of the town shall continue in existence and their incumbents shall continue to perform their duties until not reappointed, reelected or elected or their duties have been transferred.

*Section 8-3 - Continuation of Personnel.*

8-3-1 Any person serving in the employment of the town shall remain in such position and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of said duties by another person or agency; provided, however, that no person in the permanent, full time and part time service of the town shall forfeit pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do and shall be eligible for appointment to a position at a higher pay grade.

*Section 8-4 - Transfer of Records and Property.*

8-4-1 If a power or duty is reassigned as the result of the provisions of this charter, the records, property, and equipment necessary to fulfill said power or duty shall likewise be reassigned to the newly responsible office or agency.

8-4-2 Said transfer shall be carried out under the direction of the town administrator.

*Section 8-5 - Amending Charter.*

8-5-1 This charter may be revised, amended, or replaced in accordance with the procedures made available by Article 89 and Article 113 of the Amendments to the Constitution of the Commonwealth and any legislation enacted to implement said amendments.

*Section 8-6 - Definitions.*

8-6-1 Unless another meaning is clearly apparent, from the manner in which the word is used, the following words, as used in this charter shall have the following meanings:

"Appoint", to select to fill an office or to employ in the service of the town.

"Certification", that a person has been declared elected and sworn to the faithful performance of duty by the town clerk.

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"Charter", this charter and any amendments to it made through any of the methods provided under Articles 89 and 113 of the Amendments to the Constitution of the Commonwealth.

"General Laws", the Massachusetts General Laws.

"Local newspaper", a newspaper of general circulation in the town.

"Majority vote", a majority of those present and voting; provided, however, that a quorum of the body is present.

"Multi-member body", any board, commission, or committee of the town consisting of two or more persons, whether appointed or elected.

"Town", the town of Yarmouth.

"Town agency", any office, department, board, committee, or commission of the town government.

"Two-thirds", used to specify required numbers of the votes shall be understood to be rounded up to the next integer.

"Voters", the registered voters of the town of Yarmouth.

"Words", importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and except where the context requires, wherever words are used in one gender, they shall be construed to include the other gender and the neuter.

**SECTION 2.** This act shall take effect on January 1, 1998.

Approved October 30, 1997.

**Chapter 134. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.**

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

Section 2.09 of Article II of the charter of the Town of Rockland, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by adding the following paragraph:-

C. The board of sewer commissioners shall also be known as the drainage committee and shall have all the powers and duties conferred upon it by this charter, the town by-laws, votes of town meetings, and the General Laws.

Approved October 30, 1997.

**Chapter 135. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND TO THE TOWN OF WRENTHAM.**

*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 section 40H of chapter 7 of the General Laws, to convey by deed for the consideration described in section 2, a certain parcel of land located in the town of Wrentham, presently under the care and control of the department of mental retardation, to said town of Wrentham to be used for recreational and open space purposes. Said parcel is shown on a plan of land entitled "Plan of Land in Wrentham, Massachusetts" dated April 14, 1995 drawn by Dunn McKenzie, Inc.

**SECTION 2.** The purchase price to be paid by the town of Wrentham for the parcel described in section 1 shall be the full and fair market value of the property determined by an independent appraisal for its use as described herein. The inspector general shall review and approve such appraisal and such review shall include a review of the methodology utilized for such appraisal. Said inspector general shall prepare a report of this review and file such report with the commissioner of capital planning and operations 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 section 6. The town of Wrentham shall pay the purchase price in accordance with the terms of this act.

**SECTION 3.** No deed conveying by or on behalf of the commonwealth the property described in section 1 shall be valid unless such deed provides that the parcel shall be used for recreational and open space purposes.

**SECTION 4.** The town of Wrentham shall assume the costs of appraisals, surveys and other expenses related to the conveyance of the property described in section 1.

**SECTION 5.** In the event the parcel described in section 1 ceases to be used for recreational and open space purposes at any time, said parcel shall revert to the commonwealth upon such terms and conditions as the commissioner of capital planning and operations may determine.

**SECTION 6.** The commissioner of capital planning and operations shall, 30 days before the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of an agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereto, 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 15 days prior to execution.

**SECTION 7.** The purchase price paid pursuant to section 2 shall be deposited in the General Fund of the commonwealth.

**SECTION 8.** This act shall take effect upon its passage.

Approved November 5, 1997.



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**Chapter 136. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF KINGSTON TO ACT AS SEWER COMMISSIONERS.**

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

**SECTION 1.** The board of selectmen of the town of Kingston is hereby authorized to act as the board of sewer commissioners of said town and shall have all the powers and duties conferred on sewer commissioners by law.

**SECTION 2.** Notwithstanding the provisions of section 1, the employee of the town of Kingston designated in the classification plan of the wage and personnel by-law of said town as responsible for the operation and maintenance of said town's sewer system shall have jurisdiction to act on any abatement requests or petitions filed for any betterments assessed under the provisions of chapters 80 and 83 of the General Laws.

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

Approved November 5, 1997.

**Chapter 137. AN ACT RELATIVE TO BENEFITS OF EMPLOYEES OF MAINTENANCE AND CLEANING CONTRACTORS.**

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

Section 27H of chapter 149 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following two sentences:- Said rates of wages shall include payments to health and welfare plans and pension plans, or, if no such plan is in effect between employers and employees, the amount of such payments shall be paid directly to said employees. Whoever pays less than said rates of wages, including payments to health and welfare funds and pension funds, or the equivalent in wages, on said works, and whoever accepts for his own use, or for the use of any other person as a rebate, gratuity or in any other guise, any part or portion of said wages, health and welfare funds or pension funds, shall be punished by a fine of not less than \$100 nor more than \$500.

Approved November 5, 1997.

**Chapter 138. AN ACT AUTHORIZING THE TOWN OF PLYMOUTH 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 town of Plymouth may enter into contracts for the lease or sale, operation and

maintenance, financing, design and construction of modifications and installation of new equipment and systems at the wastewater treatment plant, sewers and pump stations to ensure adequate services and to ensure the ability of said town's wastewater treatment plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local laws; provided, however, that such contracts shall not be subject to the competitive bid requirements set forth in sections 38A\$#189; to 38 O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44M, inclusive, of chapter 149 of the General Laws; provided further, that each such contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws except for clause (3) of subsection (b), clause (3) of subsection (e) and subsection (g) of section 6 and sections 13 and 16.

The requests for proposals for such contracts shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to said town including, but not limited to, all capital financing, operating and maintenance costs. If said town awards a contract to an offeror who did not submit the proposal offering the lowest overall cost, said town shall explain the reason for the award in writing.

**SECTION 2.** (a) Notwithstanding the provisions of any general or special law to the contrary, contracts awarded pursuant to section 1 may provide for a term not exceeding 20 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 town of Plymouth in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to said town. Contracts entered into pursuant to this act may provide that, subject to a majority vote of the town meeting, said town 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 laws; provided, however, that such costs shall be amortized over a period that is no longer than the useful life of such modifications, equipment and systems. Said town's payment obligations for all operations and maintenance services shall be conditioned on the contractor's performance of such services in accordance with all contractual terms.

(b) Contracts entered into pursuant to this act may provide for such activities as may be 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 and improvements to said town's wastewater treatment plant, sewers and related pump stations.

**SECTION 3.** The town manager of the town of Plymouth shall solicit proposals through requests for proposals which shall include those items in paragraphs (1) and (2) of subsection (b) of section 6 of chapter 30B 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 nonnegotiable; provided, however, that the requests for proposals may request proposals or offer options for fulfillment of other contractual terms and such other matters as may be determined by said town.

**SECTION 4.** The town manager of the town of Plymouth 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 other evaluation criteria set forth in the request for proposals. Said town manager may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. If, after negotiation with such offeror, said town manager determines that it is in said town's best interests, said town manager may determine the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and 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. Said town manager shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs, the evaluation criteria set forth in the request for proposals and the terms of the negotiated contract. Subject to the approval of the board of selectmen and, with respect to any contract in excess of five years, the authorization of the town meeting, said town manager 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 5 and 6. 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 proposals issued by the town of Plymouth and of any contract entered into by said town with any party regarding the subject matter of this act that any party which has entered into a contract pursuant to the terms of this act with said town 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 town and surrounding communities, that all employees working on the operation and maintenance of the wastewater treatment plant, sewers and pump stations be offered employment by any party entering into a contract with said town for the operation and maintenance of said facilities and that any such party entering into a contract with said town, 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; provided, however, that any party entering into such contract with said town pursuant to this act shall pay all of said employees not less than the sum of applicable wages paid to said employees by the previous employer. Any such party entering into such contract with said town shall negotiate a successor agreement with the last applicable labor organization representing said employees prior to the expiration of the existing contract. Such parties shall 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 pump stations described herein. Notwithstanding any general or special law to the contrary, any party entering into such contract with said town shall provide all employees of said town working on the operation and maintenance of the wastewater treatment plant, sewers and pump stations with all of the rights and benefits, including retirement and pension benefits, that are at least equal to said employees' benefits provided by said town. Notwithstanding any other provisions of this act, any proposal not complying with the above terms shall be disqualified from consideration.

**SECTION 6.** Subject to the provisions of this act, any contract awarded hereunder shall be subject to such terms and conditions as the town manager and the board of selectmen of the town of Plymouth shall determine to be in the best interests of said town and shall be authorized by a majority vote of said board of selectmen. Any such contract shall provide that, prior to the construction of modifications or installation of equipment and systems, said town shall cause a qualified wastewater engineer to independently review and approve plans and specifications for such modifications, equipment and systems. Such contract shall further provide that prior to said town's acceptance of any modifications, equipment or systems, including work undertaken pursuant to section 8 and estimated to cost more than \$100,000, said town shall cause a qualified wastewater engineer to inspect such 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 rule or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the contract procured by the town of Plymouth 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 2 of chapter 29C of the General Laws.

**SECTION 8.** The provisions of any general or special law or rule 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 \$100,000, 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 town of Plymouth or other adjustment to the fees or costs paid by said town including, but not limited to, any adjustment to sewer rates paid by said town'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 said town 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, however, that said town 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 recommendations of the qualified wastewater engineer, said town may approve, modify or reject the contractor's proposed plans and specifications. Any contract awarded pursuant to this act shall provide that, in the event that said town does not approve the contractor's proposed plans and specifications pursuant to this section, said town or the contractor may terminate the contract under the terms and conditions of such contract.

**SECTION 9.** All contracts or subcontracts for new construction, renovation, modernization, improvement or capital improvements to the town of Plymouth's 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 such persons or entities being signatory to a project labor agreement with the appropriate labor organizations which shall include an obligation for such labor organizations and its constituent members not to strike with respect to the work on such construction project and which shall also establish uniform work rules and schedules for the project. Such project agreement shall be entered into in order to facilitate the timely and efficient completion of the construction of such improvements and to make available a ready and adequate supply of highly trained, skilled craft workers who shall provide a negotiated commitment to assure 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 said town's wastewater plant and pump 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 relations 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.

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

Approved November 6, 1997.

## **Chapter 139. AN ACT RELATIVE TO THE TAXATION OF MILITARY PENSIONS.**

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

**SECTION 1.** Section 2 of chapter 62 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "contributed", in line 55, the following words:- , or any income received from the United States government as retirement pay for a retired member of the Uniformed Services of the United States, as defined in 10 U.S.C. section 1072, regardless of whether the retiree contributed to the retirement system,

or any income received from the United States government as survivorship benefits under 10 U.S.C. sections 1431 to 1460, inclusive.

**SECTION 2.** This act shall be effective for any tax year beginning on or after January 1, 1997.

Approved November 6, 1997.

**Chapter 140. AN ACT FURTHER REGULATING THE POSSESSION OF LOBSTERS.**

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

**SECTION 1.** Section 44 of chapter 130 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "length", in line 32, the following words:- ; provided, however, that the director shall, by regulation approved by the marine fisheries advisory commission, permit the possession and on-shore processing of shell-on frozen lobster tails by wholesale dealers; provided, further, that possession of lobster tails at sea, or at any location where processing is not being conducted, shall be prohibited and shall be subject to the penalties provided in the first paragraph; and provided, further, that said processing shall be conducted only by wholesale dealers who have been issued a special permit by the director and whose facilities are certified as U.S.D.C. Type I or the equivalent thereof.

**SECTION 2.** The regulation required by the provisions of section 1 shall be promulgated within 120 days of the effective date of this act.

Approved November 6, 1997.

**Chapter 141. AN ACT AUTHORIZING THE CITY OF LOWELL TO ESTABLISH A CEILING OF THE AMOUNT REQUIRED TO BE APPROPRIATED FOR THE SUPPLEMENTAL RESERVE FUND.**

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

**SECTION 1.** The third paragraph of section 6 of chapter 17 of the acts of 1992 is hereby amended by striking out, in lines 15 to 19, inclusive, the words "nineteen hundred and ninety-seven and each subsequent fiscal year shall be an amount equal to one and one-half percent of the gross amount to be raised for the prior fiscal year for the general operating fund as appearing on the city's tax rate recapitulation for such prior year" and inserting in place thereof the following words:- 1997 shall be an amount equal to one and one-half per cent of the gross amount to be raised for the prior fiscal year for the general operating fund, as appearing on the city's tax rate recapitulation for such prior year; and the required amount of the supplemental reserve fund for subsequent fiscal years shall not be less than the amount of the supplemental reserve fund for fiscal year 1997, plus any additional amount, if any, as the city shall determine.

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

Approved November 13, 1997.

### **Chapter 142. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWNS OF BRIDGEWATER AND MIDDLEBOROUGH AS THE DESERT STORM VETERANS MEMORIAL BRIDGE.**

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

The bridge on Routes 18 and 28 spanning the Taunton river in the towns of Bridgewater and Middleborough shall be designated and known as the Desert Storm Veterans Memorial Bridge, in honor of those who served in the Desert Storm Operation. The department of highways shall erect suitable markers bearing thereon said designation in compliance with the standards of said department.

Approved November 14, 1997.

### **Chapter 143. AN ACT AUTHORIZING THE CERTIFICATION FOR APPOINTMENT OF MICHAEL M. MULLEN AS A FIREFIGHTER IN THE TOWN OF NORTH ATTLEBOROUGH.**

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

The personnel administrator of the division of personnel administration shall examine and certify Michael M. Mullen for appointment as a firefighter in the town of North Attleborough according to the grade he received in an examination for firefighter, notwithstanding the fact that he has attained the maximum age for said position; provided, however, the said Michael M. Mullen fulfills all other requirements for certification and appointment as a firefighter.

Approved November 14, 1997.

### **Chapter 144. AN ACT ESTABLISHING THE CAPE COD LAND BANK.**

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

**SECTION 1.** For the purpose of this act, the following words shall have the following meanings:-

"Land bank commission", the land bank commission shall be the county commissioners of Barnstable county or their successors.

"Land Bank Fund", town and regional land bank funds for the acquisition of open space.

"Matching funds", monies or other consideration provided by a town to purchase an option in an interest in land, in an amount equal to one-half the total cost of implementing each affordable housing initiative to meet the 50-50 match obligation under this act. Such funds may be expended from available funds, or borrowed and appropriated, or may be from private contributions or donations, including the charitable contribution or portion of bargain sales as defined by the Internal Revenue Code or state or federal funds.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred, all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest remains subject after the transfer, determined at the time of transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; and the fair market value at the time of transfer of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Purchaser", the transferee, grantee or recipient of any real property interests.

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property, but shall not include any interest which is limited to any or all of the following: the dominant estate in any easement or right of way; the right to enforce any restrictions; any estate at will or at sufferance, and any estate for years having a term of less than 30 years; the reversionary right, condition, or right of entry for condition broken; the interest of mortgagee or other secured party in any mortgage or security agreement.

"Seller", the transferor, grantor or immediate former owner of any real property interest.

"Time of transfer", of any real property interest shall mean the time at which an instrument is recorded with Barnstable county registry of deeds or filed with the assistant recorder of the Barnstable county registry district.

"Town open space committee", or "town committee", an agency, board, department, commission, or committee appointed, designated or established by the board of selectmen, or in the town of Barnstable by the town council, to carry out the provisions of this act relative to acquiring open space. The town open space committee may be a nonprofit organization established pursuant to chapter 180 of the General Laws.

**SECTION 2.** There is hereby established a Cape Cod land bank commission and a Cape Cod Land Bank Fund, to be administered by the land bank commission for the purpose of acquiring land and interests in land for the protection of public drinking water supplies,



open space, and conservation land, the creation of walking and bicycling trails, and the creation of recreational areas.

Towns may use land bank funds, in whole or in part, as matching funds for the purpose of providing a match under the land conservation program created under section 11 of chapter 132A of the General Laws or under any other state or federal open space acquisition program consistent with the purposes of this act. The availability of funds under this act shall not affect the eligibility of any town to receive funds under said section 11 of said chapter 132A or to receive funds from any state or federal open space acquisition program. Not more than 3 per cent of said funds may be used for maintenance and improvement to property purchased with land bank funds.

The land bank commission is hereby constituted as a body politic and corporate and public instrumentality and the exercise of the powers herein conferred upon the land bank shall be deemed to be the performance of an essential governmental function.

**SECTION 3.** The board of selectmen in each town of Barnstable county, and in Barnstable the town council, shall appoint a town open space committee to carry out the purposes of this act. Land bank commission and town committee members shall serve without compensation. The land bank commission shall recommend to the town public acquisition of specified land areas to further regional goals. The land bank commission shall print an annual report.

**SECTION 4.** There is hereby established a fee on the transfer or conveyance of any real property interests in Barnstable county. Said fee shall be in the amount of 1 per cent of the total purchase price excluding the first \$100,000 in total value. The fee imposed by this section shall be paid by the seller to the register of deeds at the time of transfer. The fee shall be the liability of the seller of such real property interest and any agreement between the seller and the purchaser or any other person with reference to the allocation of the responsibility for bearing such fee shall not affect such liability of the seller. Failure to comply with this requirement shall not affect the validity of any instrument.

**SECTION 5.** More than one transfer of a portion of the same or an adjacent property interest to the same grantee occurring on the same day shall be presumed to be a single transfer for the purposes of computing the fee owed hereunder. The register shall report any known or suspected activities to evade payment of the fee to the land bank commission as soon as is practicable. If the land bank commission, based upon a report from the register or on its own determines that one or more purchases were segmented to evade the fee or that an unwarranted exemption was obtained by fraud, mistake or otherwise, or that the amount of fee paid was in error, it may, after providing the seller with seven days notice by registered or certified mail and after holding a public hearing, impose a lien on the subject property equal to the amount of the fee, plus interest, it deems owed. The seller shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to 12 per cent per annum. The land bank commission shall notify the seller in writing by registered or certified mail of its determination concerning the deficiency within 15 days after said hearing. Any party aggrieved by a determination of the commission may, after payment of said deficiency, appeal to superior court department of the trial court within 30

days after the mailing of notification of determination of the commission. Upon the failure to timely petition for a hearing or appeal in said court the seller shall be bound by the terms of the notification assessment or determination and shall be barred from contesting the fee and any interest as determined by the commission. For the purposes of this section the seller shall be deemed to have received notice if mailed to the respective address listed on the subject deed or instrument of conveyance by registered mail. The land bank commission may issue a waiver or release of any lien imposed under this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

**SECTION 6.** The register of deeds for the county of Barnstable, and the assistant recorder of the registry district of the county of Barnstable, shall not record or register any deed, except a mortgage deed, relative to real property interest in land situated in Barnstable county for which the registry has not received the fee established by section 4 unless the register determines that the transfer qualified for one of the following exemptions:

(i) transfers to the government of the United States, the commonwealth and any of their instrumentalities, agencies, or subdivisions;

(ii) transfers for consideration of \$100,000 or less in value;

(iii) transfers pursuant to the Barnstable county HOME program, Soft Second Loan program, Local Initiative Programs, Habitat for Humanity, HUD and state affordable housing programs of nonprofit housing agencies certified by the land bank commission;

(iv) transfers to a mortgagee in foreclosure of a mortgage held by such mortgagee, in consideration of the forbearance of the mortgagee from foreclosing said mortgage;

(v) For transfers of developed industrial or commercial properties, the sale price in excess of \$1,000,000 shall be exempt; provided that a certificate of the land bank commission attesting to the eligibility of the transaction under this section is recorded with the deed.

All other transfers for which an exemption is claimed under this section shall include a recitation in the deed affirming the exempt status of the purchaser. For the purposes of this act, except as set forth in clause (v), the register may presume that a recitation in the deed qualifies the transfer for exemption from the fee. Upon receipt of said fee or upon a determination of exemption the register shall affix a stamp indicating the fee has been paid or that the transfer is exempt from payment of said fee.

**SECTION 7.** The register shall collect the fee established by section 4 and shall pay over said fees to the county treasurer who shall maintain a separate rate account of the same for the purposes of this section. The county treasurer shall establish individual accounts for the land bank commission and for each town within Barnstable county. The county treasurer shall administer all transactions for the individual accounts. Of the revenues collected under this act, 10 per cent shall be directly administered by the land bank commission in accordance with the provisions of this act. The remaining 90 per cent of the revenues collected shall be transferred to the individual town accounts in proportion to the amount of collected land bank revenues derived from the transfer of any real property interest within each respective town. When an interest subject to the fee lies within more than one town, the

county treasurer shall deposit the fee in the account of the town in which the register has determined the largest portion of the interest lies. For the acquisition of a real property interest in open space, the county treasurer shall pay over to the town treasurer an amount equal to the amount certified by the town treasurer as expended for purposes of this act.

The Barnstable county commissioners shall authorize the county treasurer to release funds from individual town accounts when such town request meets the criteria established above. The county treasurer shall pay over to the land bank commission from the land bank commission account an amount equal to that authorized by a vote of the land bank commission as certified by the clerk of the commission. The Barnstable county commissioners shall authorize the county treasurer to release funds pursuant to a certified land bank commission vote. The county treasurer shall release funds only for the purposes set forth in section 2.

Indebtedness may be incurred by a town for the purposes authorized by this act. Such indebtedness may be retired by expenditures from the fund as applied for and received by the town in accordance with the provisions of this act.

**SECTION 8.** The land bank commission shall, subject to the provisions of this act, have the power and authority to fund the purchase of fee simple interests, and any lesser interests, including an option to purchase land, in any parcel of land situated within Barnstable county including any improvements thereon; provided, however, that the land bank commission shall, in considering any expenditure, use as guidelines local and regional open space plans, local and regional housing plans, and regional plans, if any. At the direction of the land bank commission, interests acquired through the land bank commission may be held and managed by the town in which the interest lies, a nonprofit organization established pursuant to chapter 180 or chapter 203 of the General Laws, or, in the case of interests to acquire sites for future wellhead development, by a water company, a water district, a water supply district, or a fire district.

The town committees shall recommend acquisitions of interests in real property and other expenditures consistent with section 9 to the town meeting, or, in Barnstable, the town council, and towns may expend funds in the individual town account for purposes consistent with this act. In considering the recommendation of any such acquisition, town committees shall use, as a guideline local and regional open space plans, master plans, and local comprehensive plans, if any. Real property interests acquired by a town under this act shall be owned and managed by the town in which the interest is located; provided, however, that the board of selectmen may delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203 of the General Laws, or, in the case of interests to acquire sites for future wellhead development, by a water company, a water district, a water supply district, or a fire district.

**SECTION 9.** Any real property interest in open space purchased with land bank funds shall be retained in natural, scenic, or open condition and shall be bound by a permanent deed restriction limiting the use of the interest to the purpose for which it was acquired. Said deed restriction shall run with the land and shall be enforceable by the land



bank commission. Real property interests shall be situated in Barnstable county and may consist of any of the following: (a) land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes and other coastal lands; (f) land to protect scenic vistas; (g) land for natural or wildlife preserve; (h) land and easements for trails; and (i) land for recreational use. Notwithstanding the foregoing, the land bank commission and towns may make improvements to promote recreation that are not inconsistent with such use.

Each town may elect, upon a vote of the town meeting, to transfer any portion of its town account to the Cape Cod Land Bank Fund for the purposes set forth in this section.

**SECTION 9A.** If there should be any unforeseen or inordinate costs associated with the facilitation and administering of the Cape Cod land bank, the monies appropriated for said costs from the Cape Cod Land Bank Fund shall be nominal, not to exceed 1 per cent of the total amount of revenues collected from the transfer tax.

**SECTION 10.** The county commissioners shall fix a date and provide funding for an election in each of the 15 towns comprising Barnstable county not sooner than 30 days nor later than 180 days after the effective date of this section. Each municipality shall conduct a special election pursuant hereto on the date so fixed and shall certify the results thereof to the county commissioners and the state secretary. The town clerk of each municipality shall place upon the ballot at such election the following question:

"Shall 'an act establishing the Cape Cod Land Bank', which establishes a Cape Cod Land Bank to protect public drinking water supplies, acquire open space and conservation land, provide bicycling and walking trails, and enhance opportunities for recreation and to be funded by a 1 per cent fee on all land transfers at the Barnstable County Registry of Deeds, but exempting the first \$100,000 of purchase price, be accepted?"

**SECTION 11.** After the first five years following the effective date of this act and every two years thereafter, towns participating in the Cape Cod land bank program shall have the right, initiated by a petition signed by 250 registered voters, to place on the next town election ballot a question to determine whether or not the town wishes to remain as a participant in the Cape Cod land bank. If the town votes to terminate its participation in the Cape Cod land bank program, the vote shall be effective at the beginning of the next fiscal year. A town which voted to terminate its participation in the Cape Cod land bank may subsequently reenter the program by use of the same procedure. A vote to reenter the program shall be effective at the beginning of the next fiscal year.

**SECTION 12.** Section 10 of this act shall take effect upon its passage. The remaining provisions of this act shall take effect upon its approval by a majority of all votes cast in Barnstable county pursuant to said section 10.

*This bill was returned by the Lieutenant-Governor, Acting Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on November 6, 1997, and by the House of Representatives on November 12, 1997, the objections of the Lieutenant-Governor, Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.*



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**Chapter 145. AN ACT RELATIVE TO THE FILLING OF VACANCIES ON THE BOARD OF SELECTMEN 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, the clerk of the town of Mendon and the treasurer/collector of said town, are hereby authorized to act as selectmen for the purpose of performing all of the duties of selectmen necessary for the continued and efficient operation of the government of the town of Mendon, pending the election and qualification of successor selectmen at a special election to be held under the provisions of law governing elections to local office.

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

Approved November 18, 1997.

**Chapter 146. AN ACT ALLOWING FOR THE USE OF CROSSBOWS BY CERTAIN HANDICAPPED PERSONS.**

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

Section 69 of chapter 131 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "crossbows", in line 8, the following words:- by any person other than a paraplegic or one who is disabled due to cerebral palsy and as a result has a permanent physical disability which precludes said person from operating a conventional bow and arrow, as certified by a licensed physician.

Approved November 19, 1997.

**Chapter 147. AN ACT EXEMPTING THE POSITION OF DEPUTY POLICE CHIEF IN THE TOWN OF FRAMINGHAM FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of deputy chief of police in the town of Framingham shall be exempt from the provisions of chapter 31 of the General Laws.

**SECTION 2.** The provisions of section 1 shall not impair the civil service status of any person holding the office of deputy chief of police in the town of Framingham on the effective date of this act.

Approved November 19, 1997.

**Chapter 148. AN ACT RELATIVE TO A SEWER EASEMENT HELD BY THE MASSACHUSETTS WATER RESOURCES AUTHORITY IN THE CITY OF QUINCY.**

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

Notwithstanding any general or special law to the contrary, an easement taken by the board of metropolitan sewerage commissioners dated November 3, 1900, for a sewer easement through land situated southerly of Peterson road in the city of Quincy and recorded with the registry of deeds in the county of Norfolk, Book 883, Page 121, the land being the seventeenth described strip of land in the taking instrument, and a confirmatory grant of the same easement over the same strip of land from Charles P. and Martha J. Peterson to said board dated December 2, 1901 and recorded with said deeds in Book 911, Page 57, are hereby amended to exclude a portion of a certain parcel of land situated on the southerly side of said Peterson road being street number 39.

The portion of said strip of land to be excluded from the aforementioned sewer easement and confirmatory grant is described as follows:

That certain parcel of land with a portion of a dwelling house, walk and fence thereon shown as ABANDONED EASEMENT AREA on a plan entitled "Plan of Land in Quincy, MA" by Bay Colony Group, Inc., dated Aug. 5, 1996 and recorded as Plan No. 532 of 1996 in Plan Book 441 of Norfolk Deeds, which parcel is bounded and described according to the plan as follows:

Beginning at the northwest corner of the parcel on the northerly sideline of the Commonwealth of Massachusetts sewer easement, thence running

EASTERLY along the sideline by a curve to the right of 530 feet of radius a distance of 39 feet; thence

SOUTH  $13^{\circ}08'00''$  EAST by land of the City of Quincy and the sewer easement, 8.77 feet; thence

SOUTH  $81^{\circ}00'22''$  WEST by land of Detore and the sewer easement, 39.14 feet; and thence

NORTH  $11^{\circ}34'21''$  WEST by the City land and the sewer easement, 10.14 feet to the point of beginning.

Containing, according to the plan, 377 square feet, more or less.

Approved November 19, 1997.

#### **Chapter 149. AN ACT AUTHORIZING TOWNS TO MAKE CERTAIN ELECTED OFFICERS APPOINTED OFFICIALS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith towns to make certain elective officers appointive, 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 41 of the General Laws is hereby amended by inserting after section 1A the following section:-

Section 1B. Any office or board, except the board of selectmen and the school committee, elected under the provisions of section 1 may become an appointed position or board by a majority vote of the annual or special town meeting and acceptance by the voters of the town at the annual town elections; provided, however, that any vote by a special town meeting taken under the provisions of this section shall take place at least 60 days prior to the acceptance of the voters at the annual town election. Such acceptance by the voters shall be in the form of the following question, to be placed on the official ballot:

Shall the town vote to have its elected (Title of office or board) become an appointed (Title of office or board) of the town? Yes \_\_\_\_\_ No \_\_\_\_\_

If a majority of votes cast in answer to said question is in the affirmative, said office or board shall become appointed in accordance with the provisions of this section.

Any incumbent of such office or board serving at the time of acceptance by the voters shall continue to hold said office and to perform the duties thereof until the expiration of the term for which said individual was elected or until said individual otherwise vacates such office; provided, however, that any individual elected to an office or board which becomes an appointed office or board at the same election, under the provisions of this section, shall hold said office and perform the duties thereof until the appointment to said office is otherwise made under the provisions of this section.

Such appointment shall be made by the board of selectmen for a term not to exceed three years, unless such mode of appointment or term is otherwise provided by law.

Approved November 19, 1997.

## **Chapter 150. AN ACT AUTHORIZING THE TOWN OF MEDWAY TO MAKE CHANGES IN ITS FORM OF GOVERNMENT.**

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

The town of Medway is hereby authorized by vote of the town meeting called for the purpose at least 90 days prior to the annual town meeting to determine whether an elected office, board, committee or commission shall be abolished, divided or appointed by the town administrator or board of selectmen; provided, however, that no such vote shall take effect and no action shall be taken thereunder until such matter is submitted to the voters of said town at the next annual town election in the form of a ballot question and a majority of the votes cast are in the affirmative.

Any incumbent serving in an elected office which becomes appointive under this act, shall serve for the balance of the term for which he was elected. Upon the expiration of said term or a precedent vacancy, the office shall be appointed in accordance with the provisions of this act. If any elected office or board is abolished or divided as provided hereunder, said abolition or division shall take effect 60 days after the vote of the town election.

Approved November 19, 1997.

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**Chapter 151. AN ACT AUTHORIZING THE LEASE OF CERTAIN PROPERTY BY  
A SELECTMAN IN THE TOWN OF FRAMINGHAM.**

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

Notwithstanding the provisions of chapter 268A of the General Laws to the contrary, Kathleen Pendergast, a selectman in the town of Framingham, is hereby authorized to continue to lease a portion of the town owned property known as the Jonathan Maynard Building, located at 14 Vernon street in said town.

Approved November 19, 1997.

**Chapter 152. AN ACT RELATIVE TO THE CONSTRUCTION AND FINANCING  
OF CONVENTION AND EXHIBITION CENTERS IN THE  
COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to construct and finance forthwith convention and exhibition centers 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.** It is hereby found and declared that the development of convention and exhibition centers of sufficient size and having adequate facilities to attract and accommodate large national and international groups who wish to conduct conventions, exhibitions and other similar events within the commonwealth is beneficial to the economic development of the commonwealth and the general welfare of its citizens. Major conventions and conferences of such groups represent an important facet of the tourism industry for which there is an ever increasing market on both a national and an international scale. The lack of adequate convention and exhibition facilities within the commonwealth with the capacity to service major national and international conventions has impaired the commonwealth's ability to compete within that market and to develop this important aspect of our tourism industry. There is, however, satisfactory evidence that a substantial number of national and international conventions which cannot be accommodated by facilities currently available in the commonwealth could be induced to locate their activities within the commonwealth if a suitable convention and exhibition center is developed. It is further found and declared that by attracting nonresident visitors to the commonwealth through the development of a suitable convention and exhibition center, it is expected that substantial economic development will be stimulated in such tourism-related industries as transportation, hotels, restaurants, recreation, entertainment and retail sales establishments. Stimulation of these industries will in turn promote the overall economic development of the commonwealth and will provide new and enhanced employment opportunities for its citizens. In addition, the development of suitable convention and exhibition centers will fur-



ther promote the economic health of the commonwealth by encouraging private investment and development. Thus, the development of convention and exhibition centers will increase the tax base, provide important, new employment opportunities and otherwise benefit the general welfare of the citizens of the commonwealth.

In order to obtain full occupancy and utilization of major convention and exhibition centers by national and international conventions, it is further found and determined that the most appropriate location for a convention and exhibition center is within the city of Boston. That location affords immediate access to the primary transportation facilities within the commonwealth which would be used by such national and international groups. The city of Boston and the communities within its immediate vicinity also have at present, and are expected to further develop in the immediate future, the necessary hotel and related service establishments with the capacity to accommodate major national and international conventions. Moreover, the greater Boston area is endowed with unique historical, recreational and entertainment attractions which should prove to be a valuable asset in attracting major national and international conventions to the commonwealth. In order to obtain full occupancy and utilization of a major convention and exhibition center by national and international conventions, such a convention and exhibition center shall contain approximately 600,000 square feet of contiguous exhibition space and related facilities.

It is further found and declared that the acquisition and financing by the city of Boston of a suitable site within that city for a convention and exhibition center is in furtherance of a public purpose and will provide an essential stimulus to the development of the facility and the economic health and development of the city and the community adjacent to the convention and exhibition center. To assure that those principally benefited by a convention and exhibition center bear most of its costs, it is also appropriate that costs incurred by the city of Boston to acquire the site of the facility be financed and paid to the fullest extent possible from room occupancy revenues to be received by the city from increased hotel activity stimulated by construction and operation of the convention and exhibition center.

It is hereby further found and declared that there exists in the cities of Springfield and Worcester the need for the construction, renovation and expansion and marketing of civic and convention centers for holding conventions, conferences, exhibitions, meetings, shows and other similar events.

It is further found and declared that development of a suitable convention and exhibition center in the city of Boston and the construction and renovation of facilities in the cities of Springfield and Worcester and the financing of the costs of construction thereof by the commonwealth and the expenditure of public funds for such purpose as provided in this act are in furtherance of a public purpose and in the best interests of the commonwealth. Nonresident visitors to the convention and exhibition center may be expected to take advantage of the many hotels, restaurants, entertainment establishments and stores within the commonwealth, which will in turn generate substantial, new revenues to the commonwealth through room occupancy, meals and sales taxes within the immediate area

of the convention and exhibition center and elsewhere in the city of Boston and the communities within its general vicinity and within and surrounding the cities of Springfield and Worcester. The development of a new convention and exhibition center also warrants the imposition of a special convention and exhibition center financing fee on room occupancy in the cities of Boston, Cambridge, Springfield and Worcester in recognition of the special benefits to be derived within those communities by national and international groups using the new facilities. This substantial source of new revenue, which will be provided in large part by nonresident visitors to the commonwealth, will provide a means to assure that the costs of construction of new convention and exhibition centers will be financed and paid to the fullest extent possible without substantial resort to the existing general revenues of the commonwealth.

It is further found and declared that the prompt accomplishment of these public purposes requires the speedy completion of the Boston and Springfield convention center projects. The commonwealth wishes to avoid the substantial risk of construction delay and resulting additional costs caused by labor disharmony in connection with the construction of these projects. Therefore, the commonwealth, in its capacity as a market participant, has decided to require a project labor agreement, including a uniform grievance and arbitration procedure and an obligation not to strike, for construction work on these projects.

**SECTION 1A.** To provide for the construction and financing of convention and exhibition centers in the commonwealth, the sums set forth in this section and section 1B are hereby made available, subject to the provisions of law regulating the disbursements of public funds and the approval thereof.

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

### *Executive Office.*

1100-7981 For the Boston convention center project as defined in section 2; provided, that amounts expended from this item shall be for the commonwealth's share of the planning, financing, development, construction and related costs of the project in accordance with the provisions of section 11; provided, however, that the commonwealth's share of said project shall not exceed \$537,200,000; provided, further, that an additional \$47,200,000 may be made available to meet the requirements of section 6; provided, further, that up to \$25,000,000 in cost sharing funds may be made available from the amount authorized herein in the event that the costs of site acquisition, remediation, gravel removal, relocation and demolition exceed \$205,000,000 pursuant to said section 6; and provided, further, that the funds authorized by this item shall be expended only in accordance with the following conditions, pursuant to subsection (h) of section

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5: (a) the provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of the General Laws shall apply to the contract between the Authority and the construction manager and to all trade contracts for said project; and (b) all construction employees employed in the construction of said project shall be paid no less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (1) a uniform grievance and arbitration procedure for the resolution of work-related disputes on job sites; (2) mutually agreeable uniform work rules and schedules for the project; and (3) an obligation for any such labor organization and its constituent members not to strike with respect to work on such project, provided that it shall not be a precondition to the award of a contract that a bidder have previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the project if it is awarded a contract . . . \$609,400,000

1100-7982 For the expansion, renovation and construction of a civic and convention center located on the site of the present Springfield Civic Center in the city of Springfield; provided, that the funds authorized by this item shall be expended only in accordance with the following conditions: (a) the provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of the General Laws shall apply to all trade contracts for said project; (b) all construction employees employed in the construction of said project shall be paid no less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (1) a uniform grievance and arbitration procedure for the resolution of work-related disputes on job sites; (2) mutually agreeable uniform work rules and schedules for the project; and (3) an obligation for any such labor organization and its constituent members not to strike with respect to work on such project; provided, that it shall not be a precondition to the award of a contract that a bidder have previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the project if it is awarded a contract; and (c) preference shall be given in hiring, to the best of the awarding authority's ability, to

- Springfield residents, minorities and women in accordance with a residents construction employment plan and agreement for the project . . . . . \$48,500,000
- 1100-7983 For the construction of a convention center located in the city of Worcester; provided, that the secretary of administration and finance shall make the funds authorized by this item available as provided in section 21 . . . . . \$19,000,000

**SECTION 1B.**

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

*Executive Office.*

- 1100-7984 For the construction, continued expansion and development of the basketball hall of fame and the adjacent riverfront area in the city of Springfield for the purposes of tourism promotion and economic development pursuant to section 18. . . \$25,000,000
- 1100-7985 For a regional grant program to fund construction, improvement and renovations at various civic, convention and exhibition halls; provided, that not less than \$30,000,000 be expended in the southeastern area of the commonwealth, including \$5,000,000 for local tourism and economic initiatives to be administered by the regional tourism councils and not more than \$25,000,000 for one or more regional tourism or economic development projects, including, but not limited to, one or more regional educational and cultural conference centers with multipurpose function space, offices, kitchen facilities, conference and seminar facilities and associated equipment and furnishings; provided further, that all expenditures for said local and tourism economic initiatives and for said regional tourism and economic development projects including, but not limited to, development and construction shall be made only after a detailed feasibility study and comprehensive marketing plan has been completed by the executive office for administration and finance that would target regional initiatives supporting tourism and economic development in the southeastern area of the commonwealth and after a written report of said study has been filed with the house and senate committees on ways and means; provided further, that not more than \$250,000 of said \$25,000,000 shall be expended for said regional feasibility study and marketing plan; provided further, that said executive office shall report the results of said study and plan by filing the



same with the joint committee on state administration on or before October 31, 1998; provided further, that \$5,000,000 shall be expended for establishing, designing and constructing a regional conference facility in Greater New Bedford, said regional conference center to be located at an appropriate waterfront site or the University of Massachusetts Dartmouth campus and to include multipurpose function space, offices, kitchen facilities, conference and seminar facilities, and associated equipment and furnishings and for the start-up costs associated with the alliance of the Center of Marine Science and Technology at the University of Massachusetts at Dartmouth and the Science, Education, and Economic Development, the SEED center, at the New Bedford Aquarium site or an appropriate site to be determined including, but not limited to, costs of office space and laboratories; and provided further, that an outline of the proposed spending plan shall be submitted to the house and senate committees on ways and means prior to any money being expended on said SEED center; provided further, that \$10,000,000 be expended for the renovation and improvement of the Wallace Civic Center in the city of Fitchburg and that up to \$10,000,000 shall be expended for establishing, designing and constructing a regional conference and convention facility in the greater Haverhill area, but no expenditure shall be made on either said project until for said project a detailed feasibility study and comprehensive marketing plan has been completed by the executive office for administration and finance and a written report of said study has been filed with the house and senate committees on ways and means; provided further, that not less than \$2,500,000 shall be expended for the Colonial Theater renovation project, so called, in the city of Pittsfield; and provided further, that not more than \$1,000,000 be expended for additional studies to be conducted by the executive office for administration and finance including, but not limited to, the feasibility of allowing the following proposed projects: a Greater Lawrence Recreational and Cultural Center, a Cape Cod Convention Center, and a North Shore Convention Center; and provided further, that \$233,000 shall be expended for predevelopment activities associated with the Volleyball Hall of Fame located in the city of Holyoke . . . . . \$60,000,000

**SECTION 2.** As used in this act, the following words shall have the following meanings, unless the context clearly indicates another or different meaning:

"Authority", the Massachusetts Convention Center Authority, established under section 33 of chapter 190 of the acts of 1982 or, if said Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to said Authority shall be given by law.

"City", the city of Boston.

"Convention center development area", the area within the city of Boston bounded and described as follows: beginning at the intersection of the eastern boundary of the South Boston Bypass Road, and the southern boundary of Summer Street, thence easterly along the southern boundary of Summer Street to the intersection of the western boundary of D Street, then southerly along the western boundary of D Street to the centerline of Cypher Street, then westerly along the centerline of Cypher Street with a line extended to the eastern boundary of the South Boston Bypass Road, and then northerly along the eastern boundary of the South Boston Bypass Road to the point of beginning.

"Convention Center Finance District", the area within the city of Boston bounded and described as follows: beginning at the intersection of the centerline of Atlantic Avenue and Northern Avenue, thence easterly following the centerline of Northern Avenue to the US Pier and Bulkhead line on the east side of Fort Point Channel, then northerly and easterly along the US Pier and Bulkhead line to the intersection with a line extended from the centerline of Dry Dock Number Four in the Marine Industrial Park, then southerly along that line to the intersection with the southern boundary of Northern Avenue, then easterly along the southern boundary of Northern Avenue to its intersection with the western property line of the Marine Industrial Park, then southerly along said property line to the intersection with the centerline of Summer Street, then easterly along the centerline of Summer Street to its intersection with the centerline of Pappas Way, then southerly along the centerline of Pappas Way to its intersection with the centerline of East First Street, then southwesterly along the centerline of East First Street to the intersection with the centerline of West First Street, then westerly along the centerline of West First Street to its intersection with the centerline of B Street, then westerly to the centerline of West First Street as it is connected to A Street, then along the centerline of West First Street to the intersection with the centerline of A Street, then northerly along the centerline of A Street to its intersection with the centerline of Mt. Washington Avenue, then westerly along the centerline of Mt. Washington Avenue to the point where that centerline, as extended, meets the eastern shoreline of Fort Point Channel, then southerly and westerly along the eastern shoreline of Fort Point Channel to the centerline of the Dorchester Avenue Bridge, then from that point northerly to the intersection of the centerlines of Kneeland Street and Atlantic Avenue and then northerly along the centerline of Atlantic Avenue to the point of beginning.

"Convention Center Fund", the Boston Convention and Exhibition Center Fund, established by section 10.

"Convention center development plan", the plan described in section 4.

"Cost", as applied to the project and the site thereof, all costs, whenever incurred, of acquiring such site and of acquiring, developing, constructing, improving, furnishing, equipping, finishing and carrying out the project thereon and placing the same in operation, including without limiting the generality of the foregoing, the cost of all lands, property, rights, easements and interests acquired within the convention center development area pursuant to this act and all labor, materials, machinery and equipment necessary to carry out the project and place the same in operation, financing charges, interest prior to and during construction and for a period not exceeding two years after completion of construction, the cost of environmental investigation, analyses and remediation, the cost of demolition and removal of any buildings or structures on lands acquired and removal or relocation of any public utilities and other facilities, relocation payments as defined in, and any other costs of relocation assistance required under chapter 79A of the General Laws and this act, the costs of architectural, engineering and legal services, plans, including without limitation the convention center development plan provided in section 4, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the project, administrative, marketing and promotion expenses, reserves for debt service, and other capital and current expenses and such other expense as may be necessary or incident to the construction or acquisition of the project and the site thereof, the financing thereof and the issuance of bonds or notes by the commonwealth or the Authority and the city under the provisions of this act and placing the project in operation.

"Pledged funds", shall have the meaning given such term in section 11.

"Project", the planning, design, acquisition, development, construction, expansion, rehabilitation, improvement, furnishing, equipping and finishing or any combination of the foregoing, and the operation, promotion and maintenance, of a convention and exhibition center within the convention center development area containing approximately 600,000 square feet of contiguous exhibition space, and attendant meeting rooms, lecture rooms, ballrooms and related common areas for public circulation service and support, of a scale and scope generally consistent with the facility described in the project report, together with all necessary and related furnishings, furniture, machinery, equipment, facilities, approaches, driveways, walkways, parking facilities, roadways, public transportation, statuary, fountains, planting and landscaping, and including without limitation the acquisition within the convention center development area of lands or other property, or rights, easements, and interests acquired for or in respect of any such lands or property, as a site for such facility, the demolition or removal of any buildings or structures on lands so acquired or in or with respect to which interests are so acquired, relocation payments and other assistance therefor, and site preparation and environmental remediation. Whenever appropriate, the term shall also mean such lands, buildings or structures and such appurtenances. The term shall include land within the convention center development area adjacent to the convention and exhibition center and surplus to its immediate needs for use as expansion space, together with any preliminary planning and design work related thereto.



"Project report", the final report on the Boston convention and exhibition center delivered on March 25, 1997, to the predevelopment committee for the project consisting of the governor, the mayor, the speaker of the house of representatives and the president of the senate or their designees.

"Redevelopment authority", the Boston Redevelopment Authority established pursuant to section 4 of chapter 121B of the General Laws and chapter 652 of the acts of 1960, or, if said redevelopment authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to said redevelopment authority shall be given by law.

"Room Occupancy Excise Fund", shall mean the City of Boston Room Occupancy Excise Fund established by section 8.

"Special receipts", shall have the meaning given such term in section 10.

**SECTION 3.** (a) Subject to section 13, the redevelopment authority is hereby authorized and directed to acquire all lands, properties, rights, air rights, sub-surface rights, easements and other interests within the convention center development area, and to convey the same in fee simple absolute for \$1, to the Authority, as and for a site for the project as provided in this section. To carry out and effectuate the foregoing purposes, the redevelopment authority may take by eminent domain under chapter 79 or chapter 80A of the General Laws, or acquire by purchase, lease, gift, bequest, grant or otherwise from any party, public or private, and hold, clear, repair, operate and, after having taken or acquired the same, convey as provided in this act, any lands and other property, real or personal, improved or unimproved, tangible or intangible, and any interest therein, including, to the extent not inconsistent with federal law, railroad properties, constituting the whole or any part of the convention center development area, after a public hearing of which the land owners of record have been notified by certified mail and of which at least 20 days' notice has been given by publication in a newspaper having general circulation in the city; provided, however, that no such taking or acquisition shall be effected until 30 days after the redevelopment authority has notified the land owner of record by certified mail and has caused a notice of such determination to be published in a newspaper having general circulation in the city. The value of any lands or real property within the convention center development area acquired by the redevelopment authority by eminent domain shall be reduced by the costs necessary to remediate the environment of said site pursuant to subsection (d). To the extent not inconsistent with federal law, the taking or other acquisition by the redevelopment authority of railroad rights of way or related facilities within the boundaries of the convention center development area from any department, authority, agency or political subdivision of the commonwealth, from any railroad company, or from any other party, shall be exempt from the procedures, findings and requirements of section 7 of chapter 161C of the General Laws.

It is hereby declared that, for purposes of any constitutional entitlement to damages in the event of a taking, all properties and interests held within the convention center development area by the city, the Massachusetts Port Authority, the Boston water and sewer



commission and the commonwealth, acting by and through the Massachusetts department of highways, or their successors and assigns, are being held by said city, authorities, commission and department, respectively, in a governmental and not a proprietary capacity and it is not the intent of this act to confer on the city or said authorities, commission or department any rights to damages for such taking. Any taking of property within the convention center development area held by the city or said authorities, commission or department shall be effective notwithstanding any inconsistent prior public use. The redevelopment authority shall make relocation payments to persons and businesses displaced as a result of carrying out the project and shall otherwise provide relocation assistance as provided in chapter 79A and chapter 121B of the General Laws.

To the extent not inconsistent with federal law, if there is a taking or other acquisition of railroad lines, rights of way, easements or related facilities from any party, any part of which lie within the boundaries of the convention center development area, the Authority is hereby authorized and directed to relocate such railroad lines; provided, further, that in no event shall rail service to the Marine Industrial Park be permanently discontinued.

(b) The redevelopment authority shall have all the powers necessary and convenient to carry out the purposes of this act. Without limiting the generality of the foregoing, the redevelopment authority may exercise within the convention center development area and with respect to the project and any property acquired in accordance with this section all powers, and shall have all immunities, consistent with this act, granted to operating agencies, including without limitation redevelopment agencies, as defined in chapter 121B of the General Laws or otherwise granted to the redevelopment authority under any general or special law.

(c) The redevelopment authority is hereby authorized and directed to prepare or cause to be prepared a report regarding the project jointly on behalf of itself and the Authority in accordance with section 62B of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, the secretary of environmental affairs is hereby authorized and directed to require the redevelopment authority to prepare a final report without any prior draft thereof based on the submission of an expanded notification form by the redevelopment authority pursuant to section 62A of said chapter 30. Notwithstanding the provisions of sections 62 to 62H, inclusive, of said chapter 30, the Authority may commence and undertake research, planning, design and other work necessary for the project and may engage an owner's representative, architects and engineers and a construction manager therefor as provided in section 5 of this act, and the redevelopment authority may take all actions necessary or appropriate or required for acquisition of lands, air rights, sub-surface rights or other property interests within the convention center development area as provided in this section, prior to the publication of a final environmental impact report pursuant to this section and section 62C of said chapter 30; provided, however, that the redevelopment authority shall not record a notice of taking with respect to any lands or other property within the convention center development area by eminent domain as provided in this section until the secretary of environmental affairs has issued a notice of availability of a report submitted

to the secretary in accordance with said section 62C which demonstrates to the satisfaction of said secretary that the project may be carried out with appropriate mitigation measures as may be necessary to minimize and prevent damage to the environment.

(d) The redevelopment authority and the Authority and the Massachusetts Port Authority shall be excluded from the definition of an owner or operator of the project and the convention center development area with respect to releases of hazardous materials that occur before the redevelopment authority acquires ownership of any portion of such site upon or from which such a release may occur as if the redevelopment authority were a city or town that has purchased or taken such land for the nonpayment of taxes, in accordance with paragraph (d) of the definition of "Owner" or "Operator" of section 2 of chapter 21E of the General Laws; provided, however, that the redevelopment authority complies with all of the requirements set forth in subparagraphs (2) and (3) of said paragraph (d), except that the redevelopment authority shall have no obligation to comply with clause (F) of subparagraph (3) of said subsection (d), other than to convey all lands, properties, rights, easements and other interests acquired by it within the convention center development area, to the Authority in accordance with subsection (e).

(e) The redevelopment authority shall convey to the Authority in fee simple absolute for \$1 all of the lands, properties, rights, air rights, sub-surface rights, easements and other interests by it acquired within the convention center development area, pursuant to this section. Any lands and properties acquired or taken from the Massachusetts Port Authority which are not conveyed to the Authority shall be conveyed to said Massachusetts Port Authority in fee simple for \$1 as full consideration therefor.

(f) All costs incurred by the redevelopment authority to acquire lands, air rights, sub-surface rights, and other property interests within the convention center development area as provided in this act and all other costs of the project incurred by the redevelopment authority under the provisions of this act, except as otherwise provided herein, shall be borne by the city as provided in section 6.

(g) Notwithstanding any contrary provision of this act, there shall be no construction and development of any hotel, lodging house or motel, by any party within the convention center finance district other than in the area north of Summer street and west of a continuous line running parallel to the western side of dry dock four or within the northeast corner of the convention center development area or west of the Fort Point channel.

**SECTION 4.** (a) Notwithstanding any provision of section 3 to the contrary, the redevelopment authority shall neither acquire any property within the convention center development area as provided in said section 3 nor institute any proceeding therefor under chapter 79 or chapter 80A of the General Laws prior to the approval of the project by the city council and the mayor, after not less than two public hearings, which shall be held in the area of the city most impacted by the project, and upon preparation and submission to the city council and the mayor by the redevelopment authority, upon consultation with the Authority, of a convention center development plan for the project.

(b) The convention center development plan may include and expand on the project report and shall (1) be consistent with the general plan for the city and any master plan for

the area adjacent to the convention center development area and be consistent with any definite objectives respecting appropriate land uses, traffic, public transportation, public utilities, recreational, educational and community facilities and other public improvements; (2) be sufficiently complete to indicate the project boundaries, such land acquisition, demolition and removal of structures, and such redevelopment and general public improvements, as may be proposed to be carried out within the convention center development area and the areas adjacent thereto, and proposed land uses, maximum densities and building requirements, including preliminary project designs and a description of the project programs; (3) indicate or be accompanied by materials indicating the proposed method for relocation of persons and organizations to be displaced by the project; (4) describe the economic impacts of the project, including job creation, local business opportunities and related development; (5) indicate cost estimates of the project and a financing plan therefor, including an acquisition plan for the site thereof and identification of parcels to be acquired and the estimated cost thereof; (6) include proposals for neighborhood participation in the development of the project and the operation thereof, consistent with the goals as developed for the Enhanced Enterprise Community, so called, of the city of Boston; and (7) consider and describe measures to mitigate environmental and neighborhood impacts of the project and such other planning and urban design issues as the redevelopment authority, upon consultation with the Authority, shall determine are presented by the project.

(c) In connection with the preparation of the convention center development plan and the exercise by the redevelopment authority of its powers under this act, the redevelopment authority and its authorized agents and contractors, and the Authority, are hereby authorized, whenever the redevelopment authority or the Authority deems it necessary or convenient, to enter onto any properties within the convention center development area and the improvements thereon and to undertake appraisals, surveys, environmental analyses and investigations, including subsurface investigations, permitting analyses and investigations, and other investigations and analyses, for the purpose of determining the value and condition of such properties. The redevelopment authority or the Authority shall provide 20 days written notice by certified mail to the owners of properties within the convention center development area, as such owners are recorded in the office of the city assessor, prior to any such entry. Such entry, appraisals, surveys, analyses and investigations shall not be deemed a trespass, a taking by eminent domain or an entry under any eminent domain or condemnation proceedings. The redevelopment authority or the Authority shall make reimbursement for any actual injury or actual damage resulting to such properties and any improvements thereon from the entry, appraisals, surveys, analyses and investigations authorized hereunder, and the redevelopment authority or the Authority shall, as far as possible, restore such properties and the improvements thereon to their condition prior to such entry, appraisals, surveys, analyses and investigations. Without derogating from the foregoing, the redevelopment authority is hereby authorized to exercise the power of eminent domain as provided in clause (d) of section 11 of chapter 121B of the General Laws in order to temporarily obtain access to properties and the improvements thereon for the redevelopment



ment authority and its agents and contractors or for the Authority for the purpose of conducting the appraisals, surveys, analyses and investigations authorized by this act. If the redevelopment authority or the Authority restores the properties and improvements as required hereunder, the damages for the temporary taking hereby authorized shall be nominal in the absence of extraordinary circumstances unique to particular properties.

(d) There is hereby established a buffer zone, so called, as defined in the project report, which shall include the BCEC Buffer Zone, so called, and the BCEC Landscape Buffer Zone, so called.

(e) Notwithstanding any provision of this act to the contrary, in the convention center development area there shall not be any development of air rights exceeding 200 feet in height.

(f) Notwithstanding any provision of section 3 to the contrary, the redevelopment authority shall neither acquire, relocate, terminate or adjust any rail line or railroad easement within the convention center development area as provided in said section 3, nor institute any proceeding therefor under chapter 79 or chapter 80A of the General Laws prior to giving 30 days written notice to the joint committee on transportation upon submission and approval of a convention center development plan for the project.

(g) (i) As used in this subsection, the following terms shall, unless otherwise required, have the following meanings:

The South Boston Community Development Foundation or foundation shall consist of a committee of nine members: three members appointed by the governor who shall be business owners from the locally impacted neighborhood; three members appointed by the mayor who shall be representatives of local social service agencies; the senator from the first Suffolk district or his designee, who shall be a non-voting member; the representative from the fourth Suffolk district or his designee, who shall be a non-voting member; and the Boston city councilor from District two or his designee; all of whom, with the exception of the elected officials, shall be residents of South Boston and shall serve a two year term which may be extended by reappointment.

The Community Development Fund shall consist of monies held in a Massachusetts Charitable Trust, to be placed in a money market interest-bearing account to be administered by the South Boston Community Development Foundation.

(ii) Notwithstanding the prohibition against gate shows in subsection (d) of section 15, in consideration of the project's impact, the Authority shall allow the South Boston Community Development Foundation to sponsor no less than three charitable events annually at the Boston Convention and Exhibition Center, and shall include access to on site parking facilities. Said events shall be scheduled mutually by the Authority and the foundation so as not to conflict or interfere with the regular operation of the Boston convention and exhibition center. Said community events shall not compete with the Boston exhibition and convention center and shall not solicit any event previously hosted by the Hynes convention center, the World Trade Center or the Bayside Exhibition Center in the ten year period before the effective date of this act, without the consent of the affected facility. Said events shall be sponsored by the foundation for the purposes set forth in this



subsection; provided, further, that the net proceeds of said events shall not be used for any purpose other than those described in this subsection. The Authority shall deposit said proceeds, including, but not limited to, on site parking fees in the Community Development Fund.

(iii) The South Boston Community Development Fund shall consist of the net proceeds and fees generated by the three charitable events described in paragraph (ii) in addition to any other contributions that may be deposited in said fund from time to time.

(iv) The South Boston Community Development Foundation shall dispense funds, from time to time, from the Community Development Fund for the benefit of the South Boston residential, charitable and business communities which may be adversely impacted by the project.

(v) The foundation shall file a detailed report of its income and expenditures, on or before October 1 of each year, with the secretary of administration and finance and the house and senate committees on ways and means.

**SECTION 5.** (a) Subject to section 13, the Authority is hereby authorized and directed to acquire from the redevelopment authority by conveyance as provided in section 3, all lands, properties, rights, air rights, sub-surface rights, easements and other interests within the convention center development area, and to acquire, develop, lease, construct, improve, furnish, equip, finish and otherwise carry out the project thereon, and to own, operate, lease, sub-lease, license, promote, maintain, improve and rehabilitate the same, either directly or indirectly in whole or in part through agents, lessees, contractors, concessionaires or others, subject to the provisions of this act. No person shall be precluded by chapter 7 or chapter 268A of the General Laws from participating by contract or otherwise in the activities of the commonwealth, the authority, the city or the redevelopment authority with regard to the planning, acquisition, construction and operation of the project solely by reason of a financial interest, direct or indirect, in any contract or extension thereof for services with respect to the project report or otherwise with respect to the development of the project executed by such person with the commonwealth, the authority, the city or the redevelopment authority prior to the effective date of this act. For purposes of the foregoing, the Authority shall have all of the powers granted to it by general or special law not inconsistent with this act, including without limitation all powers, and all immunities, provided under sections 35 to 37, inclusive, of chapter 190 of the acts of 1982. Compliance by the Authority and the redevelopment authority with the provisions of this act shall be conclusively deemed to satisfy the requirements of paragraph (n) of section 35 and section 38N and section 44A of said chapter 190. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the commissioner of public safety or his designee in the division of inspection of the department of public safety shall be solely responsible for inspection, enforcement, permitting and licensure of the project authorized or required by chapter 143 of the General Laws or section 21 of chapter 40 of the General Laws and regulations referred to therein or adopted pursuant thereto. The project also shall

be exempt from compliance with the city's zoning code and any regulations promulgated thereunder. The redevelopment authority and the Authority shall, however, subject the project to large project review as set forth in section 80B-3, subsections 1-5 of the city's zoning code and the lease or other disposition agreement between the redevelopment authority and the Authority authorized hereby shall provide for review and approval by the redevelopment authority of urban design plans, schematic design plans and design development plans.

(b) If the Authority, by a majority vote of its members, approves utilizing the alternative methods for the procurement of design and construction services as provided in subsections (d), (e), (f), (g) and (h), then the procedures set forth in said subsections (d), (e), (f), (g) and (h) shall take effect; provided, however, that the provisions set forth in the last sentence of said subsection (h), and the provisions relating to construction employees including the project labor agreement in said subsection (h), shall apply to the project regardless of the method utilized for procuring construction contracts, and the provisions of sections 38A to 38 O, inclusive, of chapter 7 of the General Laws, the provisions of sections 44A to 44M, inclusive, of chapter 149 of the General Laws, the provisions of section 39M of chapter 30 of the General Laws, and any other general or special law or regulation providing for the advertising, bidding or awarding of contracts for planning, design, construction or improvements to real property shall not apply to contracts entered into in connection with implementation of the project. The Authority is hereby authorized, subject to the further provisions of this act, to utilize alternative methods for the procurement of design and construction services for the project including, but not limited to, construction management, design-build, so called, and fast-tracked or phased construction. Except as otherwise provided in this act, the procedures to be followed and the terms and conditions of such alternative methods shall be determined by the Authority upon consultation with the commissioner of capital planning and operations and the inspector general; provided, however, that the division of capital planning and operations shall otherwise have no jurisdiction over the project. The inspector general shall comment in writing on such alternative method and not less than 30 days before the Authority begins the procurement of design or construction services for the project pursuant to such alternative measures, the Authority shall have received the written comments of said inspector general and such comments shall have been submitted to the joint committee on state administration and the house and senate committees on ways and means of the general court.

(c) The designer selection board of the Authority shall promulgate procedures consistent with the procedures contained in subsection (b) for the selection of architects and design professionals for the project; provided, however, that said procedures shall also be consistent with Executive Order 390 of 1996. Said procedures shall be approved by the Authority and the designer selection board of the executive office for administration and finance.

(d) As soon as practicable after the effective date of this act, the Authority shall retain the services of an owner's representative, who will serve as the Authority's agent and consul-

tant during the planning, design and construction of the project. The owner's representative's services shall include, but need not be limited to, monitoring the planning and programming and providing advice and consultation with respect to design, value engineering, cost estimating, scheduling, construction and the selection, negotiation with, and oversight of, a designer and a construction manager for the project. The owner's representative shall be selected pursuant to a publicly advertised request for qualifications, which shall include, among other things, the entity's experience with the design and construction of similarly large and complicated buildings, past performance on prior projects and such other factors as the Authority deems appropriate.

(e) There is hereby established a technical advisory board consisting of 11 members, one of whom shall be the director of the redevelopment authority or his designee, one of whom shall be a resident of the South Boston section of the city of Boston appointed by the mayor, one of whom shall be the secretary of administration and finance or his designee, one of whom shall be a person appointed by said secretary of administration and finance, one of whom shall be the executive director of the Authority or his designee, one of whom shall be the owner's representative retained pursuant to the provisions of subsection (d) or his designee, one of whom shall be a representative of the Boston Building and Trades Council appointed by the Authority, one of whom shall be a representative of the Association of General Contractors appointed by the Authority, one of whom shall be a representative of the Associated Subcontractors of Massachusetts, Inc. appointed by the Authority, one of whom shall be a representative of the Boston Chapter of the National Association of Minority Contractors, appointed by the Authority and one of whom shall be a representative of the Women in the Building Trades appointed by the Authority.

(f) A construction manager for the project shall be selected and awarded a contract for construction management services pursuant to competitive negotiations in accordance with procedures adopted by the Authority upon consultation with the commissioner of capital planning and operations and the inspector general. Such procedures shall be approved by vote of the Authority. Such procedures shall, at a minimum, provide for the following: (i) a publicly advertised request for qualifications shall be issued by the Authority in consultation with the technical advisory board; (ii) the technical advisory board shall determine based upon the responses to the request for qualifications which respondents are most qualified to perform the contract; (iii) a request for proposal, including all factors as the Authority in consultation with the technical advisory board determines are appropriate, shall be issued to each respondent determined by the technical advisory board to be most qualified to perform the contract; (iv) the technical advisory board shall evaluate the responses to the request for proposal including any guaranteed maximum price and fee proposals and shall rank the offerors based upon that evaluation; (v) the Authority shall engage in negotiations with the offeror ranked highest by the technical advisory board; (vi) the contract shall be awarded to the offeror that represents the best value to the Authority, after consideration of the guaranteed maximum price fee proposal and other factors; (vii) to the extent that a contract cannot be successfully negotiated with the offeror ranked highest



by the technical advisory board, the Authority shall engage in negotiations with the next highest ranked offerors until such time as a contract can be successfully negotiated.

(g) The Authority's contract with the construction manager for the project shall require a guaranteed maximum price, which shall represent the maximum amount to be paid by the Authority for construction of the project, including the fee payable to the construction manager. The Authority's contract with the construction manager shall provide that the construction manager shall have responsibility to ensure compliance with the provisions of Executive Order 390 of 1996. Following the award of the contract to the construction manager, at such time as the Authority, in consultation with the designer and owner's representative, and the construction manager shall agree, the construction manager shall submit a proposed guaranteed maximum price. The Authority, in consultation with the owner's representative, shall analyze the proposed guaranteed maximum price and enter into negotiations with the construction manager to agree upon a guaranteed maximum price for the project. Such agreement shall be subject to approval by the Authority, including the affirmative votes of the secretary for administration and finance or his designee and the collector-treasurer of the city or his designee. At least 14 days prior to any meeting of the Authority at which a vote to approve a guaranteed maximum price for the project is to be held, notice shall be given to the public of the date, time and subject matter of the meeting by publication in a newspaper of general circulation in the city. At least five days prior to said meeting, a summary of the action proposed to be taken at the meeting shall be made available to the public by making copies thereof available at the offices of the Authority, the city clerk and the secretary of administration and finance. In the event that a guaranteed maximum price cannot be agreed upon between the Authority and the construction manager, the Authority shall engage another construction manager in accordance with the provisions of this section; provided, however, that if the Authority determines that it is in its best interests to do so, it may enter into negotiations for a contract with one or more of the firms that previously submitted a response to the request for proposals for a construction manager.

(h) Except as otherwise agreed to between the Authority and the construction manager, all contracts for the provision of labor, material and equipment in connection with the construction of the project, hereinafter referred to as trade contracts, shall be entered into by and between the construction manager and the trade contractor; provided, however, that the purchase of tangible personal property and services for the project by the construction manager and by trade contractors shall be exempt from the excise imposed by chapter 64H of the General Laws. A publicly advertised request for qualifications shall be issued for each trade contract. The construction manager, in consultation with the Authority, shall determine based upon the responses to the request for qualifications which respondents are most qualified to perform the contract. The Authority shall appoint an independent prequalification committee consisting of two general contractors, two trade contractors, an architect and an engineer, all of whom have had active roles in the construction of large buildings, to prequalify the trade contractors in each trade in consultation with the construction managers and the Authority. The prequalification committee in consultation



with the construction manager and the Authority shall determine, based on the response to the request for qualifications and investigations made, the respondents who are qualified to perform each contract. Those respondents determined to be most qualified by the prequalification committee in consultation with the construction manager and the Authority shall be invited to submit bids and the trade contract shall be awarded to the lowest responsive bidder; provided, however, that a trade contract may be awarded to other than the lowest responsive bidder with the approval of the Authority upon written justification by the construction manager describing in detail why such award is in the best interests of the Authority. In no event shall the award of a trade contract to other than the lowest responsive bidder upon the recommendation of the construction manager affect the guaranteed maximum price. The Authority shall have the right to reject any bidder for a trade contract upon written justification describing in detail why such action is in the best interests of the Authority; provided, however, that if the Authority rejects the lowest responsive bidder for a trade contract, the guaranteed maximum price shall be increased by the difference between the price offered by the rejected bidder and the trade contract awarded. The provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of the General Laws shall apply to the contract between the Authority and the construction manager and all trade contracts awarded pursuant to this section. In undertaking the project: (1) all construction employees employed in the construction of the project shall be paid no less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (i) a uniform grievance and arbitration procedure for the resolution of work-related disputes on job sites, (ii) mutually agreeable uniform work rules and schedules for the project, and (iii) an obligation for any labor organization and its constituent members contracted to work on the project not to strike with respect to work on such project; provided, that it shall not be a precondition to the award of a contract that a bidder have previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the project if it is awarded a contract; (2) all steps legally allowed shall be taken in hiring Boston residents in accordance with the provisions of the hiring goals as contained in the Boston Jobs for Boston Residents policy, so called, city of Boston code: ordinances, section 12-10; and (3) the Authority shall comply with the city of Boston's policy and standards relative to contracting with minority and women-owned business enterprises, pursuant to the city of Boston code: ordinances, section 4-4.

The contract between the Authority and the construction manager shall contain the following provisions: Within 15 days after receipt from the construction manager, at the place designated by the Authority if such a place is so designated, of a periodic estimate requesting payment of the amount due for the preceding month, the Authority will make a periodic payment to the construction manager for the work performed during the preceding month and for the materials not incorporated in the work but delivered and suitably stored at the site, or at some location agreed upon in writing, to which the construction manager has title or to which a trade contractor has title and has authorized the construction manager to transfer title to the Authority, less (1) a retention based on its estimate of the fair value of its

claims against the contractor and less (2) a retention not exceeding 5 per cent of the approved amount of the periodic payment. After the receipt of a periodic estimate requesting final payment and within 65 days after (a) the construction manager fully completes the work or substantially completes the work so that the value of the work remaining to be done is, in the estimate of the authority, less than 1 per cent of the original contract price, or (b) the construction manager substantially completes the work and the Authority takes possession for occupancy, whichever occurs first, the Authority shall pay the contractor the entire balance due on the contract less a retention based on its estimate of the fair value of its claims against the contractor and of the cost of completing the incomplete and unsatisfactory items of work. If the Authority fails to make payment as herein provided there shall be added to each such payment daily interest at the rate of 3 per cent above the rediscount rate then charged by the Federal Reserve Bank of Boston commencing on the first day after said payment is due and continuing until the payment is delivered or mailed to the construction manager; provided, however, that no interest shall be due, in any event, on the amount due on a periodic estimate for final payment until 15 days after receipt of such a periodic estimate from the construction manager at the place designated by the Authority if such a place is so designated. The construction manager agrees to pay to each trade contractor a portion of any such interest paid in accordance with the amount due each trade contractor.

The Authority may make changes in any periodic estimate submitted by the construction manager and the payment due on said periodic estimate shall be computed in accordance with the changes so made, but such changes or any requirement for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the change made, as provided herein; provided, however, that the Authority may, within seven days after receipt, return to the construction manager for correction, any periodic estimate which is not in the required form or which contains computations not arithmetically correct and, in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

All periodic estimates shall be submitted to the Authority, or to its designee as set forth in writing, by the construction manager, and the date of receipt by the Authority or its designee shall be marked on the estimate. All periodic estimates shall contain a separate item for each subtrade as required by specifications and a column listing the amount paid to each trade contractor as of the date the periodic estimate is filed. The person making payment for the Authority shall add the daily interest provided for herein to each payment for each day beyond the due date based on the date of receipt marked on the estimate.

A certificate of the architect to the effect that the construction manager has fully or substantially completed the work shall be conclusive for the purposes of this section.

The contract between the Authority and the construction manager and the contracts between the construction manager and the trade contractors shall contain the following provisions: Forthwith, which for the purposes of this paragraph means within five days after the construction manager receives payment on account of a periodic estimate, the construction manager shall pay to each trade contractor the amount paid for the labor performed and the materials furnished by that trade contractor, less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the trade contractor by the construction manager.

After each trade contractor substantially completes his work in accordance with the plans and specifications, the entire balance due under the subcontract less amounts retained by the Authority as the estimated cost of completing the incomplete and unsatisfactory items of work, shall be due the trade contractor, and the construction manager shall submit a periodic estimate for such payment to the Authority and the Authority shall act on such estimate and make payment to the construction manager of sums due not later than 65 days after receipt of such periodic estimate requesting payment. The construction manager shall forthwith, which for the purposes of this paragraph means within five days, pay to the trade contractor the full amount received from the Authority less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the trade contractor to the construction manager.

Each payment made by the Authority to the construction manager pursuant to this subsection for the labor performed and the materials furnished by a trade contractor shall be made to the construction manager for the account of that trade contractor and the Authority shall take reasonable steps to compel the construction manager to make each such payment to each such trade contractor. Failure of the construction manager to make payments due to a trade contractor in accordance with the provisions of this section shall constitute a default of the construction manager's contract with the Authority.

(i) Notwithstanding any provision of this act or any other general or special law to the contrary, the redevelopment authority, upon request and direction of the Authority, may make direct expenditures for any cost of the project not otherwise the expense of the redevelopment authority hereunder, subject to reimbursement therefor from the Authority or the commonwealth as provided in this act. Any such expenditure made by the redevelopment authority at the request of the secretary of administration and finance prior to the effective date of this act is hereby ratified and confirmed.

(j) Notwithstanding any general or special law to the contrary, in staffing the Boston convention and exhibition center authorized by this act, the Authority shall take all necessary and legally allowed steps to hire the work force for said convention and exhibition center according to the hiring goals of the Enhanced Enterprise Community, so called, of the city of Boston.

(k) The Authority, in negotiating and entering into contracts to support the daily operations of the Boston convention and exhibition center authorized by this act, shall comply with the provisions of Executive Order 390 of 1996. In meeting the requirement of



this paragraph, the Authority shall consult with the executive director of minority business enterprise in the executive office for administration and finance.

(l) The Authority shall prepare quarterly reports which shall include, but not be limited to: (i) the total dollars expended on the project to date, (ii) the number of contracts entered into to date; (iii) the number of contracts entered into with minority businesses; (iv) the number of contracts entered into with women-owned businesses; (v) the dollar value of contracts entered into with minority businesses; (vi) the dollar value of contracts entered into with women-owned businesses; (vii) the total number of employees working on the project; (viii) the total number of employees working on the project, broken down by race, ethnicity and gender; and (ix) the total number of Boston residents working on the project. Said quarterly reports shall be submitted to the secretary of the executive office for administration and finance, the house ways and means committee, the senate ways and means committee, the clerk of the house, the clerk of the senate, and the house committee on long term debt and capital expenditures.

**SECTION 6.** (a) Subject to section 13, the city of Boston shall raise and appropriate, or may borrow as provided in section 7, and shall agree with the redevelopment authority to raise and appropriate or borrow, in aid of the redevelopment authority, such sums as may be necessary to defray the costs of all lands, property, rights, air rights, sub-surface rights, easements and interests acquired by the redevelopment authority as provided in section 3 and for making relocation payments as provided therein and in chapter 79A of the General Laws and the costs of remediation, gravel removal, relocation and demolition of structures, lands or property to provide a ready to build site and for paying any other costs of the project incurred by the redevelopment authority as provided in section 3, 4 or 5; provided, however, that the city shall raise and appropriate not less than \$157,800,000 unless said costs incurred by the redevelopment authority are less than said amount. To the extent the costs incurred by the redevelopment authority as aforesaid exceed the amount available therefor from the city, the commonwealth shall provide up to \$47,200,000 for such excess costs. To the extent that the costs of all lands, property, rights, easements and interests and the costs of remediation, gravel removal, relocation and demolition necessary to provide a ready to build site exceed \$205,000,000, the city and the commonwealth shall share equally in the payment of such excess up to a maximum of \$50,000,000. Prior to the city issuing temporary or permanent debt to finance site acquisition costs, the city shall be authorized to increase the excise authorized by section 3A of chapter 64G of the General Laws up to the rate of 4.5 per cent.

(b) The city of Boston shall solely bear the financial burden associated with any incentives necessary including, but not limited to, tax abatements, tax rebates, tax increment financing, equity participation, parking structure and other infrastructure not specifically mentioned in the provisions of this act, credit enhancement of financing, rebate of development fees for licensing, permitting, reduced ground rent, Community Development Finance Authority hereinafter referred to as CDFA grants or Community Development Block Grants hereinafter referred to as CDBG, land assemblage, land leases and tax abate-



ments and tax rebates that are required to promote and to achieve an adequate number of hotel rooms to support the specified projects.

**SECTION 7.** (a) Subject to section 13, to meet the expenditures of the city provided in section 6, the city is hereby authorized to borrow, at one time or from time to time, a sum in the aggregate not exceeding \$157,800,000 and may issue and sell bonds, notes and other evidences of indebtedness of the city therefor as provided herein and in chapter 643 of the acts of 1983; provided, however, that the city is hereby further authorized to borrow an additional sum in the aggregate not exceeding \$25,000,000, as needed by the city to pay excess costs pursuant to the provisions of section 6.

(b) Subject to section 16 of chapter 44 of the General Laws and chapter 643 of the acts of 1983, bonds and notes issued by the city under authority of this act shall bear on their face the words, City of Boston Convention Center Loan, Act of 1997. Each issue shall constitute a separate loan and, except as provided in said chapter 643, such loans shall be payable in not more than 25 years from their dates. Debt incurred by the city under authority of this act shall not be included in determining the limit of indebtedness of the city as established by law, but shall, except as provided herein or in said chapter 643, be subject to the provisions of chapter 44 of the General Laws. Notwithstanding the provisions of section 4 or section 8 of said chapter 643 to the contrary, the maturity date of notes issued by the city in anticipation of the receipt of the proceeds of bonds authorized by this section shall not exceed five years from the date of issue of such notes provided that notes issued for less than five years may be refunded by the issue of other notes maturing no later than five years from the date of issue of the original loan.

**SECTION 8.** (a) On or before the first date of issuance by the city of any bonds, notes or other indebtedness pursuant to section 7, but in any event no later than July 1, 1998 the collector-treasurer of the city shall set up on the books of the city, or shall otherwise establish pursuant to the trust or other security agreement, if any, securing any indebtedness incurred under authority of said section 7, a separate fund entitled the City of Boston Room Occupancy Excise Fund hereinafter referred to as the Room Occupancy Excise Fund. Such fund shall be maintained as provided in this act by the collector-treasurer or, with the approval of the mayor, by a corporate trustee under such trust or security agreement.

(b) Notwithstanding any provisions of chapter 64G of the General Laws to the contrary, on and after the date of establishment of the Room Occupancy Excise Fund as provided in subsection (a), all sums received by the city from or on account of the excise imposed under section 3A of said chapter 64G and from or on account of the sale of hackney licenses as provided in section 20 and from or on account of receipts from the surcharge on vehicular rental transaction contracts imposed pursuant to subsection (e) of section 9 and all sums distributed to the city from the convention center fund pursuant to section 10 shall be deposited in said Room Occupancy Excise Fund. Except as otherwise provided in this section, all amounts so deposited shall be used solely to pay the cost of administration and collection of said excise and of issuance and sale of said licenses, under such supplementary appropriation orders as the mayor may submit and the city council shall approve in accordance with the city charter, and to pay or provide for, without further appropriation, the

principal of and premium and interest on all bonds, notes or other evidences of indebtedness issued under authority of section 7 including the establishment and maintenance of such reserves therefor as may be provided for in any trust or other security agreement securing the same and the costs of administration of such trust or other security agreement. Subject to the provisions of any such trust or other security agreement, any amount deposited in the room occupancy excise fund in any fiscal year which is determined by the collector-treasurer to be not required for the foregoing purposes of the fund may be withdrawn therefrom and deposited in the general fund of the city.

(c) In accordance with section 9 of chapter 643 of the acts of 1983, any trust or security agreement directly or indirectly securing indebtedness of the city incurred under authority of section 7 may, in addition to other security provided by law, pledge or assign, and create a security interest in, all or any part of the amounts deposited and held from time to time in the Room Occupancy Excise Fund. Amounts deposited and held in the room occupancy excise fund shall be deemed to be facility revenues within the meaning of said chapter 643 and the project shall be deemed to be a revenue producing facility for all purposes thereof.

(d) In order to increase the marketability of bonds and notes of the city issued under authority of this act, and in consideration of the acceptance of payment for any such bonds and notes, the commonwealth covenants with the purchasers and all subsequent holders and transferees of any such bonds and notes that until all such indebtedness, including all indebtedness issued to refund such indebtedness, and the interest thereon, shall be paid or, if earlier, shall be deemed to have been paid within the meaning of any trust or other security agreement securing the same, the rate of the excise imposed within the city under section 3A of chapter 64G of the General Laws and the rate of the surcharges imposed pursuant to section 9 shall not be reduced below the amount in effect at the time of issue of any such indebtedness.

(e) The Room Occupancy Excise Fund shall be dissolved on December 31, 1999, if no indebtedness of the city issued under the authority of section 7 shall then be outstanding, or otherwise when all such indebtedness, including any indebtedness issued to refund any such indebtedness, and the interest thereon, shall be paid or, if earlier, shall be deemed to have been paid within the meaning of any trust or other security agreement securing the same. Any balance remaining in said Room Occupancy Excise Fund on such date of dissolution shall be deposited in the General Fund of the city. All sums imposed or received pursuant to subsection (a) or (b) shall remain in effect after the dissolution of said Room Occupancy Excise Fund and shall be deposited in the general fund of the city.

**SECTION 9.** (a) In order to provide for a portion of the costs of the project and the payment of the principal of and interest on special obligation bonds of the commonwealth issued under authority of section 11, there is hereby imposed, in addition to the excises levied under chapter 64G of the General Laws and section 22 of chapter 546 of the acts of 1969, a convention center financing fee upon the transfer of occupancy of any room or rooms in any hotel, motel or other lodging establishment subject to such excises in the cities of Boston, Cambridge, Springfield and Worcester by any operator at the rate of 2.75 per cent

of the total amount of rent for each such occupancy. Except as hereinafter provided, the convention center financing fee shall take effect on the first day of the calendar quarter following 30 days after the effective date of this act. All receipts from the convention center fee shall be applied solely as provided in this act.

(b) All terms used in this section shall have the same meaning given such terms in chapter 64G of the General Laws and all provisions of said chapter 64G relative to the assessment, collection, payment, abatement, verification and administration of the excises imposed therein, including penalties, shall, so far as pertinent, be applicable to the convention center financing fee imposed by this section. The convention center financing fee imposed under the provisions of this section shall be paid by the operator at the same time and in the same manner as the excises due the commonwealth and the cities of Boston and Cambridge under said chapter 64G.

(c) For the purpose of adding and collecting the convention center financing fee imposed by this section and the excises imposed by said chapter 64G, the commissioner of the department of revenue shall issue a schedule showing the total of the excises due for each bracket of taxable charges or rent, as defined in said chapter 64G, plus the convention center financing fee imposed under this section. Such schedule shall be in such form, including the number and size of the brackets, as said commissioner may determine.

(d) There shall be a surcharge of 5 per cent of the purchase price imposed on the price of any ticket purchased for any water-based sightseeing, tourist venue or entertainment cruise or tour and for any land-based sightseeing, tourist venue or trolley tour, originating or located in the commonwealth and conducted partly or entirely within the city of Boston; provided, however, that no such surcharge shall be imposed on children's tickets, so-called, if said ticket is \$6 or less; and provided, further, that no such surcharge shall be imposed for such tours or cruises on tickets sold to an organized school or youth group and adults accompanying such group.

(e) There shall be an additional surcharge of \$10 imposed upon each vehicular rental transaction contract in the city of Boston; provided, however, that \$1 of said additional surcharge shall be paid to the city and deposited in the Room Occupancy Excise Fund.

(f) There shall be a surcharge of \$2 per day imposed upon any vehicle which parks in any parking facility built in conjunction with or as part of the projects authorized by this act in the cities of Boston, Springfield and Worcester.

**SECTION 10.** (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Boston Convention and Exhibition Center Fund, consisting of amounts credited to the fund in accordance with this section. The fund shall be administered in accordance with the provisions of this act by the state treasurer and shall be held in trust exclusively for the purposes and the beneficiaries described herein. The state treasurer shall be treasurer-custodian of the fund and shall have the custody of its monies and securities.

(b) Subject to section 13, commencing on the first day of the first full calendar month following 30 days after the effective date of this act, the following receipts from the cities of Boston and Cambridge, hereinafter referred to, together with investment earnings thereon,



as "special receipts", shall be credited to, and deposited by the state treasurer in, the Convention Center Fund and used in accordance with this section: (i) all receipts from the convention center financing fee imposed by section 9; (ii) all receipts from the excise imposed by section 3 of chapter 64G of the General Laws and section 22 of chapter 546 of the acts of 1969 upon the transfer of any room or rooms in any hotel, motel or other lodging establishment subject to such excise which is located in the Convention Center Finance District; (iii) all receipts from the excise imposed by chapter 64H of the General Laws upon sales at retail by any vendor of meals, beverages and other tangible personal property or services within said Convention Center Finance District at establishments first opened for patronage on or after July 1, 1997; (iv) all receipts from the excise imposed by section 3 of said chapter 64G and section 22 of said chapter 546 upon the transfer of any room or rooms in any hotel, motel or other lodging establishment subject to such excise which is located in the city of Boston, but outside of said Convention Center Finance District, or in the city of Cambridge, and was first opened for patronage on or after July 1, 1997; (v) all receipts from the excise imposed by said chapter 64H upon sales at retail by any vendor of meals, beverages and other tangible personal property or services within any hotel, motel or other lodging establishment described in clause (iv) of this paragraph; and (vi) in the city of Boston, all receipts from the surcharges imposed under the provisions of subsections (d), (e), and (f) of section 9. Notwithstanding anything in section 35J of chapter 10 of the General Laws to the contrary, amounts described in clauses (i), (ii) and (iv) shall not be included in the computation of the amount to be deposited in the Massachusetts Tourism Fund pursuant to said section 35J.

(c) Expenditures from the Convention Center Fund shall, subject to appropriation, be made for the following purposes: (i) for the payment of the principal, including sinking fund payments and premium, if any, and interest on special obligation bonds of the commonwealth described in section 11 and on notes issued in anticipation of such bonds pursuant to section 12; (ii) for the maintenance of, or provision for, any reserves for debt service and other capital and current expenses, including without limitation the capital reserve fund described in said section 11, and for any additional security, insurance or other form of credit enhancement required or provided for in any trust or other security agreement entered into pursuant to this act to secure such bonds; and (iii) for direct expenditure for any cost of the project and for the operation, promotion and marketing thereof incurred by the Authority, including without limitation, expenditures to reimburse the redevelopment authority for costs of the project to the extent provided in section 5; provided, however, that any such direct expenditure shall be made only in compliance with applicable restrictions relating thereto, including without limitation any coverage requirements contained in any such trust or security agreement or credit enhancement agreement. Notwithstanding any general or special law to the contrary, the Authority and the secretary of administration and finance may also agree to deposit in the convention center fund all or any part of the revenues of the Boston common parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and cost of debt service on bonds issued to finance the restoration of the Boston common parking garage.



(d) Notwithstanding any provision of this section to the contrary, sums received by the commonwealth on account of the convention center financing fee imposed by section 9 and deposited in the Convention Center Fund from the effective date of such fee until June 30, 2002, shall be semi-annually distributed, credited and paid to the city by the state treasurer to be applied by the city to pay or provide for, or to reimburse the city for its payment of, interest on bonds of the city, and notes in anticipation thereof, issued under authority of section 7; provided that the amount so distributed to the city in any semi-annual period shall not exceed the lesser of (i) the city's net interest expense for such period on such bonds and notes, as certified to the state treasurer by the collector-treasurer of the city, with the concurrence of the secretary of administration and finance; and (ii) 40 per cent of the sums received by the commonwealth during such period on account of such fee upon the transfer of any room or rooms in any bed and breakfast establishment, hotel, lodging house or motel located within the city. For purposes of this section, the term net interest expense for any period shall mean an amount equal to the actual interest accrued on such bonds and notes for such period less (i) earnings on investment of proceeds of such bonds and notes received in such period and available to the city to pay such interest; and (ii) an amount equal to the excise distributed to the city during such period pursuant to section 3A of chapter 64G of the General Laws and deposited in the Room Occupancy Excise Fund established under section 8 of this act on account of the transfer of any room or rooms in any hotel, motel or other lodging establishment subject to such excise which was first opened for patronage on or after July 1, 1997.

(e) Except as otherwise provided in section 13, the Convention Center Fund shall be dissolved and the obligation of the state treasurer to deposit the excises and other amounts provided in this section in said Convention Center Fund shall expire, on June 30, 2002, if no special obligation bonds of the commonwealth described in section 11, or notes issued in anticipation thereof as provided herein, shall then be outstanding, or otherwise when all such bonds and notes, including any bonds or notes issued to refund any such bonds or notes, shall be paid or, if earlier, shall be deemed to have been paid within the meaning of any trust or other security agreement securing the same. Any balance remaining in said Convention Center Fund on the date of such termination shall be deposited in the General Fund of the commonwealth.

The fee and surcharges imposed pursuant to subsections (a), (d), (e) and (f) of section 9 shall remain in effect after dissolution of the Convention Center Fund, and the proceeds of such fee and surcharges shall be deposited in the General Fund of the commonwealth.

**SECTION 11.** (a) To meet the expenditures necessary to carry out the provisions of section 1A, the state treasurer, upon request of the governor, may issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, not exceeding, in the aggregate, the sum of \$676,900,000. Any such bonds shall be special obligations of the commonwealth payable from the special receipts described in section 10 to the extent available and in any case payable solely from moneys credited to the Convention Center Fund or otherwise pledged to such payment as provided in this section;

notwithstanding the provisions of any general or special law to the contrary, including without limitation section 60A of chapter 29 of the General Laws, such bonds shall not be general obligations of the commonwealth.

(b) Bonds of the commonwealth may be issued under authority of this section in such manner and on such terms and conditions as the state treasurer, with the concurrence of the secretary of administration and finance, may determine in accordance with the provisions of this subsection and, to the extent not inconsistent with the provisions hereof, provisions of General Law for the issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement or other security agreement entered into by the state treasurer, with the concurrence of the secretary of administration and finance, on behalf of the commonwealth, which trust agreement or other security agreement may pledge or assign all or any part of the special receipts credited to the Convention Center Fund pursuant to section 10, and any other pledged funds as hereinafter provided, and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The state treasurer is also authorized, with the concurrence of the secretary of administration and finance, to enter into additional security, insurance or other forms of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust or other security agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the trust or other security agreement or credit enhancement agreement in the records of the state treasurer, and no filing need be made under chapter 106 of the General Laws. Any such trust agreement, security agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis, the application of the special receipts and other moneys and funds pledged pursuant to such agreement, in this act referred to as pledged funds, and other matters deemed necessary or desirable by the state treasurer for the security of such bonds, and may also regulate the custody, investment and application of moneys.

(c) As additional security for bonds of the commonwealth issued under authority of this section, the state treasurer, with the concurrence of the secretary of administration and finance, shall create and establish a special fund, herein referred to as the Capital Reserve Fund, within the Convention Center Fund established under section 10 or otherwise under a trust or other security agreement securing such bonds, and shall pay into the capital reserve fund any special receipts available for such purpose as provided in section 10 and any other moneys appropriated and made available for the purposes of such fund, any proceeds of such bonds to the extent determined by the state treasurer, with the concurrence of the secretary of administration and finance, or as may be provided in any such trust or other security agreement, and any other moneys available for purposes of such fund as provided in this

section, all of which shall be pledged funds for purposes of this act.

(d) All moneys held in the Capital Reserve Fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the commonwealth issued under authority of this section as the same mature, the purchase of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that, moneys in the capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on all such bonds outstanding or such lesser amount as shall be established by the state treasurer, with the concurrence of the secretary of administration and finance, as necessary or appropriate to secure such bonds, in this act referred to as the capital reserve fund requirement, except for the purpose of paying the principal of and interest on such bonds maturing and becoming due and for the payment of which other special receipts held in the Convention Center Fund are not available.

(e) Notwithstanding any provision of this act to the contrary, the state treasurer shall not issue bonds of the commonwealth under authority of this section at any time if following such issuance the balance on deposit in the Capital Reserve Fund would be less than the capital reserve fund requirement with respect to all such bonds then outstanding.

(f) If on the last day of any fiscal year during which any bonds of the commonwealth issued under authority of this section are outstanding, the balance on deposit in the Capital Reserve Fund shall be less than the capital reserve fund requirement as then calculated, after deposit therein of all amounts available therefor in the convention center fund or otherwise under the trust or other security agreement securing such bonds, the convention centers excise shall be increased, in the city of Boston only, until the balance of said capital reserve fund shall again equal the capital reserve fund requirement as so certified by the secretary of administration and finance but in no event shall the total amount of the excise imposed pursuant to sections 3 and 3A of chapter 64G of the General Laws and section 22 of chapter 546 of the acts of 1969 exceed 14 per cent.

(g) In order to increase the marketability of any bonds issued by the commonwealth under authority of this section, and in consideration of the acceptance of payment for any such bonds, the commonwealth covenants with the purchasers and all subsequent holders and transferees of any such bonds that until all such bonds, including all bonds issued to refund such bonds, and the interest thereon, shall be paid or, if earlier, shall be deemed paid within the meaning of any trust or other security agreement or credit enhancement agreement securing the same, (i) special receipts shall not be diverted from the purposes identified in this act; (ii) no pledged funds shall be diverted from the convention center fund or the capital reserve fund except as provided in this act; (iii) in any fiscal year of the commonwealth, unless and until an appropriation has been made which is sufficient to pay the principal, including sinking fund payments, of and interest on all such bonds and to provide for or maintain any reserves, additional security, insurance or other form of credit enhancement



required or provided for in any trust or other security agreement or credit enhancement agreement securing any such bonds or notes, no pledged funds shall be applied to any other use; and (iv) so long as such revenues are necessary, as determined by the state treasurer in accordance with any applicable trust or other security agreement or credit enhancement agreement, for the purposes for which they have been pledged, the rate of the convention center financing fee imposed by section 9 and the rates of the excises the revenues from which constitute special receipts under section 10 or which may constitute pledged funds under this section shall not be reduced below the amount in effect at the time of issuance of any such bond.

(h) Any bonds issued under authority of this section, and any notes of the commonwealth issued in anticipation thereof as hereinafter provided, shall be deemed to be investment securities under chapter 106 of the General Laws, shall be securities in which any public officer, fiduciary, insurance company, financial institution or investment company may properly invest funds and shall be securities which may be deposited with any public custodian for any purpose for which the deposit of bonds is authorized by law. Any such bonds and notes, their transfer and the income therefrom, including profit on the sale thereof, shall at all times be exempt from taxation by and within the commonwealth.

**SECTION 12.** 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 5 in anticipation of the receipt of proceeds of special obligation bonds of the commonwealth issued under authority of section 11, and may issue and renew, from time to time, notes of the commonwealth therefor, bearing interest payable at such time and at such rate as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such maximum term of years, not exceeding seven years, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such notes shall be payable no later than June 30, 2005. Notes and the interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 13.** (a) Notwithstanding any provision of this act to the contrary, the redevelopment authority shall have no authority or obligation to acquire any land or other properties within the convention center development area for the project and to convey the same to the Authority as provided in section 4, and the Authority shall have no authority or obligation to acquire, construct and operate the project on such lands and other properties, and neither the commonwealth nor the city shall be empowered to pay or finance any costs of the project, except as provided in this section or otherwise by law, unless (1) on or prior to March 11, 1998, (i) the city council of the city and the mayor shall have approved the project as provided in section 4; (ii) sums shall have been appropriated, or indebtedness of the city under authority of section 7 shall have been authorized, by the city council of the city with the approval of the mayor in amounts sufficient, in the determination of the collector-treasurer of the city, to satisfy the requirements of section 4; and (iii) the redevelopment authority and the Authority shall have approved the terms and conditions of



a deed for the site of the project in accordance with said section 4, in form and substance reasonably satisfactory to the collector-treasurer of the city and the secretary of administration and finance; (2) on or prior to December 31, 1998, the redevelopment authority and the Authority shall have submitted to the secretary of administration and finance and the collector-treasurer of the city a marketability study, which may expand upon the project report, evaluating the need for and requirements of the project and the site thereof, including time and cost plans and a project implementation and site acquisition schedule, and evaluating the sources and adequacy of special receipts and other pledged funds to provide for the cost of the project and any indebtedness incurred therefor, and demonstrating to the reasonable satisfaction of such officers that (i) on or before December 31, 1998 and after July 1, 1997, no fewer than 2,800 rooms in hotels, motels or other lodging establishments subject to the excise imposed by section 3 of chapter 64G of the General Laws and section 22 of chapter 546 of the acts of 1969 shall have been placed in service in the city or in the city of Cambridge for the first time, or are under construction and scheduled to be placed in service before December 31, 2000 or shall be the subject in the case of the city of a project notification form filed pursuant to article 80 of the Boston zoning code or in the case of the city of Cambridge, forms or documents of similar import and effect; provided, however, that each developer of said hotels shall have presented to the redevelopment authority and the secretary of administration and finance an affidavit on behalf of a recognized lender or lenders stating that a financing commitment letter for such projects has been issued by said lender and accepted by said developer: (ii) based on determinations made and actions taken by the board of directors of the redevelopment authority, including without limitation authorization of the tentative or final designation of redevelopers, approval of planned development areas and associated project plans, and approvals of zoning actions, and based on similar determinations made and actions taken by the city of Cambridge or its redevelopment authority, hotels, motels and other lodging establishments subject to the excise imposed by section 3 of chapter 64G and section 22 of chapter 546 of the acts of 1969 containing in the aggregate not less than 4,800 rooms shall be first opened for patronage in the city or in the city of Cambridge after July 1, 1997 and prior to the projected commencement of operations of the project; (iii) the aggregate amount of special receipts which are projected to be received and deposited in the Convention Center Fund as provided in section 10 in the first full fiscal year following the commencement of operations of the project is projected to be not less than 125 per cent of the debt service payable in such year on all special obligation bonds of the commonwealth which are expected to be issued under authority of section 11 to pay costs of the project, on the assumption that all such bonds will be issued prior to such fiscal year; and (iv) the balance in the capital reserve fund established pursuant to section 11 on the first day of the first full fiscal year following the commencement of operations of the project will be not less than the capital reserve fund requirement therefor, on the assumption that all special obligation bonds of the commonwealth to be secured thereby will be issued on or before such date; and (3) on or prior to December 31, 1998, the Authority shall have submitted to the secretary of ad-

ministration and finance and the collector-treasurer of the city a report setting forth a projected operating budget for the project and all other facilities under the Authority's jurisdiction and control in the city for the first full fiscal year following commencement of operations of the project and demonstrating to the reasonable satisfaction of such officers that the Authority's net loss from operations of the project and such facilities for such year will not be more than \$14,000,000 before consideration of any amounts distributed to the Authority under section 35J of chapter 10 of the General Laws. Satisfaction of the foregoing requirements shall be conclusively evidenced by a certificate of the secretary of administration and finance and the collector-treasurer of the city to such effect filed with the governor, the mayor, the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the house committee on long term debt and capital expenditures.

(b) If the conditions provided in subsection (a) shall not be satisfied on or before December 31, 1998, (i) the convention center financing fee and the imposition thereof as provided in section 9 shall terminate and cease; and (ii) after payment or reimbursement of any costs of the project incurred by the Authority or the redevelopment authority as provided in sections 3, 4 and 5, the Convention Center Fund shall be dissolved and any balance remaining therein shall be deposited in the Massachusetts Tourism Fund established under section 35J of chapter 10 of the General Laws, to the extent such balance is attributable to the convention center financing fee, as determined by the secretary of administration and finance, and otherwise in the General Fund of the commonwealth.

**SECTION 14.** To meet any expenditures of the commonwealth necessary in carrying out the provisions of section 1B, the state treasurer, upon request of the governor, may 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 \$85,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Economic Development Facilities, Act of 1997, and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2022. All interest and payments on account of the principal of such obligations shall be payable from the General Fund. Bonds of the commonwealth and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 15.** (a) The Authority shall develop and annually update a joint marketing plan for all its facilities but particularly such a plan for the Hynes convention center and the project which will assure the ongoing maximum occupancy of the Hynes convention center and the maximum occupancy of the project at the earliest possible date following the opening of the project and thereafter. The Authority is hereby authorized and directed to undertake national and international marketing efforts for the benefit of the facilities under its control and jurisdiction, which marketing efforts shall be designed to attract nonresident

visitors, maximize their stays, and encourage their utilization of resources provided by the tourism industry throughout the commonwealth and the New England region. The Authority is authorized to enter into contracts with publicly and privately owned facilities in the commonwealth to provide national and international marketing efforts benefiting said publicly and privately owned facilities. The Authority is further authorized to cooperate in such efforts with convention and tourism bureaus and organizations throughout the commonwealth and the New England region, including the Greater Boston Convention and Visitors Bureau. Said cooperation shall include the development of a plan by the Authority providing a program and budget for staffing, research, marketing and promotion programs to be undertaken by the Authority. The Authority may contract with the Greater Boston Convention and Visitors Bureau and others for services to promote the city and the commonwealth generally as a destination for convention, meetings and trade show attendees and visitors with contract assistance from the Authority. Said plan shall be approved by a majority of the members of the Authority.

(b) The Authority is hereby authorized and directed to contract with any public or private entity to provide for mutual limitations of marketing or use, or both, of any of the facilities under the control and jurisdiction of the Authority, and any public or private entity. The Authority is hereby directed, upon the written request of such a private owner or operator of any for-profit facility in the city which is in existence as of July 1, 1997 which contains not less than 100,000 square feet of contiguous floor area for conventions, trade shows, consumer shows, meetings, assemblies and convocations, to contract with such private owner or operator to mutually limit the marketing or use, or both, of the facilities or portions thereof under the jurisdiction and control of the Authority and said public or private entity. Each such contract shall address the compatibility of the facilities subject to such contract, by including, but not limited to, the following provisions: (i) square footage thresholds for events under the jurisdiction and control of the Authority or the private owner or operator; (ii) hotel room night requirements per event for the facilities under the control and jurisdiction of the Authority or the private owner or operator; (iii) advance booking guidelines for events at the facilities under the control and jurisdiction of the Authority or the private owner or operator; (iv) contract completion and termination dates, as is reasonable, at the facilities under the control and jurisdiction of the Authority or the private owner or operator; (v) pricing guidelines for the facilities under the control and jurisdiction of the Authority or the private owner or operator; and (vi) mutual remedies in the event of a breach of contract. Any such contract so entered into shall be for a term not to exceed five years; provided, that such contract shall be subject to review, renegotiation or extension by the parties thereto. By December 31 in each calendar year, the Authority shall submit a report to the clerks of the house of representatives and the senate detailing all contracts entered into pursuant to this paragraph and compliance with the terms and conditions thereof.

(c) The contracts between the Authority and the private owner or operators shall be entered into to further the public purpose of encouraging the cooperative marketing and use



of facilities under the control and jurisdiction of the Authority and privately owned or operated facilities. Said contracts shall further the following purposes: (1) to place reasonable mutual limitations on the Authority's marketing and use of the facilities under its control and jurisdiction that would otherwise be appropriate to utilize such privately owned or operated facilities; (2) to encourage the Authority to utilize to a reasonable extent the project for large scale national and international events not currently being served by existing facilities in the city; (3) to promote cooperation between the Authority and such privately owned or operated facilities in the marketing and utilization of such facilities; and (4) to mitigate to a reasonable extent adverse economic impacts on such privately owned or operated facilities.

(d) Notwithstanding any provision of this act to the contrary, the project, as defined in section 2, shall not be marketed or utilized for so-called gate shows or other similar consumer shows.

**SECTION 16.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section 1B 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, but final maturities of such notes, whether original or renewal, shall not be later than June 30, 2001.

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 17.** The Springfield civic and convention center is hereby transferred to the ownership and control of the Authority. Section 7 of chapter 268A of the General Laws shall not prevent a part-time employee of said center as of the effective date of this act from continuing a full-time employment relationship with another state agency that commenced before said effective date.

The Authority shall promulgate regulations relative to parking at the convention center in the city of Springfield including the establishment of a \$2 parking surcharge.

**SECTION 18.** (a) (1) Notwithstanding the provisions of any general or special law to the contrary, including without limitation section 3 of chapter 40 of the General Laws or sections 12 to 16 of chapter 30B of the General Laws, or the provisions of 27 CMR 801, the city of Springfield, the Springfield exhibition hall commission, or the Springfield Redevelopment Authority shall be authorized to enter into a lease agreement for a term of not less than 99 years with the Naismith Memorial Basketball Hall of Fame, Inc. or a subsidiary thereof in connection with the project known as the basketball hall of fame and riverfront redevelopment project, in this subsection called the project, in the city of Springfield, in this section called the city. For purposes of this section and item 6033-9699 of section 2A of chapter 205 of the acts of 1996, the words "lease agreement for a term of



not less than 99 years" shall include a lease consisting of an initial term of 30 years with options to extend the term of the lease for six successive ten year periods and one final nine year period.

(2) Notwithstanding the provisions of any general or special law to the contrary, funds may be expended to reimburse the city: (i) pursuant to item 6033-9699 of section 2A of chapter 205 of the acts of 1996, as set forth in this subsection, for expenses incurred in carrying out the purposes stated therein upon satisfaction of the provisions thereof, regardless of whether such expenses were incurred prior to the passage of chapter 205 of the acts of 1996 or the entry and approval of a lease agreement between the board of trustees of the basketball hall of fame and the city; and (ii) pursuant to item 1100-7984 of section 1B for expenses incurred in carrying out the purposes stated in said item 1100-7984, regardless of whether such expenses were incurred prior to the passage of this act.

(3) Notwithstanding the provisions of any general or special law to the contrary, no funds shall be expended on the project pursuant to item 1100-7984 of section 1B until: (i) the secretary of administration and finance certifies the development and operating costs for the project; (ii) the department of revenue certifies the estimate of tax revenues to be generated by the project; (iii) the city submits plans to said secretary for the riverfront area including the basketball hall of fame; and (iv) the appropriate parties sign an agreement that shall include, but not be limited to, the following provisions:-

(A) a commitment by the National Basketball Association not to sanction any facility other than the Naismith Memorial Basketball Hall of Fame, Inc. as a venue for the enshrinement of individuals elected to become members of the Basketball Hall of Fame for the duration of any bonds authorized for the purposes of the project;

(B) a commitment by the Naismith Memorial Basketball Hall of Fame to raise \$10,000,000 in private investment for said project; and

(C) commitments by the Naismith Memorial Basketball Hall of Fame, the National Basketball Association and other organizations and groups to increase, maximize and maintain advertising and marketing efforts to increase attendance, licensing and other revenue at the Naismith Memorial Basketball Hall of Fame.

The certificates, submission and agreement required by this paragraph (3) shall be filed with the secretary of administration and finance and the house and senate committees on ways and means.

(b) (1) Notwithstanding the provisions of any general or special law to the contrary, the city of Springfield, in this subsection called the city, shall direct the operator of the parking facility associated with the basketball hall of fame, in this subsection called the parking facility, to make payments to the commonwealth from 100 per cent of the net operating income generated in connection with the operation of the parking facility within 120 days following the end of each year during each of the initial 50 years of the operation of the parking facility; provided, however, that the city shall make every effort to maximize profits from the parking facility in order to repay an amount of not less than \$10,000,000 to the commonwealth as partial reimbursement for the authorization made in item 1100-7984 of section 1B; provided, further, that said \$10,000,000 shall be repaid to the commonwealth

not later than 50 years after the effective date of this act.

(2) During the first 50 years of the operation of the parking facility, the city shall be solely responsible for the operation of the parking facility and the obtaining of an operator for the parking facility. The commonwealth shall not operate nor be responsible for the operation of the parking facility.

(3) The city shall direct the operator of the parking facility to submit to the city, the executive office for administration and finance and the house and senate committees on ways and means a detailed operating expense budget which shall set forth the following information: (i) the anticipated categories of expenses which are to be incurred by the parking facility; (ii) the amounts budgeted for each of such categories; (iii) the total estimated operating expenses to be incurred in connection with the operation of said parking facility before the commencement of its operation and annually thereafter for a period of not less than 50 years. The operating budget of the parking facility shall be subject to the annual review and approval of the city and the executive office for administration and finance.

(4) The city shall cause the operator of the parking facility to submit to the city, the executive office for administration and finance and the house and senate committees on ways and means a detailed income and expense statement setting forth the results of the operation of the parking facility annually for a period of not less than 50 years. Said statement shall be submitted within 120 days of the close of the fiscal year for the parking facility. Said income and expense statement shall be subject to the review and approval of the city, the executive office for administration and finance and the state auditor.

(5) The city shall ensure that the books of the operator of the parking facility are available for inspection by the commonwealth.

**SECTION 19.** There shall be established by the Authority a full time permanent position of community liaison to the project whose primary responsibility shall be to address and respond to the needs and concerns of the impacted residents and businesses located in the South Boston district of the city of Boston. Said community liaison shall be a resident of said South Boston district appointed by the executive director of the Authority.

**SECTION 20.** Notwithstanding the provisions of any general or special law to the contrary, all hackney licenses then or thereafter available for issue by the police commissioner of the city under the authority of chapter 392 of the acts of 1930 shall be issued by public auction, public sale, sealed bid or other competitive process established by regulations promulgated by said commissioner to persons, firms or corporations eligible under the provisions of said chapter 392. Said licenses shall be issued in such numbers, and at such times or prices, and under such conditions and limitations, including the power of said commissioner to revoke, suspend, renew and assign such licenses, as said commissioner determines in his sole discretion. Proceeds from the issuance of the first 260 licenses so issued after the effective date of this act shall be paid to the collector-treasurer of the city for deposit in the Room Occupancy Excise Fund. All other proceeds from the issuance of said licenses shall be paid to said treasurer-collector for deposit in the General Fund of the city.

The provisions of this section shall not apply to a license issued and outstanding on the effective date of this act. A license issued under the provisions of this section shall be renewable annually at the same time and under the same conditions and limitations provided in said chapter 392 for any other license granted and renewed thereunder.

**SECTION 21.** Upon application by the city of Worcester and after review of said application and determination by the secretary of administration and finance that the application is complete and satisfactory, said secretary shall make available to the city of Worcester, pursuant to item 1100-7983 in section 1A, an amount not to exceed \$19,000,000, for construction and development of the convention center in said city. Nothing in this act shall preclude making said expenditure prior to the satisfaction of the conditions established pursuant to the provisions of sections 10, 11 and 13.

**SECTION 22.** Section 3A of chapter 64G of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "occupancy", in line 6, the following words:- ; provided, however, that the city of Boston is hereby authorized to impose such local excise upon the transfer of occupancy of any room in a bed and breakfast establishment, hotel, lodging house or motel located within said city by any operator at the rate of up to but not exceeding 4.5 per cent of the total amount of rent of each such occupancy.

**SECTION 23.** Section 33 of chapter 190 of the acts of 1982, as amended by chapter 629 of the acts of 1982, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The authority shall consist of 11 members, who shall be appointed as provided hereunder. Three members shall be appointed by the governor, one of whom shall be appointed by the governor from a list of three nominees recommended by the Massachusetts Visitors Industry Council. Two members shall be appointed by the governor from a list of five nominees recommended by the president of the senate. Two members shall be appointed by the governor from a list of five nominees recommended by the speaker of the house of representatives. Two members shall be appointed by the mayor of the city of Boston, one of whom shall be a resident of South Boston. The remaining two members shall be the secretary of administration and finance, or his designee, and the collector-treasurer of the city of Boston, or his designee, who both shall serve ex officio and shall have the right to exercise a vote on matters before the authority. The governor, with the advice and consent of the mayor of Boston, shall designate one member of the authority to serve as chairman of the authority during his term of office as a member. The members of the authority first appointed by the governor shall continue in office for terms expiring on December 31, 1999, December 31, 2000 and, December 31, 2001, respectively, the term of each such member to be designated by the governor and to continue until his successor shall be duly appointed and qualified. The members appointed by the mayor shall continue in office for a term expiring December 31, 1999, and shall continue until their successors shall be duly appointed and qualified. The members nominated by the president of the senate shall continue in office for a term expiring December 31, 1999, and each such member shall continue until his successor



is duly appointed and qualified. The members nominated by the speaker of the house of representatives shall continue in office for a term expiring December 31, 1999, and each such member shall continue until his successor is duly appointed and qualified. The successor of each such member shall be appointed for a term of six years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term and until his successor shall be duly appointed and qualified. Each member of the authority shall be eligible for reappointment. Each member of the Authority shall serve at the pleasure of the governor if appointed by the governor, and at the pleasure of the mayor if appointed by the mayor. Each member of the authority may be removed by the governor, if appointed by the governor, or by the mayor, if appointed by the mayor. Each member of the authority before entering upon his duties shall take an oath before the governor to administer the duties of his office faithfully and impartially, and a record of such oaths shall be filed in the office of the secretary of the commonwealth. Members of the Authority shall serve without compensation, but service as a member of the Authority shall be credited to such member's years in service for pension and retirement purposes.

**SECTION 24.** Section 34 of said chapter 190 is hereby amended by striking out the last sentence, as amended by section 3 of chapter 307 of the acts of 1991, and inserting in place thereof the following two sentences:- The executive director shall serve at the pleasure of the Authority for a term of three years and may be reappointed. Until November 19, 2003, the preceding sentence shall not apply to the individual holding the position of executive director on November 1, 1997, who until November 19, 2003 may be removed at any time by the Authority only for cause including misfeasance, malfeasance or willful neglect of duty, after public notice and a public hearing on the facts and circumstances which form the basis for such removal, pursuant to the terms and conditions of employment in effect on November 1, 1997.

**SECTION 25.** 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 Authority, the redevelopment authority or any city by-law; provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation or any limitation imposed by a corporate or municipal charter, the provisions of this act shall be controlling.

**SECTION 26.** This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect its purposes.

**SECTION 27.** 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 28.** Notwithstanding any provision of section 33 of chapter 190 of the acts of 1982, the appointed members of the Massachusetts Convention Center Authority in



office on the effective date of this act shall continue in office for a term expiring 90 days after the effective date of this act or upon the earlier appointment of a designated successor thereto by the governor or the mayor of the city of Boston, as appropriate. Any such member shall be eligible for reappointment. Until all of the members of the Authority shall have been first appointed and duly qualified as provided in said section 33, a majority, but not less than four, of the members of the Authority then in office shall constitute a quorum and the act of a majority, but not less than four, of such members shall be deemed an act of the Authority.

**SECTION 29.** Notwithstanding any provision of section 33 of chapter 190 of the acts of 1982, the treasurer and receiver-general of the commonwealth shall continue to serve as a member and chairman of the Massachusetts Convention Center Authority, ex officio, for a term expiring 90 days after the effective date of this act or upon the earlier appointment of a designated successor thereto by the governor, with the advice and consent of the mayor of the city of Boston, in accordance with said section 33.

*This bill was returned by the Lieutenant-Governor, Acting Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House of Representatives on November 17, 1997, and by the Senate on November 17, 1997, the objections of the Lieutenant-Governor, Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.*

## **Chapter 153. AN ACT AUTHORIZING THE ISSUANCE OF TEMPORARY LICENSES FOR THE SALE OF WINE AT CERTAIN AUCTIONS.**

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

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the local licensing authority in a city or town which votes to authorize the granting of licenses for the sale of an alcoholic beverage may, with the approval of the alcoholic beverages control commission, grant temporary licenses for the sale of wines at auction, not to be drunk on the premises, to applicants which are nonprofit charitable corporations organized under chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general. Each such temporary license shall describe the premises to which it applies and shall be granted only for premises which are either the principal place of business or headquarters of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under section 12 or section 15 of chapter 138 of the General Laws. No such temporary license shall be for a duration of more

than ten consecutive calendar days and no holder of any such temporary license shall be granted more than two such licenses in a calendar year. The fee for such temporary license shall not exceed the minimum fee provided for holders of licenses to sell wine. A holder of a temporary license for the sale of wine at auctions shall be permitted to conduct such auctions on any day and at any time permitted under said section 12 of said chapter 138. Any wine sold under this section shall be donated at no charge to the license holder and all proceeds from such sales shall be used for the holder's charitable purposes. The application procedures under section 15A of said chapter 138 shall not apply to temporary licenses for the sale of wine at auctions; provided, however, that such applications may be granted by the local licensing authority according to the local procedures for granting licenses under section 14 of said chapter 138. Local licensing authorities may impose conditions as to the hours of operation of such auctions and such other terms and conditions as may be deemed to be necessary and reasonable.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the local licensing authority in a city or town which votes to authorize the granting of licenses for the sale of an alcoholic beverage may, with the approval of the alcoholic beverages control commission, grant temporary licenses for the sale of wine at auctions, not to be drunk on the premises, to applicants which are licensees under section 15 of chapter 138 of the General Laws. Each such temporary license shall describe the premises to which it applies and shall be granted only for premises which are either the principal place of business or headquarters of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under section 12 or 15 of said chapter 138. No such temporary license shall be for a duration of more than ten consecutive calendar days and no holder of any such temporary license shall be granted more than two such temporary licenses in a calendar year. The fee for such temporary license shall not exceed the minimum fee provided for holders of licenses to sell wine. A holder of a temporary license for the sale of wine at auctions shall be permitted to conduct such auctions on any day and at any time permitted under said section 15 of said chapter 138. The application procedures under section 15A of said chapter 138 shall not apply to temporary licenses for the sale of wines at auction; provided, however, that such applications may be granted by the local licensing authority according to the local procedures for granting licenses under section 14 of said chapter 138. Local licensing authorities may impose conditions as to the hours of operation of such auctions and such other terms and conditions as may be deemed to be necessary and reasonable.

**SECTION 3.** This act shall become inoperative on January 1, 2003.

Approved November 20 , 1997.

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**Chapter 154. AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO GRANT CERTAIN EASEMENTS ON, OVER AND UNDER CERTAIN PARKLAND.**

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

**SECTION 1.** The city of Cambridge is hereby authorized to grant, bargain and convey the following rights and easements on, over, and under premises now owned and held by said city for park, playground or recreational purposes:

(a) the right to construct foundations and pile caps in the areas abutting Parcel F, as shown on a plan entitled "Plan of Property owned by city of Cambridge, First Street, Cambridge Street, Cambridge, Massachusetts" prepared by Cullinan Engineering Co., inc., dated March 13, 1985, with pile caps to be at least one foot below finished grade;

(b) a construction easement for the purpose of constructing certain improvements as such improvements are more particularly described in that certain decision of the planning board of the city of Cambridge, Decision No. 125, dated June 3, 1997 and a permanent nonexclusive easement to maintain the improvements, which easement shall be located within an area 25 lineal feet from Parcel F;

(c) the right to use in common with others that area to the east of Parcel F shown on the plan and designated "Service Access and Utility Easement" for the purpose of providing off-street loading access and utility connections for the improvements;

(d) the right to construct parking facilities below grade in that area shown on the plan and designated "Parking Easement"; and

(e) the right to use, in common with others, Otis way as shown on the plan for pedestrian access and to construct foundations and pile caps in an area five lineal feet along the northern boundary of Otis way and at least one foot below finished grade and to close temporarily, but only in such a manner as not to prevent safe and efficient pedestrian access over or by Otis way to Parcel C as shown on the plan, and for the purpose of constructing and maintaining the improvements.

The land constituting the above described easements is more particularly shown on the plan.

**SECTION 2.** This act shall take effect upon its acceptance by vote of the city council of the city of Cambridge.

Approved November 24, 1997.

**Chapter 155. AN ACT AUTHORIZING THE SPRINGFIELD WATER AND SEWER COMMISSION TO ENTER INTO CONTRACTS FOR THE OPERATION AND MAINTENANCE, LEASE OR SALE, AND MODIFICATION OF THE WASTEWATER TREATMENT PLANT, SEWER AND PUMP STATIONS.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the Springfield water and sewer commission may enter into a contract or contracts



for the sale or lease, operation and maintenance, financing, design and construction of modifications and installation of new equipment and systems necessary at the wastewater treatment facility, sewers and pump stations to ensure adequate services and to ensure the ability of said commission's wastewater treatment facility, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that any such contract shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38 O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44J, inclusive, of chapter 149 of the General Laws; and provided, further, that each such contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws, except for clause (3) of paragraph (b) of section 6, clause (3) of paragraph (e) and paragraph (g) of said section 6 and sections 13 and 16 of said chapter 30B.

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 commission, including, but not limited to, all capital financing, operating and maintenance costs. If the commission awards the contract to an offeror who did not submit the proposal offering the lowest overall cost, the commission shall explain the reason for the award in writing.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, a contract or contracts awarded pursuant to section 1 may provide for a term not exceeding 20 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 commission in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the commission. A contract entered into pursuant to this act may provide that, subject to a majority vote of the commission, the commission 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 facility, sewers and pump stations necessary to ensure the ability of said wastewater treatment facility, 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 commission'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.

A contract entered into pursuant to this act may provide for such activities as may be 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 facility, sewers and pumping stations and the management, operation, maintenance and repair of said commission's wastewater treatment facility, sewer and related pumping stations.



**SECTION 3.** The chief procurement officer shall solicit proposals through a request for proposals which shall include those items in clauses (1) and (2) of paragraph (b) of section 6 of chapter 30B of the General Laws and the proposed key contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or nonnegotiable; provided, however, that such 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 commission. The request for proposals shall provide for the separate submission of price and shall indicate when and how the offerors shall submit the price.

**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 proposals. Said chief procurement officer may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. If, after negotiation with such offeror, said chief procurement officer determines that it is in the commission's best interests, said chief procurement officer may initiate negotiations with 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. Said 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 and the evaluated criteria set forth in the request for proposals and the terms of the negotiated contract. Subject to the approval of the commission said 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. The parties may extend the time for acceptance by mutual agreement.

**SECTION 5.** Any contract awarded pursuant to this act shall be subject to such terms and conditions as the commission shall determine to be in the best interests of said commission and shall be subject to a majority vote of the commission. Any such contract shall provide that prior to the construction, modification or installation of equipment and systems the commission 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 commission's acceptance of any modifications, equipment or systems, including work undertaken pursuant to section 7 of this act and estimated to cost more than \$100,000, the commission 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 6.** 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, except the provisions of sections 26 to 27H, inclusive, of chapter 149 of the General Laws, 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 \$100,000, not specifically included in the initial contract for the lease or sale, operation and maintenance, design and construction of the wastewater treatment facility, 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 commission or other adjustment to the fees or costs paid by the commission, including, but not limited to, any adjustment to water or sewer rates paid by the commission's users. 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 commission 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 commission 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 commission 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 commission does not approve the contractor's proposed plans and specifications pursuant to this section, the commission or the contractor may terminate said contract or contracts under the terms and conditions of said contract or contracts.

Notwithstanding the above, the commission reserves the right to effectuate the construction of any capital improvement or any renovation, modernization, installation, or replacement work estimated to cost more than \$100,000, not specifically included in the initial contract for the lease or sale, operations and maintenance, design and construction of the wastewater treatment facility, sewers and pump stations in conformity with section 39M of chapter 30 or sections 44A to 44J, inclusive of chapter 149 of the General Laws.

**SECTION 7.** Notwithstanding the provision 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 design/build contract procured by the commission wastewater treatment facility, sewer and pump station improvements, and such design and construction services included in such contract shall be eligible for assistance under the Water Pollution Abatement Trust, established by section 2 of chapter 29C of the General Laws and any future revolving loan fund programs established by the commonwealth.

**SECTION 8.** Prior to the execution of a contract or contracts pursuant to this act, the selected offeror shall furnish to the Springfield water and sewer commission performance bonds, payment bonds and insurance satisfactory to the commission.

**SECTION 9.** Nothing in this act or any action taken or contract or agreement entered into under the provisions of this act shall change or alter any contract or agreement between

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the city of Springfield or the Springfield water and sewer commission and any city, town or public entity which is in force and effect on the effective date of this act or impose any additional costs or obligations on any such city, town or public entity.

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

Approved November 24, 1997.

**Chapter 156. AN ACT RELATIVE TO CERTAIN BONDS OR NOTES OF NORTH SHORE REGIONAL VOCATIONAL SCHOOL DISTRICT.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the North Shore Regional Vocational School District may issue bonds or notes, including temporary notes in anticipation of serial bonds or notes, to an amount not exceeding \$4,270,000 pursuant to the vote adopted by the North Shore regional vocational school district committee on December 6, 1990 in order to refund to that extent its notes presently payable on July 3, 1997, or any notes issued to refund those notes. The first principal payment on account of such bonds or notes shall not be later than April 1, 1999 and the last such payment shall not be later than April 1, 2014. Except as otherwise provided herein, bonds and notes issued under this act shall be subject to the provisions of chapter 44 of the General Laws, exclusive of the second paragraph of section 21A of said chapter 44.

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

Approved November 24, 1997.

**Chapter 157. AN ACT AUTHORIZING THE TOWN OF READING TO ISSUE LICENSES TO CERTAIN ESTABLISHMENTS FOR THE SALE OF WINE AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the licensing authority of the town of Reading is hereby authorized to issue to restaurants and function rooms with seating capacities of less than 100, licenses for the sale of wine and malt beverages.

**SECTION 2.** Notwithstanding the provisions of section 11 of chapter 138 of the General Laws as to the time and manner of voting on the question, this act shall be submitted for its acceptance to the qualified voters of the town of Reading at an annual or special town election following the effective date of this act in the form of the following question: "Shall an act passed by the General Court in the year 1997, entitled 'An Act authorizing the town of Reading to issue licenses to certain establishments for the sale of wine and malt 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 in the town of Reading, but not otherwise.

Approved November 24, 1997.

**Chapter 158. AN ACT RELATIVE TO THE POSITION OF DEPUTY FIRE CHIEF OF THE FIRE DEPARTMENT IN THE TOWN OF RANDOLPH.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, Captain Paul Lyons of the fire department of the town of Randolph is hereby declared to be eligible to take the deputy fire chief examination for the fire department of said town administered by the human resources department on March 22, 1997, and said examination is hereby ratified, validated and confirmed for the purpose of making permanent or temporary promotions to the position of deputy fire chief in said fire department.

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

Approved November 24, 1997.

**Chapter 159. AN ACT AUTHORIZING THE TOWN OF WALPOLE TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF WINE AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Walpole is hereby authorized to issue a license for the sale of wine and malt beverages to be drunk on the premises under the provisions of section 12 of said chapter 138 to the Mandarin Cuisine Restaurant. Said license shall be subject to all the provisions of said chapter 138 except said section 17.

Approved November 24, 1997.

**Chapter 160. AN ACT AUTHORIZING THE LEASE OF CERTAIN PARCELS OF LAND IN THE TOWN OF MILTON.**

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

**SECTION 1.** The town of Milton, acting by and through its board of selectmen, is hereby authorized to lease all or a portion of certain parcels of land located in said town for a term not to exceed 50 years for public or private recreational purposes; provided, however, that any such lease agreement contains provisions for the construction of at least two athletic fields or courts at no cost to said town, and that the leased land shall revert to said town if said land is used for any purposes not permitted by this act. Said parcels are that land known



as the town of Milton sanitary landfill and land abutting said landfill acquired or to be acquired by said town. Said land acquired by the town of Milton is shown on town of Milton Assessors' maps as Map I, Block 38C, Lots 13, 14, 15, 16, 17, 18, and 19, Map I, Block 38D, Lots 6, 7, 8, 9, and 10B, Map I, 38E, Lots 1 and 2; and Map I, Block 6, Lots 63, 64 and 65; and as Access Road and Ash Street, so called. Said land to be acquired by the town of Milton is shown on town of Milton Assessors' maps as Map I, Block 38C, Lot 20.

Notwithstanding the provisions of any general or special law to the contrary, said town, acting by and through its board of selectmen, may utilize the provisions of paragraphs (b) to (i), inclusive, of section 6 of chapter 30B of the General Laws in lieu of the provisions of section 39M of chapter 30 of the General Laws for the issuance of a request for proposals and to contract for the closure and post closure use of the town's sanitary landfill. Said board may enter into procurement contracts therefor in the amount of \$10,000 or more utilizing competitive sealed proposals. Said board shall determine in writing that selection of the most advantageous offer requires comparative judgments of factors in addition to price, specifying the reasons for its determination. The action of said board in issuing a request for proposals therefor and in giving public notice of said request for proposals is hereby ratified, validated and confirmed.

**SECTION 2.** Nothing in this act authorizes land or easements acquired for the purposes of Article XCVII of the Amendments to the Constitution to be used for other purposes or otherwise disposed of.

**SECTION 3.** All actions taken by the board of selectmen of the town of Milton with regard to the closing, capping and post closure development of the town of Milton landfill are hereby ratified, validated and confirmed in all respects, and as though this act had been in full force and effect at the time of such actions.

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

Approved November 24, 1997.

**Chapter 161. AN ACT VALIDATING CERTAIN ACTIONS TAKEN BY THE  
TOWN OF WEST BRIDGEWATER RELATIVE TO CERTAIN  
ZONING BY-LAWS.**

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

**SECTION 1.** Notwithstanding the notice requirements of section 5 of chapter 40A of the General Laws, the hearing of the West Bridgewater planning board held on October 30, 1996 with respect to amendments of the zoning by-laws of the town of West Bridgewater and all actions taken by said town at a special town meeting held on November 12, 1996 with respect to said amendments of said town's zoning by-laws, as appearing in Article 12 of the warrant for said town meeting, are hereby ratified, validated and confirmed; provided, however, that nothing in this act shall exempt said town from any requirement to obtain approval of such amendments or by-laws by the attorney general.

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

Approved November 24, 1997.

**Chapter 162. AN ACT DESIGNATING THE SONG "THE GREAT STATE OF MASSACHUSETTS" AS THE STATE GLEE CLUB SONG.**

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

Chapter 2 of the General Laws is hereby amended by inserting after section 42 the following section:-

Section 43. The song "The Great State of Massachusetts", words by George A. Wells, and music by J. Earl Bley, shall be the glee club song of the commonwealth.

Approved November 24, 1997.

**Chapter 163. AN ACT AUTHORIZING THE ESTABLISHMENT IN CENTRAL MASSACHUSETTS OF A HEALTH CARE SYSTEM AFFILIATED WITH THE UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the board of trustees of the University of Massachusetts to enter into and approve certain agreements with respect to the clinical division of its Worcester campus, and on behalf of the university for Worcester City Campus Corporation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The general court hereby finds and declares:

(a) that in order to meet the demands of the rapidly changing health care environment, and continue their public health care missions, many public academic medical centers have had to reassess the manner in which they deliver health care to the citizens they serve and have determined that it is necessary to develop legal, management and procedural structures which have been used successfully by similarly situated private entities throughout the nation in order to continue to meet the public need; and

(b) that the purposes of the teaching hospital of the University of Massachusetts medical school are to provide a clinical context for the educational and research missions of the commonwealth's medical school, graduate school of nursing and graduate school of biomedical sciences; and to provide medical care of the type provided by an academic medical center for the benefit of the citizens of the commonwealth and region; and

(c) that the public mission of the teaching hospital and other clinical components of the University of Massachusetts include providing highly specialized clinical services to patients, particularly to the extent not available through other area services, and providing free care to indigent patients, remains an important objective which must be preserved or enhanced; and

(d) that it is essential to the citizens of the commonwealth for the university to maintain its medical school, graduate school of nursing and graduate school of biomedical sciences and the high quality education provided there; and

(e) that it is necessary for the medical school, graduate school of nursing and graduate school of biomedical sciences to maintain an affiliation with a strong clinical operation to sustain high quality academic programs; and

(f) that the aforesaid academic and clinical purposes benefit all citizens of the commonwealth, particularly those with health care needs which can best be met by an academic medical institution, such as extensive tertiary care, major trauma treatment, and sophisticated surgical techniques; and

(g) that the aforesaid purposes include the provision of comprehensive health care to the communities served by the teaching hospital to ensure its availability to citizens of those communities; and

(h) that the aforesaid purposes separately and collectively serve the highest public interest and are essential to the public health and welfare, but must be realized in the most efficient manner consistent with their accomplishment; and

(i) that it is fiscally desirable for the commonwealth, and will benefit the medical school, graduate school of nursing and graduate school of biomedical sciences and the citizens of the commonwealth, to separate the operations, assets, liabilities and obligations of the existing clinical division of the University of Massachusetts Worcester from the commonwealth so that the clinical division may operate as a self-supporting entity and that the interests of the citizens of the commonwealth, the region, and the communities served by the clinical division will be best met by transferring the operations, assets, liabilities and obligations of the clinical division to one or more nonprofit corporations in order to create a separate legal and organizational structure for the clinical division for the purpose of ensuring independence and flexibility of management; and

(j) that such a nonprofit corporation or corporations will also further the public purposes of providing high quality health care and medical education, and support the commonwealth's medical school, graduate school of nursing and graduate school of biomedical sciences in a clinical setting by having the ability to merge or consolidate with a complementary health care system, such as that operated by Memorial Health Care, Inc.; and

(k) that such a nonprofit corporation or corporations shall be operated so that no part of its net earnings or assets inures to the benefit of any private individual and so that its activities comply with all applicable laws prohibiting self dealing or otherwise relating to conflicts of interest; and



(l) that such a corporation or corporations would be further strengthened in their ability to carry out the purposes of providing high quality health care and support for the commonwealth's medical school, graduate school of nursing and graduate school of biomedical sciences if certain assets and subsidiaries of the Worcester City Campus Corporation are consolidated with or transferred to the control of said corporation or corporations; and

(m) that therefore such corporation or corporations will be able to remain competitive and efficient in providing high quality health care in today's rapidly changing health care marketplace, while ensuring: that they continue an ongoing compatible and mutually beneficial relationship with the university and its medical school, graduate school of nursing and graduate school of biomedical sciences; that the commonwealth both will be insulated from financial risk and will receive the benefit of continuing support and clinical affiliations for its medical school, graduate school of nursing and graduate school of biomedical sciences; and that the delivery of health care services in the communities served remains at a high level of quality and access.

**SECTION 2.** Chapter 75 of the General Laws is hereby amended by adding the following section:-

Section 44. If the chancellor of the Worcester campus becomes responsible either by agreement or legislative action for appointing two or more trustees to a board of trustees of a corporation receiving assets from the clinical operations of the Worcester campus and maintaining an affiliation with said campus, the chancellor shall appoint the elected student representative of the Worcester campus pursuant to section 1A as one of said trustees.

**SECTION 3.** As used in this act, the following words shall, unless the context otherwise requires, have the following meanings:

"Chancellor", the chief executive officer of the University of Massachusetts Worcester as appointed by the authority of the trustees.

"Clinical division", the clinical components of the University of Massachusetts Worcester, including the University of Massachusetts medical school teaching hospital, the University of Massachusetts medical school group practice, and ancillary support and operating services.

"Corporation" or "corporations", any one or more corporations established under chapter 180 of the General Laws, of which the parent corporation shall initially be known as UMass Memorial Health Care, Inc., to which the trustees transfer or otherwise make available for use the operations, and certain assets, liabilities, and obligations of the clinical division, and any subsidiaries or affiliates of said corporations; provided however, that with respect to transfer of the assets and liabilities of the clinical division's Malpractice Insurance Trust Fund or Self Insurance Trust Fund, corporation shall include one or more corporations or other entities established under other chapters of the General Laws or the laws of any other jurisdiction or country.

"Creditable service", service to the commonwealth computed in accordance with sections 3 and 4 of chapter 32 of the General Laws, determined after taking into account any



established prior service credits. In identifying an employee as long service or short service, this definition shall include any prior service credits that would subsequently have become available under chapter 71 of the acts of 1996 if his employment with the university had continued beyond ten years; provided, however, that prior service credits shall only be taken into account for said purpose if the purchase of the service credits shall have been initiated on or before 120 days after the effective date of this act.

"Defined benefit pension plan", the defined benefit pension plan or plans offered to employees of the corporations as said may be modified, terminated or replaced from time to time.

"Elapsed service", service to the commonwealth computed in accordance with sections 3 and 4 of chapter 32 of the General Laws, determined after taking into account any established prior service credits; provided, however, that each month of part-time employment within the clinical division which counts as a fraction of a month of creditable service shall count as a full month of elapsed service.

"Exempt physicians", individuals whose regular compensation for purposes of chapter 32 of the General Laws is not limited by the provisions of section 6 of chapter 733 of the acts of 1974.

"Group insurance commission", the commission established pursuant to section 3 of chapter 32A of the General Laws.

"Group practice", the University of Massachusetts medical school group practice plan established by chapter 733 of the acts of 1974.

"Includes" or "including", by way of illustration and not by way of limitation.

"Long service", having nine or more years of creditable service as of the effective date of this act.

"Medical school", the University of Massachusetts medical school established by section 34 of chapter 75 of the General Laws.

"Medical School Teaching Hospital Trust Fund", the trust fund established by the trustees for operation of the teaching hospital pursuant to section 11 of chapter 75 of the General Laws and item 7411-1006 of section 2 of chapter 363A of the acts of 1977.

"Memorial Health Care, Inc.", a nonprofit corporation organized and existing under the laws of the commonwealth.

"Optional retirement program", a program established in accordance with section 40 of chapter 15A of the General Laws.

"Parent corporation", the corporation organized and established under chapter 180 of the General Laws, to be initially known as UMass Memorial Health Care, Inc., which is the sole member of or otherwise controls all other corporations to which the trustees transfer or otherwise make available for use the operations, and certain assets, liabilities and obligations of the clinical division, and which shall have the authority, pursuant to section 8A of said chapter 180, to approve the sale or other disposition of all or substantially all of the property and assets of each corporation of which it serves as the sole member.

"Ph.D. clinical faculty members", the nonphysician faculty members of the clinical departments of the medical school who hold the degree of Doctor of Philosophy.

"Regular employee", an employee within the clinical division on the effective date of this act who is not a physician or Ph.D. clinical faculty member and who is not as of February 12, 1997 represented by an employee organization recognized in accordance with section 4 of chapter 150E of the General Laws and who is not a consultant, independent contractor or other occasional worker.

"Self Insurance Trust Fund", a university trust fund established by the trustees by vote dated June 5, 1985, pursuant to section 11 of chapter 75 of the General Laws.

"Short service", having less than nine years of creditable service as of the effective date of this act.

"State contract employee", a physician or Ph.D. clinical faculty member employed within the clinical division to the extent such employee provides services to state agencies pursuant to contracts between the university and said agencies and not to a corporation.

"Subsidiary and affiliate", an organization which is controlled by another entity, directly or indirectly, by means of the entity or another subsidiary or affiliate of the entity being the sole member of such organization or having the power to appoint at least one-half of the members, shareholders or governing body of such organization or having retained reserved powers to approve significant activities of such organization or otherwise controlling the governing body of such organization.

"Teaching hospital", the University of Massachusetts medical school teaching hospital provided for by item 8070-10 of section 2 of chapter 138 of the acts of 1969.

"Trustees", the board of trustees of the University of Massachusetts established pursuant to section 1A of chapter 75 of the General Laws.

"University", the University of Massachusetts established by section 1 of chapter 75 of the General Laws.

"Worcester City Campus Corporation", a certain nonprofit corporation organized and existing under the laws of the commonwealth and authorized by section 14 of chapter 139 of the acts of 1992.

**SECTION 4.** (a) Notwithstanding the provisions of any general or special law to the contrary, the trustees are hereby authorized to transfer to one or more nonprofit corporations management and control of all operations of the clinical division and ownership or use of all properties and assets of the clinical division as the trustees deem necessary for the operation of the clinical division including: all tangible personal property, such as equipment, inventories, supplies, medical records, furniture, automobiles and helicopters; all accounts receivable, notes receivable, cash, cash equivalents, securities, prepaid expenses and other current assets including assets held in the Medical School Teaching Hospital Trust Fund, assets held in the Self Insurance Trust Fund and assets of the group practice; all pledges received for clinical operations; all rights with respect to leases and subleases, governmental and administrative licenses, permits, authorizations, orders, registrations, certificates, variances, approvals, consents, and franchises used or useful in connection with the opera-

tion of the clinical division; all patient lists; all rights under any contracts relating to the operation of the clinical division; all business and financial records, books and materials; all rights to insurance policies; all claims and other causes of action, and including all assets conveyed or transferred in accordance with the agreements referred to in subsection (b). If the trustees transfer all or substantially all of the assets and operations of the teaching hospital to a corporation, the corporation shall remain not-for-profit permanently and shall not sell or dispose of any assets or operations transferred from the teaching hospital to a for-profit entity in a transaction that would require notice to the attorney general within the meaning of subsection (c) of section 8A of chapter 180 of the General Laws, governing the disposition of the corporate property and assets of a public charity. The trustees are hereby further authorized to lease or otherwise contract for the use and occupancy for a period of 99 years certain real property and facilities including those currently occupied and used by the clinical division of the University of Massachusetts Worcester to one or more corporations under such terms and conditions as the trustees may determine from time to time to be in the best interests of the university. Any corporation that obtains pursuant to this section any lease or other contract for the use and occupancy of any real property owned by the commonwealth under the control of the university shall be deemed to be an entity the activities of which have been approved by the trustees as furthering the purposes of the university for the purposes of section 3 of chapter 773 of the acts of 1960 for so long as such lease or other contract remains in effect.

The trustees are hereby further authorized to take any and all actions necessary on behalf of the university as sole member of the Worcester City Campus Corporation to permit said entity to transfer substantially all of its assets, including without limitation real property owned by the Worcester City Campus Corporation in its corporate name and as trustee, liabilities and membership rights and interests in its subsidiaries and affiliates to one or more corporations and the trustees are further authorized to transfer funds from the clinical division to the Worcester City Campus Corporation as said trustees deem necessary to support the academic and research mission of the university.

(b) In addition to the foregoing, and in recognition of the importance to the continuing operation of the medical school of a close affiliation with a clinical operation of sufficient size, diversity of service and mission to support high quality academic activities, and in light of the complementary missions and services between and among the medical school, the clinical division and Memorial Health Care, Inc., the trustees are hereby authorized to enter into agreements with Memorial Health Care, Inc. and the Worcester City Campus Corporation, in form and substance mutually agreeable to the parties thereto as the same may be amended from time to time, pursuant to which one or more of the corporations may merge or consolidate with Memorial Health Care, Inc. and one or more of its subsidiaries, and the Worcester City Campus Corporation and certain subsidiaries and affiliates of the Worcester City Campus Corporation may transfer their assets to or become controlled by one or more of the corporations. Upon the occurrence of the transfer authorized in subsection (a) or the merger or consolidation authorized by this section, the surviving or



resulting corporation or corporations shall have all of the rights, powers, and authorities of a corporation established pursuant to chapter 180 of the General Laws and shall not be deemed to be an agency, commission, authority or other subdivision of the commonwealth or instrumentality of any of the foregoing for any purpose.

The trustees shall transfer the assets pursuant to the authorization in subsection (a) only for the purpose of fulfilling the obligations of an agreement or agreements with Memorial Health Care, Inc. to merge or consolidate as authorized in this subsection. In the event that the trustees transfer all or substantially all of the assets and operations of the teaching hospital to a corporation and enter into an agreement or agreements with Memorial Health Care, Inc. to merge or consolidate with such corporation pursuant to this subsection, the transfer and agreements shall be to and with a corporation which: (1) for ten years following the effective date of this act, shall not, without prior legislative approval, merge or consolidate with another nonprofit entity if as of the date of said merger or consolidation, the merger or consolidation would result in 50 per cent or more of the corporation's or its successor's board consisting of individuals other than those who were trustees of the corporation immediately prior to the merger or consolidation; and (2) shall not merge or consolidate with another nonprofit entity unless such entity agrees that it will continue to operate an acute care hospital in the city of Worcester through the corporation to which the trustees transfer the assets and operations of the teaching hospital pursuant to the authorization in subsection (a) or through its successor so long as such other nonprofit entity operates any acute care hospital in Worcester county. Following the effective date of this act, no officer, trustee or employee of the parent corporation, or of the hospital subsidiary of the parent corporation to which the assets and ownership of the teaching hospital are transferred, shall acquire an equity ownership interest, other than in a nominee capacity, in any for-profit subsidiary or affiliate of the parent corporation.

Any such agreements and other transactions authorized by this act shall not be considered to be or constitute an agreement or combination or series of agreements to provide services which are similar to or in lieu of services provided in whole or part by regular employees of the university. The trustees may include in any written agreement with Memorial Health Care, Inc., the Worcester City Campus Corporation or any corporation in furtherance of the transfer or merger or consolidation a dispute resolution process culminating in final and binding arbitration to be invoked in the event of any dispute concerning interpretation or application of any such agreement.

(c) The governing body of the parent corporation shall be a board of trustees, in this subsection called the board. For a period of four years after the transfer of certain assets of the clinical division to one or more of the corporations, the board shall consist of ten members appointed by the university and ten members appointed by Memorial Health Care, Inc. In the event that any of the individuals initially appointed to the board shall die, resign, or be removed from office during the initial four year term, successors shall be appointed by the remaining trustees initially appointed by Memorial Health Care, Inc. or by the university, as the case may be. The composition of the board may be increased to not more than 23



members during the initial four year term in order to facilitate additional providers joining the system, by a two-thirds vote of the trustees then in office; provided, however, that the board shall include an equal number of Memorial Health Care, Inc. affiliated trustees and university affiliated trustees during such initial four year term. After the expiration of the initial four year term, the board may be increased or decreased by majority vote of the board but shall include the chancellor and four additional trustees appointed by the chancellor with the approval of the president of the university; provided, however, that in no event shall the total number of trustees selected by the chancellor and including the chancellor be less than five-nineteenths of the voting membership of the board.

One or more of the corporations shall: (i) make an annual payment to the trustees in support of the medical school which, in the determination of the trustees, includes reasonable compensation to the medical school for the cost of services and support it contributes to the delivery of medical care by the corporation's teaching hospitals; and (ii) assume the university's outstanding debt obligation on facilities and equipment transferred to or otherwise used or occupied by one or more corporations under this section. All payments made by one or more corporations to the university shall be deposited by the trustees in a trust for the operations of the medical school with said trust to be established and managed by the trustees pursuant to section 11 of chapter 75 of the General Laws.

(d) Upon the occurrence of the transfer or merger or consolidation authorized by this section, the parent corporation shall include as part of its corporate purposes or mission the promotion and support of the medical school and a recognition of the importance of being part of an outstanding scientific and educational community and of providing high quality education and training to the commonwealth's future physicians, nurses and allied health professionals, and such part of its corporate purposes or mission shall not be amended without prior legislative approval.

The medical school and the corporations shall develop complementary academic and clinical strategies that are linked through joint investments in academic and clinical programs designed to foster a cooperative and team-oriented approach; the medical school and the corporations shall inform and consult with each other on major changes in the mission or operations of either, and the medical school and the corporations shall establish a senior management group to review issues of common concern and the chancellor and the chief executive officer of the parent corporation shall consult and use their best efforts to reach mutually acceptable decisions in such areas.

One or more corporations shall serve as the primary teaching hospital and training site for the medical school. To the extent contained in the agreements referenced in subsection (b) the faculty of the medical school shall serve as the primary source of the clinical staff of the corporations and the same individuals shall serve as the academic and clinical department chairs. To the extent contained in the agreements referenced in said subsection (b) all research activities of the corporations shall be managed by the medical school, and the corporations shall work with the medical school to provide necessary clinical and support services for the medical school's contracts with other state agencies and departments.

(e) In connection with the transfer or merger or consolidation authorized by subsections (a) and (b), one or more corporations pursuant to and to the extent contained in the agreements authorized by subsection (b) shall indemnify, defend and hold harmless the university, and its trustees, officers and employees against and in respect of all liabilities, obligations, judgments, liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, taxes, losses, fines, penalties, damages, expenses, fees, costs, amounts paid in settlement, including reasonable attorneys' and expert witness fees and disbursements in connection with investigation, defending or settling any action or threatened action, arising out of any claim, complaint, demand, cause of action, audit, investigation, hearing, action, suit or other proceeding asserted or initiated in respect of any matter resulting from any contract, agreement, employment matter and all other existing or future liabilities of the university arising out of or resulting from the operation of the clinical division.

(f) In connection with the transfer or merger or consolidation authorized by subsections (a) and (b), the medical school, pursuant to and to the extent contained in the agreements authorized by said subsection (b), shall indemnify and hold harmless the parent corporation, its trustees, officers and employees against environmental liabilities and costs to the extent arising out of any condition existing on the University of Massachusetts Worcester at or prior to the said transfer or merger or consolidation that constitutes a violation of, or gives rise to a duty to remediate under, environmental laws without limit in time, knowledge or amount, excluding environmental liabilities and costs relating to the existence of asbestos, polychlorinated biphenyls or other chemical substances within buildings, structures, or self-contained units above ground that are not leaking, such as transformers; provided, however, that claims for personal injuries based in tort shall be excluded from the definition of environmental liabilities and costs. Payment of the environmental indemnification obligation described herein shall be by law in the form of a special appropriation. In the absence of such special appropriation within 12 months, the medical school is hereby authorized to make such payment but such obligation shall be limited solely to such amounts as constitute funds of the medical school other than grants, donor restricted funds or funds received from general appropriations.

(g) Notwithstanding any general or special law or regulations promulgated thereunder to the contrary, this act shall constitute a determination of need for purposes of licensure and change of ownership as well as a determination of suitability for change of ownership and also shall constitute approval of all transfers of ownership of any unimplemented determinations of need, pursuant to sections 25C, 51, 71 and any other relevant sections of chapter 111 of the General Laws or other provisions of the General Laws, and regulations promulgated thereunder, as may be required with respect to the need for, the change of ownership, licensure, operations or other approval relating to any corporation and its hospitals, clinics, health centers, laboratories, nursing homes, substance abuse treatment facilities and other facilities that result from any transfer or merger or consolidation authorized by subsections (a) and (b), including the corporations and hospitals

resulting from said transfer or merger or consolidation, and the changes in ownership or control, directly or indirectly, of any subsidiary or affiliate of Worcester City Campus Corporation, including Marlborough Hospital, Inc., and Clinton Hospital Association, and upon application by any corporation or by its subsidiaries or affiliates the department of public health and the department of mental health shall issue to such corporation or any such subsidiaries or affiliates a license or other certificate or approval as may be necessary or appropriate for it to establish, maintain, and operate such hospitals, clinics, health centers, laboratories, nursing homes, substance abuse treatment facilities and other facilities as had been maintained, operated, or owned by the clinical division, Memorial Health Care, Inc., Worcester City Campus Corporation or any of their respective subsidiaries or affiliates prior to the transfer or merger or consolidation. The department of public health and the appropriate corporations shall enter into an agreement with respect to the continuation of the provision of uncompensated care.

**SECTION 5.** (a) At the discretion of the university, on the effective date of the transfer or merger or consolidation authorized by section 4, each regular employee shall either be an employee of the university whose services are provided to a corporation pursuant to an agreement between the university and a corporation or be offered employment by a corporation. The trustees are hereby authorized to enter into agreements with one or more corporations for the purchase of the services of said university employees by the corporation by payment of such amounts as may be agreed upon by the corporation and the trustees which may include payment of costs described in subsections (e) and (l).

Long service regular employees shall, subject to subsection (h), remain employed by the university, and their services shall be provided by contract to a corporation; provided, however, that the university may at any time, subject to the terms of such contract, terminate the employment of any such employee and cause the employee to be offered employment directly by the corporation either: (i) after February 11, 2008, in which event the employee shall be entitled to a voluntary superannuation retirement allowance pursuant to the provisions of section 5 of chapter 32 of the General Laws and subdivision (1) of section 10 of said chapter 32, or (ii) with the consent of such employee. The university, in its discretion, at any time prior to February 11, 2008, may: (i) offer any long service regular employee who remains employed by the university and whose services are provided by contract to a corporation the option to resign from the university and be offered employment by a corporation, and (ii) provide for such an employee who accepts such employment to be awarded credit pursuant to said chapter 32 for additional years of creditable service equal to (A) the number of additional years of creditable service, if any, that would be necessary for the employee to have 20 years of creditable service such that the employee would be entitled to a voluntary superannuation retirement allowance pursuant to the provisions of sections 5 and 10 of said chapter 32, and (B) 25 per cent of the excess, if any, of ten years, reduced by the number of years elapsed since February 12, 1998, over the number of additional years credited under clause (A).



Short service regular employees other than those described in the next paragraph shall, on a date established by the university within one year of the effective date of the transfer or merger or consolidation authorized by section 4, cease to be university employees and shall be offered employment in comparable positions by and with one or more corporations; provided that every such employee who accepts such a position shall be given full credit by the commonwealth for his creditable service and, notwithstanding the provisions of paragraph (m) of subdivision (1) of said section 5 of said chapter 32, shall be deemed entitled to a voluntary superannuation retirement allowance to be computed in accordance with said section 5 of said chapter 32 based on age and actual creditable service, except that no such individual who has completed less than ten years of creditable service shall be entitled to receive post employment health benefits pursuant to chapter 32A of the General Laws. Said short service regular employees shall receive initial service credit for purposes of the corporations' defined benefit pension plan equal to one times the number of years of creditable service up to five years, and .75 times the number of years of creditable service for those years in excess of five and less than nine.

Short service regular employees with nine or more years of elapsed service as of the effective date of this act who were employed and participating prior to October 1, 1987 in the state pension plan provided in said chapter 32 shall, subject to subsection (h), remain employed by the university and their services shall be provided by contract to a corporation; provided, however, that the university may at any time, subject to the terms of such contract, terminate the employment of any such employee and cause the employee to be offered employment directly by the corporation either: (i) after February 11, 2008, or (ii) with the consent of such employee. The university, in its discretion, at any time prior to February 11, 2008, may offer any such employee who remains employed by the university and whose services are provided by contract to a corporation the option to resign from the university and be offered employment by a corporation; provided, however, that every such employee who accepts such employment shall be given full credit by the commonwealth for his creditable service and, notwithstanding the provisions of said paragraph (m) of said subdivision (1) of said section 5 of said chapter 32, shall be deemed entitled to a voluntary superannuation retirement allowance to be computed in accordance with said section 5 of said chapter 32 based on age and actual creditable service, except that no such individual who has completed less than ten years of creditable service shall be entitled to receive post retirement health benefits pursuant to said chapter 32A. Any such employee who accepts such employment prior to or upon attaining ten years of creditable service shall receive initial service credit for purposes of the corporations' defined benefit pension plan equal to one times the number of years of creditable service up to five years, and .75 times the number of years of creditable service for those years in excess of five and less than nine; provided, however, that such initial service credit shall be computed as of the date established by the university within one year of the effective date of the transfer or merger or consolidation authorized by section 4 in accordance with the next preceding paragraph.



Any regular employee who becomes an employee of one of the corporations following termination of employment by the university in accordance with this subsection shall be entitled to collect any voluntary superannuation retirement allowance pursuant to the provisions of said chapter 32 during his continued employment with a corporation; provided, however, that no university employee offered employment by a corporation shall be eligible for any benefit under subdivision (2) of said section 10 of said chapter 32.

(b) On the effective date of the transfer or merger or consolidation authorized by section 4, each physician and Ph.D. clinical faculty member of the group practice employed within the clinical division shall either be an employee of the university whose services are provided to a corporation pursuant to an agreement between the university and the corporation or be offered employment by a corporation, as agreed between the university and the corporation. The trustees are hereby authorized to enter into agreements with one or more corporations for the purchase of the services of said university employees by the corporation by payment of such amounts as may be agreed upon by the corporation and the trustees which may include payment of those costs described in subsections (e) and (l). Notwithstanding the foregoing, state contract employees shall be employees of the university whose services as state contract employees are not provided to a corporation except as may otherwise be agreed between the university and a corporation.

Exempt physicians and any long service physicians and Ph.D. clinical faculty members, other than state contract employees and individuals who are participating in the optional retirement system, shall, subject to subsection (h), remain employed by the university, and their services shall be provided by contract to a corporation; provided, however, that the university may at any time, subject to the terms of such contract, terminate the employment of any such employee and cause the employee to be offered employment directly by the corporation either: (i) after February 11, 2008, in which event the employee shall be entitled to a voluntary superannuation retirement allowance pursuant to the provisions of section 5 and subdivision (1) of section 10 of chapter 32 of the General Laws, or (ii) with the consent of such employee.

Short service physicians and Ph.D. clinical faculty members and any long service physicians and Ph.D. clinical faculty members who are participating in the optional retirement system, but excluding exempt physicians and state contract employees, shall, on a date established by the university within one year of the effective date of the transfer or the merger or consolidation authorized by section 4, cease to be university employees and shall be offered employment in comparable positions with one or more corporations; provided, however, that every such employee who accepts such a position other than physicians or Ph.D. clinical faculty members participating in the optional retirement system shall be given full credit by the commonwealth for his creditable service and, notwithstanding the provisions of paragraph (m) of subdivision (1) of said section 5 of said chapter 32 shall be deemed entitled to a voluntary superannuation retirement allowance to be computed in accordance with said section 5 of said chapter 32 based on age and actual creditable service, except that no such individual who has completed less than ten years of creditable service shall be entitled to post employment health benefits pursuant to chapter 32A of the General

Laws. Any such short service physician or Ph.D. clinical faculty member who is not participating in the optional retirement system shall receive initial service credit for purposes of the corporations' defined benefit pension plan equal to .51 times the number of years of creditable service up to five years, and 37.5 per cent of times the number of years of creditable service for those years in excess of five and less than nine. Any physician or Ph.D. clinical faculty member who is a participant in the optional retirement system shall not receive any additional creditable years in the optional retirement system, nor shall he receive additional years of service under the corporations' defined benefit pension plan, but he shall be entitled to collect benefits under the optional retirement system during his continued employment with a corporation.

Any physician or Ph.D. clinical faculty member who is not participating in the optional retirement system and becomes an employee of one of the corporations immediately following termination of employment by the university in accordance with this section shall be entitled to collect any voluntary superannuation retirement allowance pursuant to the provisions of said chapter 32 during his continued employment with a corporation; provided, however, that no university employee offered employment by a corporation shall be eligible for any benefit under subdivision (2) of said section 10 of said chapter 32.

(c) Employees of the university within the clinical division who are represented by an employee organization recognized in accordance with section 4 of chapter 150E of the General Laws as of the effective date of this act shall retain all the rights and obligations of collective bargaining agreements in effect as of the effective date of this act, during the term of said agreements so long as the said employees remain so employed and so represented. The trustees are hereby authorized subject to such negotiation as required by law to provide for said employees who leave the clinical division and become employees of a corporation other benefits that include a program for group health insurance consistent with subsection (f) for regular employees who leave the clinical division and become employees of a corporation and a program for creditable service; provided, however, that in no event shall the program for creditable service grant benefits in excess of those benefits granted to regular employees of the clinical division pursuant to subsection (a). The employees of any corporation which hires or employs employees of the same class or category as employees employed within the clinical division whose services are provided by contract to that corporation shall be subject to such terms and conditions of employment as that corporation may determine, subject to any collective bargaining obligation of the corporation.

Neither the university nor a corporation shall interfere with, restrain or coerce any employees in the exercise of their rights to self-organization, to form, join or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, nor discriminate against any employees in regard to hiring, tenure, or any term or condition of employment to encourage or discourage membership in any employee organization.

All registered nurses employed by the university within the clinical division who are represented by the Massachusetts Nurses Association in accordance with said section 4 of said chapter 150E on the effective date of the transfer or merger or consolidation authorized by section 4 shall either be employees of the university whose services are provided to a corporation pursuant to an agreement between the university and the corporation or be offered employment by a corporation, in either case within the same position and at the same campus or location as immediately prior to said effective date. Such registered nurses who continue to be employed by the university shall continue to be represented by the Massachusetts Nurses Association within the same bargaining unit or units existing immediately prior to said effective date, whether or not the services of such registered nurses are leased or otherwise provided by the university to a corporation.

An employee organization recognized under said chapter 150E representing a unit of employees employed by the university within the clinical division who, after the effective date of this act, become employees of a corporation at a campus or location where such employees have previously been providing services as employees of the university, shall be recognized by such corporation as the exclusive bargaining representative with respect to such employees, and the corporation shall negotiate in good faith with such employee organization concerning wages, hours and other terms and conditions of employment, including the benefits to be established pursuant to the first paragraph of this section.

Registered nurses whose services are provided by the university to a corporation shall not be laid off pursuant to a reduction in force for the purpose of replacing such employees with employees of the corporation.

A corporation shall recognize the Massachusetts Nurses Association as the exclusive bargaining representative of those registered nurses who were employed by the clinical division and who, after the effective date of this act, become employees of such corporation at a campus or location where employees have previously been providing services as employees of the university, and shall be bound by terms of the agreement between the university and the association; provided, however, that, with respect to benefits provided under said agreement the terms of which are determined by statute for or are available only to, public employees as defined in section 1 of said chapter 150E, such corporation shall negotiate with said association to provide benefits to said employees which are comparable, in the aggregate, thereto. If the parties fail to reach agreement concerning the comparability of said benefits, or the aggregate pension or group health insurance benefits provided to said employees under this subsection, to the benefits previously received by them, such disagreement shall be submitted to arbitration under the arbitration procedures provided in said agreement.

A corporation and the Massachusetts Nurses Association may agree to negotiate future collective bargaining agreements for the corporation's registered nurses at the same time and in conjunction with the negotiations conducted by the university for future collective bargaining agreements with said association with respect to bargaining units in which registered nurses whose services are leased or otherwise provided to the corporation



by the university and registered nurses employed by the corporation are performing the same work at the same campus or other location or locations, and are represented by the association.

(d) When an individual employed by a corporation relocates from one campus of a corporation to another campus of a corporation or from one corporation to another corporation, or when an individual employed by the university and contracted to a corporation becomes employed by a corporation and relocates as described above, in any such case the seniority and length of service of such employee shall be determined, for any purpose other than post employment benefits and, except when required by federal law, retirement plans, as if all service rendered at the campus or corporation from which the employee relocates had been rendered at the campus or corporation to which the employee is relocated. If the application of this section must be delayed for any reason with respect to employees in any class or category of employees, then this section shall not apply with respect to any other employees within the same class or category, wherever or however employed, during the period of such delay. For employees represented by an employee organization, seniority issues shall be: (1) as provided in collective bargaining agreements in effect as of the effective date of this act during the term of said agreements so long as such employees remain so employed and so represented, and (2) subject to negotiation as required by applicable law.

No medical service unit employing registered nurses shall be relocated from one campus of a corporation to another campus of a corporation, or from one corporation to another corporation, until April, 2000, unless otherwise agreed by all relevant parties; provided, however, that nothing in this paragraph shall preclude said parties from continued negotiation relative to seniority and relocation of said units; and provided, further, that the provisions of this paragraph shall apply at any such campus.

(e) The assessment for fringe benefit costs for employees paid from nonappropriated funds of the University of Massachusetts Worcester pursuant to the provisions of section 5D of chapter 29 of the General Laws, shall ensure that the University of Massachusetts Worcester is paying the actual costs of the fringe benefits for employees paid from such nonappropriated funds for health and retirement benefits earned by or provided to them for all periods subsequent to the July 1, 1989 establishment of the assessment pursuant to the provisions of chapter 653 of the acts of 1989.

For health benefits provided by the group insurance commission for employees pursuant to the provisions of chapter 32A of the General Laws, or pursuant to the provisions of this act, the actual costs shall be the sum of: (A) the employer share of the monthly premium charge to such employees who are active employees plus a proportionate share of the administrative costs of the group insurance commission, and (B) with respect to the cost of post employment health benefits to be provided to an employee for service after July 1, 1989, the service cost, as that term is defined in statement of financial accounting standards number 106.



For pension benefits provided by the state employees retirement system for such employees pursuant to the provisions of chapter 32 of the General Laws, other than those provided pursuant to the provisions of this act, actual costs shall be the actuarially determined employer normal cost plus a proportionate share of the administrative costs of operating the state employees retirement system plus a 15 year amortization of the difference between the actuarial accrued liability and the accumulated value of employer and member contributions made on behalf of employees of the University of Massachusetts Worcester for service on or after the effective date of said chapter 653. For purposes of this paragraph, the normal cost and actuarial accrued liability shall be determined in accordance with the entry age normal cost method in a manner that develops an annual normal cost which is intended to represent a level percentage of the member's pensionable earnings throughout the member's period of employment covered by the state employees retirement system. For this purpose, a member's entry age shall be based upon the date the employee first entered the state employees retirement system, the actuarial accrued liability shall exclude the value of future benefits attributable to periods of service prior to the effective date of said chapter 653, and the actuarial accrued liability shall reflect the value of future benefits of such employees who are active members, vested nonactive members, and retirees in a manner consistent with the methodology described above.

The actuarial analysis regarding University of Massachusetts Worcester employees and retirees to determine the actual pension and post employment health costs of the University of Massachusetts Worcester shall be conducted as if a separate self-contained chapter 32 retirement system had been established on July 1, 1989 for all University of Massachusetts Worcester employees paid from nonappropriated funds for purposes of providing benefits accrued for service on or after July 1, 1989, and as if all payments made by the university to the state retirement system with respect to such employees on or after July 1, 1989 had been made to such separate system.

The actuarial assumptions used to perform this analysis shall reflect the demographics and experience of the University of Massachusetts Worcester employees and be consistent with the standards of the actuarial standards board of the American Academy of Actuaries.

In establishing the initial liabilities for pension and post employment health benefits pursuant to this section, the University of Massachusetts Worcester shall utilize a qualified actuary selected pursuant to the terms of the September 22, 1992 memorandum of understanding between the secretary of the executive office of administration and finance and the chancellor which required soliciting recommendations from the division of public employee retirement administration, now known as the public employee retirement administration commission, and the state comptroller. The selected actuary shall provide a certified actuarial report in accordance with accepted actuarial principles that meets the standards of the provisions of section 21 of said chapter 32. Copies of the report determining the respective liabilities and funding obligations for purposes of paying the assessment for fringe benefit costs shall be submitted to the secretary of administration and finance, the office of

the state comptroller and the public employee retirement administration commission. Subsequent reports shall be conducted by an actuary selected in the same manner and in accordance with the same standards.

Upon the transfer, merger or consolidation as authorized by section 4, no corporation shall, except as may be provided for in contracts between any corporation and the university, have any responsibility for costs attributable to the service of any employee prior to or including the date of the transfer or merger or consolidation and, except as may be provided for in said contracts, shall not be responsible for any costs in excess of the employer normal cost of such pensions or service cost of such post employment health benefits determined as provided above.

For purposes of this subsection the terms "member", "active", "vested", "vested nonactive" and "retirees" shall have the same meanings as used in said chapter 32.

(f) Each employee of the university as of the effective date of this act who becomes an employee of a corporation immediately after termination of his university employment shall, as an employee of a corporation, be entitled to the tuition waiver benefits that would have been available to said employee at the university if he had remained an employee of the university except that such benefits shall no longer be available when the employee is no longer employed by any corporation.

Each regular employee, physician or Ph.D. clinical faculty member as of the effective date of this act, other than state contract employees and individuals who are participating in the optional retirement system, who becomes an employee of a corporation immediately after termination of his university employment shall, for the period of time he is an employee of a corporation but ending no later than the earlier of: (i) the date that the employee acquires a vested interest in his accrued benefit under the corporation's defined benefit pension plan, or (ii) the date five years after commencing such employment, be considered a member in service solely for the purpose of determining member-survivor benefits pursuant to the provisions of Option (d) of subdivision (2) of section 12 of chapter 32 of the General Laws and section 12B of said chapter 32, but shall not accrue any additional creditable service under said chapter 32 during such period.

Notwithstanding the provisions of section 14 of chapter 75 of the General Laws and section 6 of chapter 733 of the acts of 1974 or any other general or special law to the contrary, the trustees are hereby authorized to provide an alternative program of employee fringe benefits including compensated absences, industrial accident coverage and group insurance for any employees who remain employees of the University of Massachusetts Worcester. The university shall be entitled along with any corporation to exclusivity of the remedy under both the workers' compensation and employers' liability provisions of any workers' compensation program which the university provides with respect to those employees whose services it contracts to such corporation as provided in this section.

With respect to employees of the university within the clinical division as of the effective date of this act who become employees of a corporation immediately upon termination of their employment by the university, and notwithstanding the provisions of

chapter 32A of the General Laws or any other general or special law to the contrary, said employees shall for one year from the date of the transfer or merger or consolidation as authorized by section 4, so long as they are employees of a corporation, be considered employees as defined by and for the purposes of said chapter 32A and shall continue, on the same terms and conditions as state employees generally, except as provided in subsection (c), to be eligible for the group health insurance provided to said employees by the group insurance commission; provided, however, that the contribution for premiums made by the commonwealth pursuant to section 8 of said chapter 32A for any employee who is employed by a corporation shall be paid to the group insurance commission by a corporation.

Notwithstanding the provisions of said chapter 32A or any other general or special law to the contrary, the group insurance commission is hereby authorized to purchase such group health, life and accidental death insurance for employees of one or more of the corporations as the group insurance commission and the corporation may agree; provided, however, that if one or more of the corporations elects to obtain such insurance from the commission then such corporation or its employees shall pay the cost of any such insurance.

The agreements providing for the transfer or merger or consolidation authorized in section 4 shall provide that all regular employees and physicians and Ph.D. clinical faculty members who were employees of the university within the clinical division as of the effective date of this act and who immediately become employees of a corporation upon the termination of their employment by the university, shall be provided by the corporation with accrued compensated vacation and sick absence time equal to the amount of available compensated absence time accrued with the clinical division pursuant to the policies of the University of Massachusetts Worcester as of the last day of said employees' employment within the clinical division.

Except as provided in subsection (c), employees who receive a voluntary superannuation retirement allowance pursuant to this section under the provisions of said chapter 32 or receive benefits under the optional retirement system and who accept employment with a corporation shall not receive a pay-out of compensated absence time under subsections (b) to (d), inclusive, of section 31A of chapter 29 of the General Laws upon receipt of such retirement allowance until such time as the employee is no longer employed by any corporation. If at the time the employee is no longer employed by any corporation, and such employee is receiving or begins to receive a voluntary superannuation retirement allowance pursuant to this section and the provisions of said chapter 32, or benefits under the optional retirement system, such employee shall receive a pay-out of unused sick leave pursuant to said section 31A based upon the remaining unused balances of sick leave accrued as of the last day of the employee's employment within the clinical division less any time used by the employee while employed by any corporation.

In the event the trustees transfer assets to one or more corporations pursuant to section 4, said corporation or corporations shall agree to establish a retraining fund of \$500,000 on the effective date of the transfer or merger or consolidation authorized by said section 4. Such fund shall be used for the purposes of retraining employees subject to this



section or of Memorial Health Care, Inc. or its affiliates who are employees as of the effective date of this act and who are dislocated from their positions within the university or any corporation due to the merger or consolidation authorized by said section 4. Such fund shall be available for the retraining of said employees for a period of 24 months from the effective date of this act. The procedure for distribution and use of the retraining funds for said employees shall be determined by the university and the corporation or corporations after consultation with employees, including representatives of recognized employee organizations.

The state retirement system is hereby authorized to establish a method of payroll deduction for employees who become employees of a corporation following termination of employment by the university in accordance with this section to achieve the purchase of prior service or military service buy backs, so-called, if such purchase shall have been initiated on or before 120 days after the effective date of this act. The corporation shall take all lawful steps necessary to assist the state retirement system in achieving this result.

(g) The provision of services to a corporation created hereunder, pursuant to an agreement between the university and such corporation, by an employee of the university as of the effective date of this act or by an employee who is a university employee immediately prior to the effective date of this act and who becomes an employee, officer or trustee of such corporation in accordance with sections 4 and 5, shall not be deemed to violate the provisions of sections 4, 5, 6, 7 and 23 of chapter 268A of the General Laws.

(h) Except as otherwise provided in subsection (m), this act shall not limit the ability of the university or a corporation to change or terminate the employment status of any employees.

(i) Employees who receive a voluntary superannuation retirement allowance under the provisions of chapter 32 of the General Laws or who receive benefits under the optional retirement system and who accept employment with a corporation without interruption of service shall not receive post employment health benefits pursuant to chapter 32A of the General Laws, if they are entitled to receive such post employment health benefits, until the employee is no longer employed by any corporation.

(j) The determination of whether an employee is an employee within the clinical division shall be made by the chancellor within one year of the effective date of the transfer or merger or consolidation authorized by section 4. Within each class of employees described in each of subsections (a), (b) and (c) who are determined by the chancellor to be employees of the clinical division, any benefits pursuant to chapter 32 of the General Laws including, where applicable, additional service credits described in said subsections (a), (b) and (c) for said class of employees shall be provided to all members of said class.

(k) Any provision of this section requiring action or consent by any corporation shall be contained in the agreements authorized by subsection (b) of section 4.

(l) The University of Massachusetts Worcester shall conduct an actuarial valuation of the liabilities for pension benefits resulting from the provisions of this act. That actuarial valuation shall be conducted in accordance with the standards established in chapter 32 of the General Laws and the assumptions and methodology employed shall be approved by the



public employee retirement administration commission. Said commission, on the basis of that valuation, shall establish a funding schedule designed to amortize the liabilities resulting from the pension benefits provided by this act over 15 years through level payments; provided, however, that the University of Massachusetts Worcester may establish a funding schedule that amortizes said liability over a shorter period. In each fiscal year, commencing in fiscal year 1999, the University of Massachusetts Worcester shall contribute the amount set forth in said schedule to the state employees' retirement system. Such costs may be included in any contract between a corporation and the university.

(m) During the period from the effective date of the transfer or merger or consolidation authorized by section 4 up to December 31, 1998, employees who were employed by the clinical division or by Memorial Health Care, Inc. for six months or more as of such effective date and who are classified as nonexempt employees for purposes of the federal Fair Labor Standards Act, as amended, title 29 of the United States Code, section 201, et seq., shall not be laid off from such employment by the university or a corporation due to a consolidation or elimination of services directly resulting from said transfer, merger or consolidation. This subsection shall not apply to any layoffs due to decreases in patient census or in revenue, technological changes or any other operational change that is not a direct result of said transfer, merger or consolidation.

**SECTION 6.** (a) The trustees may establish policies governing contracts for goods and services between the university and the corporations and such contracts shall be exempt from all state and local laws, rules, regulations, ordinances or bylaws requiring competitive bidding, including sections 29A to 29D, inclusive, of chapter 29 of the General Laws.

(b) Any lease, transfer or other agreement related to real property between the university and one or more corporations and any design, engineering, construction, reconstruction, renovation, repair or improvement undertaken by one or more corporations or the university on any property under the control of the university or at the University of Massachusetts Worcester or on any other property under the control of the university and used or occupied by one or more of the corporations shall be exempt from the provisions of sections 38A½ to 43I, inclusive, of chapter 7 of the General Laws, sections 44A to 44J, inclusive, of chapter 149 of the General Laws, section 39M of chapter 30 of the General Laws or any other general or special law or regulation relating to the advertising, bidding, award or enforcement of design, construction, reconstruction, renovation, repair or improvement of public property, or of contracts relating thereto, to the extent applicable, but shall be subject to sections 26 and 27 of said chapter 149.

(c) The university and all other agencies and officers of the commonwealth are hereby authorized and directed to take such actions as may be necessary or desirable in the judgment of the university to effect the transactions authorized by this act, the transition of assets and employees, and the purposes of this act.

**SECTION 7.** (a) In authorizing the transfer or merger or consolidation authorized in section 4 for the benefit of the people of the commonwealth, and in full recognition of the implications thereof, it is declared to be the intent of this act to supersede the application to

said transaction of all federal competition laws, including sections 1 to 8, inclusive, sections 12 to 27, inclusive, and sections 41 to 58, inclusive, of title 15 of the United States Code, and to preempt the application to said transaction of all competition laws of the commonwealth, including chapters 93 and 93A of the General Laws.

(b) The University of Massachusetts medical school is hereby authorized to provide hospital and other services either directly or indirectly through contracts or other arrangements with other providers, including, but not limited to, the provision of hospital services to medicaid eligible persons and to other low income persons and uninsured persons pursuant to both a provider agreement between the medical school and the division of medical assistance or such other agency as may be responsible for the medicaid program and the commonwealth's programs for providing health care services to low income and uninsured persons and a subprovider agreement between the medical school and one or more corporations.

**SECTION 8.** Section 2 of chapter 363A of the acts of 1977 is hereby amended by striking out item 7411-1006.

**SECTION 9.** Notwithstanding the provisions of chapter 733 of the acts of 1974 or any other general or special law to the contrary, and upon the occurrence of the transfer or merger or consolidation authorized by section 4, every physician member and Ph.D. clinical faculty member of the group practice immediately prior to the effective date of the transfer or the merger or consolidation authorized in section 4 who thereafter remains a university employee whose services are provided to a corporation pursuant to an agreement between the university and a corporation, shall remain a member of the group practice. Unless otherwise provided pursuant to an agreement between the university and the corporations, all patients receiving medical care from such members of the group practice shall be patients of the corporations and any fees charged to patients of any corporation for professional services rendered by such group practice physicians and Ph.D. clinical faculty members may be assigned to such corporations and may be charged and collected in the name of and by the corporations.

**SECTION 10.** This act, being necessary for the health and welfare of the citizens of the commonwealth, shall be liberally construed to effect its purposes.

**SECTION 11.** Insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation or any limitation imposed by a corporate or municipal charter, the provisions of this act shall be controlling.

Approved November 25, 1997.

**Chapter 164. AN ACT RELATIVE TO RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES, AND PROMOTING ENHANCED CONSUMER PROTECTIONS THEREIN.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a comprehensive framework for the restructuring of the electric

utility industry, to establish consumer electricity rate savings by March 1, 1998, and to make certain other changes in law, necessary or appropriate to effectuate 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.** It is hereby found and declared that:

(a) electricity service is essential to the health and well-being of all residents of the commonwealth, to public safety, and to orderly and sustainable economic development;

(b) affordable electric service should be available to all consumers on reasonable terms and conditions;

(c) ratepayers and the commonwealth will be best served by moving from (i) the regulatory framework extant on July 1, 1997, in which retail electricity service is provided principally by public utility corporations obligated to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to (ii) a framework under which competitive producers will supply electric power and customers will gain the right to choose their electric power supplier;

(d) the existing regulatory system results in among the highest, residential and commercial electricity rates paid by customers throughout the United States;

(e) such extraordinarily high electricity rates have created significant adverse effects on consumers and on the ability of businesses located in the commonwealth to compete in regional, national, and international markets;

(f) the introduction of competition in the electric generation market will encourage innovation, efficiency, and improved service from all market participants, and will enable reductions in the cost of regulatory oversight;

(g) competitive markets in generation should (i) provide electricity suppliers with the incentive to operate efficiently, (ii) open markets for new and improved technologies, (iii) provide electricity buyers and sellers with appropriate price signals, and (iv) improve public confidence in the electric utility industry;

(h) since reliable electric service is of utmost importance to the safety, health, and welfare of the commonwealth's citizens and economy, electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid;

(i) it is vital that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the commonwealth; and that

(j) the commonwealth should ensure that universal service and energy conservation policies, activities, and services are appropriately funded and available throughout the commonwealth, and should guard against the exercise of vertical market power and the accumulation of horizontal market power;



(k) long-term rate reductions can be achieved most effectively by increasing competition and enabling broad consumer choice in generation service, thereby allowing market forces to play the principal role in determining the suppliers of generation for all customers;

(l) the primary elements of a more competitive electricity market will be customer choice, preservation and augmentation of consumer protections, full and fair competition in generation, and enhanced environmental protection goals;

(m) the interests of consumers can best be served by an expedient and orderly transition from regulation to competition in the generation sector consisting of the unbundling of prices and services and the functional separation of generation services from transmission and distribution services;

(n) the restructuring of the existing electricity system should not undermine the policy of the commonwealth that electricity bills for low income residents should remain as affordable as possible;

(o) the commonwealth should enter into a compact with the other New England states and New York State, that provides incentives for the public and investor owned electricity utilities located in such states to sell energy to retail customers in Massachusetts which adheres to enforceable standards and protocols and protects the reliability of interconnected regional transmission and distribution systems;

(p) since reliable electricity service depends on conscientious inspection and maintenance of transmission and distribution systems, to continue and enhance the reliability of the delivery of electricity, the regional network and the commonwealth, the department of telecommunications and energy should set stringent and comprehensive inspection, maintenance, repair, replacement, and system service standards;

(q) the transition to expanded customer choice and competitive markets may produce hardships for employees whose working lives were dedicated to their employment;

(r) it is preferable that possible reductions in the workforce directly caused by electricity restructuring be accomplished through collective bargaining negotiations and offers of voluntary severance, retraining, early retirement, outplacement, and related benefits;

(s) the transition to a competitive generation market should be orderly and be completed as expeditiously as possible, should protect electric system reliability, and should provide electricity corporation investors with a reasonable opportunity to recover prudently incurred costs associated with generation-related assets and obligations, within a reasonable and fair deregulation framework consistent with the provisions of this act;

(t) the recovery of such prudently incurred costs shall occur only after such electric companies take all practicable measures to mitigate stranded investments during the transition to a competitive market;

(u) such charges associated with the transition should be collected over a specific period of time on a non-bypassable basis and in a manner that does not result in an increase in rates to customers of electricity corporations;



(v) financial mechanisms should be available that allow electricity corporations to securitize that portion of their transition costs which cannot be divested in the marketplace and which concurrently minimize transition charges to consumers;

(w) the initial benefit of this transition to a competitive market shall result in consumer electricity rate reductions of at least 10 per cent beginning on March 1, 1998, as part of an aggregate rate reduction totaling at least 15 per cent upon the subsequent approval of divestiture and securitization; and

(x) the general court seeks, through the enactment of this legislation, to establish the parameters upon which a restructuring of the electricity industry shall be based and which reflects the public policy decisions for the commonwealth designed to balance the needs of all participants in the existing and future systems;

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, by restructuring the electricity industry in the commonwealth to foster competition and promote reduced electricity rates through the enactment of the following statutory changes.

**SECTION 2.** Section 91 of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 20, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 3.** Section 18D of chapter 6A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 49, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 4.** Section 18E of said chapter 6A, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 5.** Section 18F of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 6.** Said section 18F of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 7.** Chapter 10 of the General Laws is hereby amended by adding the following section:-

Section 62. There shall be established and set up on the books of the commonwealth a separate fund known as the Ratepayer Parity Trust Fund. There shall be credited to such fund all personal and corporate tax revenues attributable to the sale of assets relative to section 1A of chapter 164, all penalties and fines collected under the provisions of said section 1A and sections 1B to 1H, inclusive, of said chapter 164, and any income derived from investment of amounts credited to said fund. Amounts credited to said fund shall be received and held in trust and shall be used solely for the purpose of providing extraordinary

assistance in achieving the required rate reduction provided by said section 1A to 1H, inclusive, of said chapter 164 to be expended, subject to appropriation, for said purposes. Prior to any appropriation being made by the general court, the department of telecommunications and energy shall file with the secretary of administration and finance a request for distribution of such monies in said fund as may be available for appropriation.

**SECTION 8.** Section 11E of chapter 12 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 9.** Section 18A of chapter 21A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 50, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 10.** Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 70, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 11.** Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 73, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 12.** Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 77, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 13.** Said section 18A of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 79, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 14.** Section 7 of chapter 21C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 57, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 15.** Said section 7 of said chapter 21C, as so appearing, is hereby further amended by striking out, in line 67, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 16.** Section 8 of said chapter 21C, as so appearing, is hereby amended by striking out, in line 13, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 17.** Section 5 of chapter 21E of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 243, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 18.** Section 19 of chapter 21G of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 2, the words "public utili-

ties" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 19.** Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking out, in line 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 20.** Said section 19 of said chapter 21G, as so appearing, is hereby further amended by striking out, in line 10, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 21.** Section 3D of chapter 23A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 37, the word "or" and inserting in place thereof the following:- authority;.

**SECTION 22.** Said section 3D of said chapter 23A, as so appearing, is hereby further amended by striking out clause (G) and inserting in place thereof the following two clauses:-

(G) the designated area has a commercial vacancy rate of 20 per cent or more; or

(H) the municipality has sited within it a generation facility, as defined pursuant to section 1 of chapter 164, which has a market value at the time of sale that is at least 50 per cent less than its current net book value.

**SECTION 23.** Section 3E of said chapter 23A, as so appearing, is hereby amended by inserting after the letters "EOA", in line 15, the following words:- or the municipality has sited within it a generation facility, as defined pursuant to section 1 of chapter 164, which has a market value at the time of sale that is at least 50 per cent less than its current net book value.

**SECTION 24.** Section 32 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 97, the word "enterprise." and inserting in place thereof the following words:- enterprise; and

(v) to issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the benefit of any electric company, as defined in section 1 of chapter 164, determined to be eligible for said bond financing by the department of telecommunications and energy pursuant to said chapter 164. Such electric rate reduction bonds shall constitute "bonds" for purposes of sections 35D to 35K, inclusive, and section 36.

**SECTION 25.** Section 1 of chapter 24A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 16, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 26.** Said section 1 of said chapter 24A, as so appearing, is hereby further amended by striking out, in line 27, the word "and".

**SECTION 27.** Said section 1 of said chapter 24A, as so appearing, is hereby further amended by inserting after the word "five", in line 27, the following words:- ; and (4) the division of energy resources established under the provisions of section 1 of chapter 25A.

**SECTION 28.** Section 1 of chapter 25 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 29.** Said chapter 25 is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The department shall be under the supervision and control of a commission consisting of five members, one of whom shall have a background and expertise in electricity and energy issues, including issues related to natural gas, one of whom shall have a background and expertise in telecommunications issues, one of whom shall have a background and expertise in consumer protection and advocacy issues, and one of whom shall have a background and expertise in cable television issues. Beginning January 1, 1998, the commissioners shall be appointed by the governor for a term of three years; provided, however, that the initial term of appointment for two members shall be one year, the initial term of appointment for two members shall be two years, and the initial term of appointment for one member who shall be designated the chairman by the governor shall be three years. Each member shall hold office until the appointment and qualifications of his successor. The governor may remove any member for cause, including, but not limited to, any violation of the provisions of section 3, and shall fill any vacancy for the unexpired term. The commissioners shall devote their full time to the duties of their office. The governor shall designate one of said commissioners as chairman. Not more than three members of said commission shall be members of the same political party. Except as otherwise provided for in section 4, any decision made or order issued by the commission may be made by majority vote of a quorum of three members. In this chapter, said commission shall be called "the commission".

The initial base salary of the chairman of the commission shall be \$90,000, and the initial base salary of the other members shall be \$82,500. Said salaries shall be subject to step increases consistent with the provisions of sections 45 and 46C of chapter 30. The members shall receive necessary expenses incurred in the discharge of their official duties.

The commission shall make an annual report of its activities in January of each year to the general court.

**SECTION 30.** Said chapter 25 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. Each commissioner shall be sworn to the faithful performance of his or her official duties. A commissioner shall not own, or be in the employ of, or own any stock in any regulated industry company, nor shall he or she be in any way directly or indirectly pecuniarily interested in or connected with any such regulated industry company or in the employ or connected with any person financing any regulated industry company. A commissioner shall not personally or through any partner or agent render any professional service or make or perform any business contract with or for any regulated industry company, except contracts made with the commissioners as common carriers for furnishing of services, nor shall he or she directly or indirectly receive any commission, bonus, discount, present, or reward from any regulated industry company.



For the purposes of this section and the provisions of chapter 164, a regulated industry company shall be defined as any corporation, city, town or other governmental subdivision, partnership or other organization, or any individual engaged within the commonwealth in any business which is, or the persons engaged in which are, in any respect made subject to the supervision or regulation of the department by any provision of law except chapter 110A of the General Laws and chapter 651 of the Acts of 1910, as amended.

**SECTION 31.** Section 4 of said chapter 25, as so appearing, is hereby amended by striking out, in line 16, the word "one" and inserting in place thereof the following word:- two.

**SECTION 32.** Said section 4 of said chapter 25, as so appearing, is hereby further amended by striking out, in line 17, the word "two" and inserting in place thereof the following word:- three.

**SECTION 33.** Said chapter 25 is hereby further amended by inserting after section 12E the following section:-

Section 12E½. There is hereby established within the department and under the supervision and control of the commission a division of telecommunications. The division, subject to such supervision and control, shall perform such functions as the commission may determine in relation to the administration, implementation, and enforcement of the department's authority over the telecommunications industry, including, but not limited to, the authority granted by chapters 25, 30A, 159, and 166. The chairman of the commission shall appoint and may remove a director of the division. The job group classification of the director's position, in accordance with section 46C of chapter 30, shall be determined by the chairman in consultation with the commissioner of administration. The commission shall annually prepare and submit to the governor and the general court, on or before the first Wednesday of November, a report of the division's activity and of the condition of the telecommunications industry within the commonwealth during the preceding fiscal year, together with recommendations which the commission considers necessary or desirable.

**SECTION 34.** Section 12M of said chapter 25 is hereby repealed.

**SECTION 35.** Section 17 of said chapter 25 is hereby repealed.

**SECTION 36.** Section 17A of said chapter 25 is hereby repealed.

**SECTION 37.** Said chapter 25 is hereby further amended by striking out section 18, as appearing in the 1996 Official Edition, and inserting in place thereof the following three sections:-

Section 18. The commission is hereby authorized to make an assessment against each electric, gas, cable television, telephone, and telegraph company under the jurisdictional control of the department and each generation company and supplier licensed to do business in the commonwealth by the department, based upon the intrastate operating revenues subject to the jurisdiction of the department of each of said companies derived from sales within the commonwealth of electric, gas, cable television, telephone, and telegraph service respectively, as shown in the annual report of each of said companies to the department.

Said assessments shall be made at a rate not exceeding two-tenths of 1 per cent of such intrastate operating revenues, as shall be determined and certified annually by the commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department and for fringe benefits costs, including group life and health insurance, retirement benefits, paid vacations and holidays and sick leave, not to exceed 22 per cent of the amount attributable to personnel costs of employees of the department in the fiscal year in which the assessments are made, exclusive of funds appropriated by the general court for the transportation division. The funds may be used to compensate consultants in hearings on petitions filed by companies subject to assessment under this section. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount. Assessments made under this section may be credited to the normal operating cost of each company. Such estimated assessments shall be collected by the department. Each company shall pay the amount assessed against it within 30 days after the date of the notice of estimated assessment from the department. The amount so collected shall be credited to the General Fund. The department subsequently shall make assessment adjustments for any variation between the estimated and actual amounts of such assessments. Such estimated and actual costs shall include an amount equal to the cost of fringe benefits as established by the commissioner of administration pursuant to section 6B of chapter 29.

For the purpose of providing the department with additional operating funds for the regulation of electric companies, the commission is authorized to make a separate assessment proportionally against each electric company under the jurisdictional control of the department and each generation company and supplier licensed by the department to do business in the commonwealth of each of said companies derived from retail sales of electricity within the commonwealth as shown in the annual report of said companies to the department. Said additional assessment shall be made at a rate as shall be determined and certified annually by the commission as sufficient to produce not more than \$1,750,000 in revenue for the fiscal year in which the assessment is made and shall be collected by the department.

A schedule of filing fees shall be determined annually by the commissioner of administration under the provisions of section 3B of chapter 7 for the following: (i) petitions for certificates of environmental impact and public need; provided, however, that such filing fee for any municipal corporation empowered to operate a municipal lighting plant under the provisions of section 35 or 36 of chapter 164 shall not exceed a maximum amount; and (ii) notices of intention to construct an oil facility, with a maximum amount per oil facility to be graduated in accordance with the expected capital investment in the facility.

Notwithstanding the provisions of section 20 of chapter 159 and section 94 of chapter 164, during any fiscal year in which such assessment is made, the department shall have no authority to suspend the effective date of any rate, price, or charge set forth in any schedule

filed subsequent to January 1, 1977, by a telephone or telegraph company under the provisions of chapter 159, or by any gas or electric company under the provisions of section 94 of chapter 164 for a period longer than six months; provided, however, that in the event that such six-month period expires on a Sunday or legal holiday, any rate, price, or charge suspended under this section shall remain suspended until the day following the next day which is not a Sunday or legal holiday.

Section 19. Beginning on March 1, 1998, and for a period of five years thereafter, the department is authorized and directed to require a mandatory charge per kilowatt-hour for all consumers of the commonwealth, except those served by a municipal lighting plant, to fund energy efficiency activities, including, but not limited to, demand-side management programs. Said charge shall be the following amounts: 3.3 mills (\$0.0033) per kilowatt-hour for calendar year 1998; 3.1 mills (\$0.0031) per kilowatt-hour for calendar year 1999; 2.85 mills (\$0.00285) per kilowatt-hour for calendar year 2000; 2.7 mills (\$0.0027) per kilowatt-hour for calendar year 2001; and 2.5 mills (\$0.0025) per kilowatt-hour for calendar year 2002; provided, however, that in authorizing such programs the department shall ensure that they are delivered in a cost-effective manner utilizing competitive procurement processes to the fullest extent practicable. At least 20 per cent of the amount expended for residential demand-side management programs by each distribution company in any year, and in no event less than the amount funded by a charge of 0.25 mills per kilowatt-hour, which charge shall also be continued in the years subsequent to 2002, shall be spent on comprehensive low-income residential demand-side management and education programs. A distribution company shall not be allowed to assess any other charge relative to energy efficiency programs which would exceed the levels permitted herein. The low-income residential demand-side management and education programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all gas and distribution companies in the commonwealth with the objective of standardizing implementation. On March 1, 2001, the division of energy resources shall, in order to determine if energy investments shall continue beyond that time, review then-current market barriers, experience with competitive markets, and related environmental and economic goals. If said division determines that the continued operation of the programs delivers cost-effective, energy efficiency services, said division shall file, with the clerk of the house of representatives of the general court, legislation to extend for a time certain the authorization contained herein for such a charge to fund energy efficiency activities.

Section 20. (a)(1) Beginning on March 1, 1998, the department is hereby authorized and directed to require a mandatory charge per kilowatt-hour for all electricity consumers of the commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of renewable energy projects in accordance with the provisions of section 4E of chapter 40J. Said charge shall be the following amounts: three-quarters of one mill (\$0.00075) per kilowatt-hour in calendar year 1998; one mill (\$0.001) per kilowatt-hour in calendar year



1999; one and one-quarter mill (\$.00125) per kilowatt-hour in calendar year 2000; one mill (\$.001) per kilowatt-hour in calendar year 2001; three-quarters of one mill (\$.00075) per kilowatt-hour in calendar year 2002; and one-half of one mill (\$.0005) per kilowatt-hour in each calendar thereafter.

(2) In calendar year 1998 through calendar year 2002, the revenues derived from one-quarter of one mill (\$.00025) of the charge assessed pursuant to the preceding paragraph in each such year shall be set aside and expended pursuant to implementing the provisions of paragraph (2) of subsection (i) of section 4E of chapter 40J.

(b) In the fiscal year ending on June 30, 2001, the board of directors of the Massachusetts Technology Park Corporation shall, in consultation with the advisory committee established pursuant to subsection (h) of section 4E of chapter 40J, the department of telecommunications and energy, and the division of energy resources, review the adequacy of the monies generated by said mandatory charge in meeting the requirements of said section 4E of said chapter 40J. If, after such review, said board determines that an adjustment in said mandatory charge is necessary, said board shall file recommendations in the form of legislation with the clerk of the house of representatives. On or before January 1, 2002, said board shall submit to the house and senate committees on ways and means and the joint committee on government regulations a report which reviews in detail the activities and expenditures of the Massachusetts Renewable Energy Trust Fund to date and proposed activities and funding levels of said trust fund for the succeeding five years for review and approval thereby; provided, however, that said proposed activities continue to achieve the objectives of the program. Following receipt of the five-year report from said board, the house and senate committees on ways and means and the joint committee on government regulations shall meet jointly and with sufficient public notice for the purposes of conducting a public hearing to review the contents of said report; provided, however, that the five-year review shall be made available to the public no later than 45 days before said public hearing.

(c) The revenues generated by said mandatory charge shall be remitted to the Massachusetts Technology Park Corporation and deposited into the Massachusetts Renewable Energy Trust Fund, established pursuant to section 4E of chapter 40J. The public purpose of said trust fund shall be to generate the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploits the advantages of renewable energy in a more competitive energy marketplace by promoting the increased availability, use, and affordability of renewable energy and by fostering the formation, growth, expansion, and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions, and projects, which serve the citizens of the commonwealth.

**SECTION 38.** Section 1 of chapter 25A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs" and inserting in place thereof the following words: "office of consumer affairs and business regulation."



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**SECTION 39.** Said section 1 of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

**SECTION 40.** Said section 1 of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

**SECTION 41.** Said section 3 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word "form", in line 67, the following words:- , or any wholesaler or retail seller of electricity or natural gas.

**SECTION 42.** Section 5 of said chapter 25A, as so appearing, is hereby amended by inserting after the word "energy", in line 2, the following words:- the joint committee on government regulations.

**SECTION 43.** Section 6 of said chapter 25A, as so appearing, is hereby amended by inserting after the word "grants", in line 19, the following words:- funds, monies,.

**SECTION 44.** Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 24, the word "responsibilities." and inserting in place thereof the following:- responsibilities;.

**SECTION 45.** Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 27, the word "chapter." and inserting in place thereof the following:- chapter;

(10) plan, develop, oversee, and operate programs to help consumers understand, evaluate, and select retail energy supplies and related services offered as a consequence of electric and gas utility restructuring, in accordance with the provisions of section 11D;

(11) provide technical assistance to municipalities and governmental bodies seeking assistance during the transition to a competitive market, including, but not limited to, the voluntary aggregation of their citizens' demand for electricity pursuant to section 134 of chapter 164; and

(12) intervene and advocate on behalf of small commercial and industrial users before the department of telecommunications and energy in any dispute between such businesses and generation or distribution companies, as defined pursuant to section 1 of chapter 164.

**SECTION 46.** Section 7 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 4, the word "products" and inserting in place thereof the following words:- products, electricity, natural gas,.

**SECTION 47.** Said section 7 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word "products," in line 6, the following words:- electricity, natural gas,.

**SECTION 48.** Said section 7 of said chapter 25A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

All electric and gas companies, transmission companies, distribution companies, suppliers, and aggregators, as defined in section 1 of chapter 164, and suppliers of natural gas, including aggregators, marketers, brokers, and marketing affiliates of gas companies, excluding gas companies as defined in said section 1 of said chapter 164, engaged in distributing or selling electricity or natural gas in the commonwealth shall make accurate reports to the division of energy resources in such form and at such times, which shall be at least quarterly, as the division shall require pursuant to this section. Each such company, supplier, and aggregator shall report semi-annually to the division the average of all rates charged for default, low-income and standard offer service to each customer class and for each sub-class within the residential class, respectively; provided, however, that all such rate information so reported pursuant to this paragraph shall be deemed public information, and no such rate information shall be protected as a trade secret, confidential, competitively sensitive, or other proprietary information pursuant to section 5D of chapter 25. The division shall, in cooperation with the department of telecommunications and energy, develop and issue, by March first of each year, a report which shall detail the status in the previous calendar year of pricing disparities between customer class and separately within the residential class, regions of the commonwealth, and distribution companies and suppliers serving ratepayers; provided, however, that said report shall also include a comparison of each customer class in the commonwealth as compared with the same classes in each of the 49 other states and the District of Columbia. Said report shall analyze the effects of restructuring plans, filed with and approved by said department pursuant to section 1A of chapter 164, upon such price disparities. The division may include in such report any recommendations to address any such problems and price disparities.

**SECTION 49.** Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 22, the word "products" and inserting in place thereof the following:- products, or any supplier of electricity or natural gas.

**SECTION 50.** Said chapter 25A, as so appearing, is hereby further amended by inserting after section 11C the following four sections:-

Section 11D. To enable retail customers to realize savings from electric utility restructuring, the commissioner, in consultation with local and state-wide consumer groups, is hereby authorized and directed to undertake activities, subject to appropriation, to assist consumers in understanding and evaluating their rights and choices with respect to retail electricity supplies and related services offered as a benefit of said restructuring. Said activities shall provide consumers with information that provides a consistent and reliable basis for comparing products and services offered in the electricity market and shall develop said activities in cooperation with the attorney general to assist in the detection and avoidance of unfair or deceptive marketing practices. Said activities may include, but shall not be limited to, (i) development of consumer education materials, including billing inserts, providing consumers with information in a clear and consistent manner empowering consumers to select their own electricity suppliers and products based on individual preferences, such as price, resource type, and environmental considerations and whether the

generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute; (ii) collection and dissemination of accurate and comparable information derived from the uniform disclosure labeling system which shall identify, at a minimum, the price of power generation, the length and kind of contract, the mix of fuel and power generation sources, and the level of air emissions.

The division may establish and advertise a toll-free telephone hotline that shall be capable of responding to consumer questions and complaints about their electricity service and the transition to a competitive retail electricity market. The administration of any such hotline and consumer response service so established shall be coordinated with the department of telecommunications and energy and the office of the attorney general in order to prevent the duplication of similar services. The information made available to consumers by said hotline shall be fully coordinated and consistent with the information made available to consumers by said department and the office of the attorney general. Said hotline and consumer response services, or any portions thereof, may be contracted to third parties, provided that any such contracts shall be performance-based and subject to approval by the secretary of administration and finance. Any such hotline and consumer response administered by the division, the department of telecommunications and energy or any contracted party is hereby prohibited from promoting, endorsing or encouraging consumers to select or purchase from a particular provider, supplier, aggregator, broker or other purveyor of electricity and related services.

Consumer education activities proposed to be undertaken by the division pursuant to this section for a subsequent fiscal year shall be described in a plan to be submitted to the department of telecommunications and energy for review and approval no later than February 1 of each year. Said plan shall include a projected budget, including revenues sources, for the activities proposed by said plan that explains the basis for all costs and cost increases over the plan then in effect. The department, in reviewing said plan for approval, shall establish that said activities of the division are not duplicative and that the information made available to consumers thereby is consistent with the status of utility restructuring. Said plan shall also be submitted to the house and senate committees on ways and means and the joint committee on government regulations. The division shall recommend in the plan the termination of activities that are no longer necessary due to the status of utility restructuring or in the public interest. Said plan shall recommend the provision of services funded by the commonwealth through the division only to the extent that the private market cannot or does not adequately meet the information needs of retail customers as determined by said division pursuant to section 11E.

Section 11E. The division of energy resources is hereby authorized and directed to monitor any independent systems operator or power exchanges organized pursuant to the provisions of chapter 164. The division shall determine the extent to which said operators and exchanges serve the needs of retail customers and contribute to the achievement of energy efficiency and fuel diversity goals as said goals are identified by the division and the department of telecommunications and energy.



The analysis and publication of all data and information collected by the division, shall be conducted to inform consumers, energy suppliers, the department of telecommunications and energy, and the general court about the operation of retail markets and any deficiencies in the operation of those markets, and to recommend improvements to such. Said data and information shall be used by the division for the publication of periodic projections of the supply, demand, and price of energy on statewide and regional basis.

The division shall annually issue a report containing information on all issues of electricity system reliability, including, but not limited to, generation and transmission data detailing load and capacity, for the prior calendar year and forecasting potential future capacity excesses or deficits for the next five calendar years. The division shall utilize any and all information available to forecast potential capacity excesses or deficits, including, but not limited to, analyses by the independent system operator and other such data collected by the division pursuant to section 7. Said report shall contain (i) electricity spot price information for the previous calendar year, including, but not limited to, the average regional monthly spot price; (ii) a determination of the extent to which the energy markets are maintaining necessary levels of reliability; (iii) a determination of whether or not all customer classes are being adequately served by competitive energy markets; (iv) a determination of the competitiveness of energy markets; including a determination whether or not the electric industry is providing consumers with the lowest prices possible within a restructured, competitive retail marketplace; and (v) a determination of the extent to which the energy markets are achieving the energy efficiency and fuel diversity goals of the commonwealth. Said report may be undertaken in combination with the report required pursuant to section 7, at the discretion of the commissioner. Said report shall identify any substantial fluctuation or pricing differences in the cost of electricity available to consumers, especially with respect to geographic regions and low and moderate income consumers. Said reports shall make recommendations for improving any deficiencies so identified in electricity energy markets, including non-competitive pricing situations, which are within the authority of the general court, the department of telecommunications and energy, the federal energy regulatory commission, or any other governmental body with jurisdiction over the deficiency so identified. The division shall submit such report to the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means no later than April thirtieth of each year, including drafts of legislation to implement recommendations within such report.

Section 11F. (a) The division of energy resources, shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. By December 31, 1999, the division shall determine the actual percentage of kilowatt-hours sales to end-use customers in the commonwealth which is derived from existing renewable energy generating sources. Every retail supplier shall provide a minimum percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable energy generating sources, according to the following



schedule: (i) an additional 1 per cent of sales by December 31, 2003, or one calendar year from the final day of the first month in which the average cost of any renewable technology is found to be within 10 per cent of the overall average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (ii) an additional one-half of 1 per cent of sales each year thereafter until December 31, 2009; and (iii) an additional 1 per cent of sales every year thereafter until a date determined by the division of energy resources. For the purpose of this subsection, a new renewable energy generating source is one that begins commercial operation after December 31, 1997, or that represents an increase in generating capacity after December 31, 1997, at an existing facility.

(b) For the purposes of this section, a renewable energy generating source is one which generates electricity using any of the following: (i) solar photovoltaic or solar thermal electric energy; (ii) wind energy; (iii) ocean thermal, wave, or tidal energy; (iv) fuel cells utilizing renewable fuels; (v) landfill gas; (vi) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (vii) naturally flowing water and hydroelectric; and (viii) low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; provided, however, that after December 31, 1998, the calculation of a percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable generating sources shall exclude clauses (vi) and (vii) herein. The division may also consider any previously operational biomass facility retrofitted with advanced conversion technologies as a renewable energy generating source. After conducting administrative proceedings, the division may add technologies or technology categories to the above list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

Section 11G. The division of energy resources shall have the authority to oversee and coordinate ratepayer-funded energy efficiency programs. The division shall seek to achieve goals including, but not limited to, the following: (i) ensure that energy efficiency funds are allocated equitably among customer classes; (ii) ensure that there will be adequate support for "lost opportunity" efficiency programs in areas such as new construction, remodeling, and replacement of worn-out equipment; (iii) give due emphasis to statewide market transformation programs in order to systematically eliminate market barriers to energy efficiency goods and services; and (iv) provide weatherization and efficiency services to low-income customers. The division of energy resources shall annually file a report with the department of telecommunications and energy on the proposed funding levels for energy efficiency programs. The department shall review and approve energy efficiency expenditures after determining that implementation of such programs was cost-effective. Within one year of enactment of this legislation, the division shall conduct a public hearing process to investigate the role of the division in the oversight and statewide coordination of energy efficiency programs. Not later than March 1, 1999, the division shall promulgate rules and regulations necessary to implement the findings of this section.

**SECTION 51.** Section 39B of chapter 30 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 9, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 52.** Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in line 13, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 53.** Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 54.** Said section 39B of said chapter 30, as so appearing, is hereby further amended by striking out, in line 32, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 55.** Section 39C of said chapter 30, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 56.** Section 39E of said chapter 30, as so appearing, is hereby amended by striking out, in line 8, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 57.** Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 84, the words "materials; or" and inserting in place thereof the following:- materials;

**SECTION 58.** Subsection (b) of said section 1 of said chapter 30B, as so appearing, is hereby amended by striking out clause (31) and inserting in place thereof the following three clauses:-

(31) an agreement for the purchase of photography services entered into by a public school;

(32) energy aggregation contracts entered into by a political subdivision of the commonwealth for energy or energy related services arranged or negotiated by such subdivision on behalf of its residents; or

(33) energy contracts entered into by a city or town or group of cities or towns or political subdivisions of the commonwealth, for energy or energy related services; provided, however, that within 15 days of the signing of a contract for energy or energy related services by a city, town, political subdivision, or group of cities, towns or political subdivisions said city, town, political subdivision, or group of cities, towns or political subdivisions shall submit to the department of telecommunications and energy, the division of energy resources, and the office of the inspector general a copy of the contract and a report of the process used to execute the contract.

**SECTION 59.** Section 6 of said chapter 30B, as so appearing, is hereby amended by adding the following subsection:-

(k) Notwithstanding the provisions of this section, with respect to contracts for energy-related services entered into by a city or town or group of cities or towns, the requests for proposals may include proposed 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. The chief procurement officer shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in a request for proposals. The chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If after negotiation with such offeror the chief procurement officer determines that it is in the best interest of the governmental body, the chief procurement officer may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract 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, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. 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. The parties may extend the time for acceptance by mutual agreement.

**SECTION 60.** Section 48 of chapter 31 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 61.** Section 8 of chapter 38 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 9, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 62.** Section 9 of said chapter 38, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 63.** Section 22D of chapter 40 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 36 and 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 64.** Section 39C of said chapter 40, as so appearing, is hereby amended by striking out, in line 26, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 65.** Section 3 of chapter 40A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 66.** Said section 3 of said chapter 40A, as so appearing, is hereby further amended by striking out, in line 46, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 67.** The second paragraph of section 3 of chapter 40J of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- The corporation shall be governed and its corporate powers exercised by a board of directors, which shall consist of the director of the department of economic development or his designee, the secretary of administration or his designee, and the chancellor of the board of higher education or his designee, two members shall be appointed from a list of persons nominated by the president of the senate, two persons shall be appointed from a list of persons nominated by the speaker of the house of representatives, and 16 persons shall be appointed by the governor, eight of whom shall be chief executive officers of post-secondary educational institutions or distinguished members of the electronics engineering faculties of said institutions, or members of other appropriate faculties, and among said eight, at least three of whom shall be representatives of public post-secondary educational institutions, and six of whom shall be chief executive officers, chairpersons or chief engineers of businesses concerned with the design and manufacture of semi-conductor or micro-electronics components or products of another technology which may come within the purview of this chapter pursuant to the provisions of section 6, and two of whom shall be recommended by the Massachusetts AFL-CIO. Each director appointed from the list of nominations recommended by the president of the senate and the speaker of the house of representatives shall serve a term of two years to be coterminous with the legislative session of the general court.

**SECTION 68.** Said chapter 40J is hereby further amended by inserting after section 4D the following section:-

Section 4E. (a) There is hereby established and set up on the books of the corporation a separate trust fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the fund. The corporation shall hold the fund in an account or accounts separate from other funds in those provisions of the second and third paragraphs of section 5 as apply to the center fund in the corporation, and shall apply as well to the fund. There shall be credited to the fund all amounts collected pursuant to section 20 of chapter 25 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (b) of this section; provided, however, that monies derived pursuant to paragraph (2) of subsection (a) of section 20 of chapter 25 shall be especially segregated for implementing the purposes of paragraph (2) of subsection (f) of this section.

(b) The board may draw upon monies in the fund for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploits the advantages of renewable energy in a more competitive energy marketplace by promoting the increased



availability, use, and affordability of renewable energy, by making operational improvements to existing renewable energy projects and facilities which, in the determination of the board, have achieved results which would indicate that future investment in said facilities would yield results in the development of renewable energy more significant if said funds were made available for the creation of new renewable energy facilities, and by fostering the formation, growth, expansion, and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions, and projects, which serve the citizens of the commonwealth.

(c) Public interests to be advanced through the board's actions shall include, but not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth and the New England region; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation, and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the delivery to all consumers of the commonwealth of as many benefits as possible created as a result of increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth through the development of renewable technologies; (v) the stimulation of increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions, and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions, and projects.

(d) In furtherance of these and other public purposes and interests, the board may expend monies from the fund to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers, to provide financial or debt service obligation assistance, or to take any other actions, in such forms, under such terms and conditions and pursuant to such selection procedures as the board deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the board shall generally employ a preference for competitive procurements; provided, further, that the board shall endeavor to leverage the full range of the resources, expertise, and participation of other state and federal agencies and instrumentalities in the design and implementation of programs under this section; and provided, further, that the board has determined and incorporated into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which

were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources.

The board shall, in consultation with the division of energy resources and the advisory committee established pursuant to subsection (i), adopt a detailed plan for the application of the fund in support of the design, implementation, evaluation, and assessment of a renewable energy program for the commonwealth, subject to periodic revision by the board, that ensures that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions, and projects in a prudent manner consistent with the public purposes and interests set forth in this section. Said plan, to the extent practicable, shall consist of at least four components: (i) "product and market development" to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions, and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) "training and public information" to allow for the development and dissemination of complete, objective, and timely information, analysis, and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) "investment" to support the growth and expansion of renewable energy enterprises, institutions, and projects; and (iv) "research and development" within the commonwealth and the New England region related to renewable energy matters. Said plan shall specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such renewable energy projects with priority given to projects, institutions, and enterprises, first, within the commonwealth; next, to such activities within New York and the New England region which serve the regional power grid; and finally, all other such activities regardless of location. In developing said plan, the board is hereby authorized and directed to consult with and utilize the services of the department of telecommunications and energy and the division of energy resources for such technical assistance as the board deems necessary or appropriate to the effective discharge of the board's responsibilities and duties relative to the fund.

(e) Subject to the approval of the board, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions, and projects; (ii) a debt fund, to provide loans to energy enterprises, institutions, projects, intermediaries, and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the corporation is hereby authorized to retain, through a bid process, a public or private sector investment fund manager or managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described herein and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital is appropriately segregated. Said manager or managers, subject to the approval of the board, shall be authorized to retain necessary services and consultants to carry out the purposes of the fund.

Said manager or managers shall develop a business plan to guide investment decisions, which shall be approved by the board prior to any expenditures from the trust fund and which shall be consistent with the provisions of the plan for the fund as adopted by the board.

(f)(1) For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall include the following: solar photovoltaic and solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; low emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; and storage and conversion technologies connected to qualifying generation projects; provided, however, that expenditures related to waste-to-energy projects or facilities shall be limited to funds segregated pursuant to paragraph (2). Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewables and distributed generation opportunities, if consistent with the provisions of this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

(2) The board shall make available from monies in the fund in accordance with subsection (a) grants to municipalities and other governmental bodies to provide debt service assistance in conjunction with alleviating payment obligations incurred by said municipalities and other governmental bodies through an existing contractual agreement pursuant to the installation of pollution control technology and the implementation of other operational improvements to existing renewable energy projects and facilities in the commonwealth utilizing waste-to-energy technology as a component of municipal solid waste plant technology in commercial use, or the closure of any such existing facilities; provided, however, that such grants shall not exceed, in the aggregate, in any calendar year prior to calendar year 2003 the amount segregated in the fund pursuant to this paragraph in the calendar year previous thereto; provided further, that no such grants shall be made from any funds collected for the fund in any calendar year subsequent to the calendar year 2002; provided further, that in the distribution of such grant monies priority shall be given initially to municipalities and governmental bodies which have not previously received any monies, either through an appropriation or other such fiscal assistance from the state, to address debt service obligations relative to such pollution control technology improvements.

(g) The use by said corporation of monies to implement the provisions of this section shall be deemed to be an essential governmental function. Notwithstanding any general or special law to the contrary, the provisions of clause (a) of section 4A of this chapter shall apply to expenditures made from the fund; provided, however, that no such expenditure shall be deemed to involve a capital facility project; provided further, that no lease or license executed in furtherance of the public purpose and interests of the fund shall exceed 30 years



in duration, and the duration and terms shall be developed in a manner consistent with good business practices; and provided further, that the corporation shall take no action which contravenes the commonwealth's reversionary interest in any of its real property. The corporation, any purchasing cooperative established thereby, and all members of any such purchasing cooperative may participate in any energy-related purchasing, aggregating, or similar program established and operated by the Massachusetts health and educational facilities authority and such participation shall be deemed to be in furtherance of an essential governmental function.

(h) The provisions of clause (k) of section 4 of this chapter shall not apply to disbursements from the trust fund.

(i) The governor shall, from the recommendation submitted by the chairman of the board relating to clause (i) of said section 4, appoint an advisory committee to assist the corporation in matters related to the fund and in the implementation of the provisions of this section. Said advisory committee shall include not more than 15 individuals with an interest in matters related to the general purpose and activities of the fund and the knowledge and experience in at least one of the following areas: electricity distribution, generation, supply, or power marketing; the concerns of commercial and industrial ratepayers; residential ratepayers, including low-income ratepayers; economics, financial or investment consulting expertise relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable and clean energy issues. The board shall consult with said advisory committee in discharging its obligations under this section.

(j) The books and records of the corporation relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(k) Beginning with the fiscal year ending on June 30, 1999, on or by August 15th of each year, the board, in conjunction with the advisory committee, shall annually submit to the governor, the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means a report detailing the expenditure and investment of monies from the fund over the previous fiscal year and the ability of the fund to meet the requirements and provisions of this section, and any recommendations for improving the ability of the board, the corporation, and the fund to meet said requirements and provisions.

**SECTION 69.** Section 2A of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 55, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 70.** Section 5 of said chapter 59, as so appearing, is hereby amended by inserting after the word "pipes", in line 257, the following words:- ; provided, however, that no property, except property entitled to a pollution control abatement pursuant to the pro-



visions of the forty-fourth clause or a cogeneration facility as defined herein, shall be exempt from taxation if it is used in the manufacture or generation of electricity and it has not received a manufacturing classification effective on or before January 1, 1996. For the purposes of this section, a cogeneration facility shall be defined as any electrical generating unit having power production capacity which, together with any other power generation facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating, or cooling purposes.

**SECTION 71.** Said chapter 59 is hereby further amended by inserting after section 38G the following section:-

Section 38H. For the purposes of this section, the term department shall refer to the department of telecommunications and energy.

(a) Any electric company as defined in section 1 of chapter 164 which generates electricity or any distribution company as defined in said section 1 which is authorized by the commonwealth or the department to recover transition cost amounts associated with past investments in generation facilities, or any generation company as defined in said section 1 or such company's affiliate, subsidiary, or parent company which currently has no binding agreement for tax payments or payments in lieu of taxes to municipalities in which the company's generation facilities are located shall be required to make transition payments to any municipality in which an affiliated generation facility, as defined in said section 1, or part thereof, is located and has been devalued for property tax payment purposes; provided, however, that where such a binding agreement for the payment of real and personal property taxes or the binding agreement for payment in lieu of such taxes has been entered into on or after the effective date of this section, such agreement shall govern, and such generation facility shall be exempt from the provisions of this section. Said payments shall offset any reductions of property taxes as a result of any devaluation of said generation facility. This section does not provide for any exemption from property tax and is in addition to such tax obligation.

For the purposes of this section, "fiscal year" shall be determined by sections 56 and 56A of chapter 44. For fiscal years 1998, 1999 and 2000, such payments shall be the difference between the property taxes for fiscal years 1998, 1999 and 2000, respectively, and the property taxes for fiscal year 1997. From fiscal year 2001 to fiscal year 2009, inclusive, such future payments shall be calculated as follows:

(i) For fiscal year 2001, such amount shall be equivalent to 90 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2000, multiplied by the applicable commercial tax rate for the fiscal year 2001;

(ii) For fiscal year 2002, the calculated amount shall be equivalent to 80 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2001, multiplied by the applicable commercial tax rate for the fiscal year 2002;

(iii) For fiscal year 2003, the calculated amount shall be equivalent to 70 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2002, multiplied by the applicable commercial tax rate for the fiscal year 2003;

(iv) For fiscal year 2004, the calculated amount shall be equivalent to 60 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2003, multiplied by the applicable commercial tax rate for the fiscal year 2004;

(v) For fiscal year 2005, the calculated amount shall be equivalent to 50 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2004, multiplied by the applicable commercial tax rate for the fiscal year 2005;

(vi) For fiscal year 2006, the calculated amount shall be equivalent to 40 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2005, multiplied by the applicable commercial tax rate for the fiscal year 2006;

(vii) For fiscal year 2007, the calculated amount shall be equivalent to 30 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2006, multiplied by the applicable commercial tax rate for the fiscal year 2007;

(viii) For fiscal year 2008, the calculated amount shall be equivalent to 20 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2007, multiplied by the applicable commercial tax rate for the fiscal year 2008;

(ix) For fiscal year 2009, the calculated amount shall be equivalent to 10 per cent of the difference between the local property tax value of the property as of January 1, 1996 and the fair cash value of the property as of January 1, 2008, multiplied by the applicable commercial tax rate for the fiscal year 2009.

Any such transition payments shall be included in the tax base for purposes of determining the levy ceiling and levy limit under section 21C of this chapter and in determining minimum residential factor and classification of property under section 1A of chapter 58 and section 56 of chapter 40. The department of revenue may issue guidelines for implementing the provisions of this subsection consistent with preserving the transition payment amounts in the local tax base for such purposes.

(b) A generation company which does not qualify for a manufacturing classification exemption pursuant to paragraph (3) of the clause Sixteenth of said section 5 may, in order to comply with its property tax liability obligation, execute an agreement for the payment in lieu of taxes with the municipality in which such generation facility is sited, and said company shall be exempt from property taxes, in whole or in part, as provided in any such agreements during the terms thereof. Any such agreement shall be the result of good faith negotiations and shall be the equivalent of the property tax obligation based on full and fair

cash valuation. Any such negotiated amount shall be included in the tax base for purposes of determining the levy ceiling and levy limit under section 21C and in determining minimum residential factor and classification of property under section 1A of chapter 58 of the General Laws and section 56 of chapter 40 of the General Laws. The department of revenue may issue guidelines for implementing the provisions of this subsection consistent with preserving the negotiated payment amount in the local tax base for such purpose.

A city or town, acting by and through its governing body and board of assessors, is hereby authorized to enter into an agreement with the New England Power Company concerning the assessed valuation of all real and personal property presently owned by said company in said city or town for the fiscal years 1997 to 2001, inclusive; provided, however, that said agreement shall constitute a good faith attempt to value said property at its fair market value. Any such agreement as described herein executed prior to and in effect on December 1, 1997, is hereby ratified, validated, and confirmed in all respects and as though this act had been in full force and effect at the time of the execution of said agreement.

(c) In the case of any nuclear-powered electric generation facility in the commonwealth which exceeds 250 megawatts in size and which was owned in whole or in part by an electric company as of July 1, 1997, whether or not such generation facility is in service as of the date of the collection in rates of the transition costs, as defined pursuant to section 1 of chapter 164, such electric company shall not be subject to the provisions of subsections (a) and (b) of this section and, in order to be eligible to collect the full amount of transition costs as approved by the department pursuant to section 1G of said chapter 164, shall enter into an agreement to pay the host community payments in addition to taxes. Said payments in addition to taxes shall be made in equal payments on or before July 31, October 31, January 31, and April 30 each year by said electric company in the following amounts: for fiscal years 1999, 2000, and 2001 in an amount which equals the amount of tax payments remitted to such host community in fiscal year 1998. Such electric company shall, by the commencement of fiscal year 2002, have entered into an agreement to pay the host community payments in lieu of taxes for such generation facility; provided, however, that such agreement shall be executed as a result of good faith negotiations between the electric company and the host community; provided further, that such agreement shall cover a period of time the greater of which is the time until the licensed termination date of such facility, as included in the original license or in a renewal of such license, or 15 years beginning with fiscal year 1998. For the purposes of this subsection, the standard of good faith shall not require either party to agree to a proposal or require the making of concessions, but shall require active participation in negotiations and a willingness to make reasonable concessions and to provide justification for proposals, and a sincere effort to reach agreement. In the event that an agreement on such payment in lieu of taxes cannot be effected through such good faith negotiations on or before January 1, 1999, the parties shall submit to arbitration, and such arbitration shall be performed by the department of telecommunications and energy or by a state-certified professional arbitrator or arbitration firm appointed by said department and operating in accordance with any applicable rules and regulations. The department shall



not approve any plan submitted by such electric company to utilize the provisions of securitization pursuant to section 1H of chapter 164 if such tax agreement has not been executed pursuant to the provisions of this subsection.

**SECTION 72.** Section 6 of chapter 64H of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 325, the words "Department of Public Utilities" and inserting in place thereof the following words:- department of telecommunications and energy.

**SECTION 73.** Said section 6 of said chapter 64H, as so appearing, is hereby further amended by striking out, in line 329, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 74.** Section 3 of chapter 79 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 75.** Section 5B of said chapter 79, as so appearing, is hereby amended by striking out, in line 13, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 76.** Section 5C of said chapter 79, as so appearing, is hereby amended by striking out, in line 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 77.** The third paragraph of section 13 of chapter 81A of the General Laws, as appearing in section 6 of chapter 3 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of any general or special law to the contrary, the relocation of the facilities of any public utility, including rail lines, in accordance with the provisions of this section shall be valid upon the filing of the plans thereof with the department of telecommunications and energy, if applicable.

**SECTION 78.** Section 40 of chapter 82 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 111 and 112, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 79.** Section 1 of chapter 83 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 39, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 80.** Section 4 of said chapter 83, as so appearing, is hereby amended by striking out, in line 16, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 81.** Section 1 of chapter 90 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 313, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 82.** Section 1A of said chapter 90, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 83.** Section 7B of said chapter 90, as so appearing, is hereby amended by striking out, in line 25, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 84.** Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking out, in line 124, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 85.** Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking out, in line 153, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 86.** Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking out, in line 252, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 87.** Section 8A of said chapter 90, as so appearing, is hereby amended by striking out, in line 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 88.** Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in line 41, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 89.** Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in line 43, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 90.** Said section 8A of said chapter 90, as so appearing, is hereby further amended by striking out, in line 47, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 91.** Section 8A½ of said chapter 90, as so appearing, is hereby amended by striking out, in line 42, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 92.** Section 9 of said chapter 90, as so appearing, is hereby amended by striking out, in line 13, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 93.** Section 33 of said chapter 90, as so appearing, is hereby amended by striking out, in line 35, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 94.** Section 40H of said chapter 90, as so appearing, is hereby amended by striking out, in line 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 95.** Section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out, in line 70, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 96.** Section 43 of chapter 92 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 97.** Section 44 of said chapter 92, as so appearing, is hereby amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 98.** Section 50 of said chapter 92, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 99.** Section 51 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 100.** Section 67 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 101.** Section 68 of said chapter 92, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 102.** Section 24 of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 103.** Section 8 of chapter 110C of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 104.** Section 5K of chapter 111 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(E) The department is hereby authorized to make an assessment against the operator of each existing and proposed nuclear power plant in the commonwealth in an amount equal to the costs incurred in the prior fiscal year by the department's radiation control program in the performance of its duties under this section. The department is hereby further authorized to make a collection, based on that assessment, of monies from said operators of nuclear power plants to defray the cost of such activities. Said amount shall not exceed \$90,000 per annum, per facility, which shall be expended for any such facility, including, but not be limited to, a facilities located in the town of Rowe and in the town of Plymouth, and in Seabrook, New Hampshire. The department shall send notice of its assessment to the individual company against which the assessment is made, and said company shall pay such assessment within 30 days of the notice of the assessment; provided, however, that such company shall have a reasonable opportunity to submit objections concerning said assessment to the department for review. If, after completion of such review, the department determines the assessment is valid, the department shall issue a demand for such assessment, and the company against which such assessment is made shall pay such assessment immediately. If a company subject to assessment under this section fails to pay the assessment within 30 days of the notice of the assessment, or fails to pay the demand for assessment upon completion of the final review, whichever occurs later, the department may

refer such matter to the department of revenue for the collection of the assessment in accordance with applicable enforcement provisions pursuant to chapter 62C. The amount so collected shall be deposited into the General Fund and credited to the department.

**SECTION 105.** Said chapter 111 is hereby further amended by inserting after section 142M the following section:-

Section 142N. For the purpose of preventing, mitigating, or alleviating impacts on the resources of the commonwealth and to the health of its citizens from pollutants emitted by fossil fuel-fired electric generation facilities serving retail customers in the commonwealth, the department of environmental protection shall, in consultation with the office of the attorney general and the department of telecommunications and energy, promulgate rules and regulations to adopt and implement for fossil fuel-fired electric generation facilities uniform generation performance standards of emissions produced per unit of electrical output on a portfolio basis for any pollutant determined by the department of environmental protection to be of concern to public health, and produced in quantity by electric generation facilities. The department of environmental protection shall have said uniform performance standards for at least one pollutant in effect on, but not before, May 1, 2003, unless three or more other northeastern states enact similar standards before that date, in which case the department of environmental protection may adopt such standards prior to May 1, 2003. The department of environmental protection shall issue annually, by March first of each year, an annual report detailing the implementation and compliance of said program, its standards, and its companion rules and regulations.

**SECTION 106.** Section 81R of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 82 and 83, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 107.** Section 34A of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 108.** Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 25, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 109.** Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 35, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 110.** Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 111.** Section 16 of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 112.** Section 7 of chapter 141 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 113.** Section 14 of chapter 142A of the General Laws, as so appearing, is hereby amended by striking out, in line 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 114.** Section 71S of chapter 143 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 115.** Section 57 of chapter 147 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 116.** Section 26E of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 30, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 117.** Section 148 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 118.** Section 71F of chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the word "amount", in line 30, the following words:-  
; provided, however, that.

**SECTION 119.** Said chapter 151A is hereby further amended by inserting after section 71H the following section:-

Section 71I. (a) Any employee of a generation facility, an electric company, or a gas company, each as defined in section 1 of chapter 164, who is terminated after July 1, 1997, through no fault of his own as a result of the restructuring of the electricity or gas industries in the commonwealth, and is otherwise eligible for unemployment benefits, shall receive reemployment assistance benefits, as provided pursuant to section 71F of this chapter, and health insurance benefits, as provided pursuant to section 71G of this chapter. No such employee shall be denied or be determined to be ineligible for any such benefits if the employer has provided notice of the cessation of employment. Such benefits shall be in addition to any benefits any employee may receive pursuant to the provisions of an agreement resulting from collective bargaining by the owners of electric companies, generation facilities, who owned such facilities as of July 1, 1997, or a gas company and an organization or organizations representing such employee in any such negotiations of said agreement.

(b) Any employer at a generation facility, an electric company, or a gas company where such eligible employee had been terminated shall be billed an amount equal to 100 per cent of the amount of reemployment assistance benefits paid under said section 71F and an amount equal to 100 per cent of the amount of health insurance benefits paid under said section 71G, and shall otherwise be subject to section 71H.

**SECTION 120.** Section 4 of chapter 155 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 121.** Section 5 of said chapter 155, as so appearing, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 122.** Section 5A of said chapter 155, as so appearing, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 123.** Section 16 of chapter 158 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 124.** Section 39 of said chapter 158, as so appearing, is hereby amended by striking out, in line 8, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 125.** Section 40 of said chapter 158, as so appearing, is hereby amended by striking out, in line 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 126.** Section 10 of chapter 159 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 127.** Section 59 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 128.** Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 15, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 129.** Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 26, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 130.** Said section 59 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 28, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 131.** Section 65 of said chapter 159, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 132.** Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 133.** Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 23 and 24, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 134.** Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 27, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 135.** Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 28, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 136.** Said section 65 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 37, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 137.** Section 70 of said chapter 159, as so appearing, is hereby amended by striking out, in line 21, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 138.** Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 51, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 139.** Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 63, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 140.** Said section 70 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 65, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 141.** Section 73 of said chapter 159, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 142.** Section 74 of said chapter 159, as so appearing, is hereby amended by striking out, in line 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 143.** Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 17, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 144.** Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 21, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 145.** Said section 74 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 46, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 146.** Section 78 of said chapter 159, as so appearing, is hereby amended by striking out, in line 19, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 147.** Section 79 of said chapter 159, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 148.** Section 80 of said chapter 159, as so appearing, is hereby amended by striking out, in line 23, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 149.** Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 34 and 35, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 150.** Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in lines 35 and 36, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 151.** Said section 80 of said chapter 159, as so appearing, is hereby further amended by striking out, in line 40, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 152.** Section 1 of chapter 159A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 32, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 153.** Section 2 of said chapter 159A, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 154.** Section 3 of said chapter 159A, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 155.** Section 2 of chapter 159B of the General Laws, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 156.** Said section 2 of said chapter 159B, as so appearing, is hereby further amended by striking out, in line 38, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 157.** Said section 2 of said chapter 159B, as so appearing, is hereby further amended by striking out, in line 88, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 158.** Section 6B of chapter 159B, as so appearing, is hereby amended by striking out, in lines 29 and 30, the words "of public utilities".

**SECTION 159.** Section 1 of chapter 160 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 160.** Section 104 of said chapter 160, as so appearing, is hereby amended by striking out, in line 15, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 161.** Said section 104 of said chapter 160, as so appearing, is hereby further amended by striking out, in line 20, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 162.** Section 127A of said chapter 160, as so appearing, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 163.** Section 134A of said chapter 160, as so appearing, is hereby amended by striking out, in lines 30 and 31, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 164.** Said section 134A of said chapter 160, as so appearing, is hereby further amended by striking out, in line 35, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 165.** Section 145 of said chapter 160, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 166.** Section 147A of said chapter 160, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 167.** Section 1 of chapter 161 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 8, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 168.** Section 82 of said chapter 161, as so appearing, is hereby amended by striking out, in line 9, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 169.** Section 85 of said chapter 161, as so appearing, is hereby amended by striking out, in line 16, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 170.** Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 171.** Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking out, in line 21, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 172.** Said section 85 of said chapter 161, as so appearing, is hereby further amended by striking out, in line 26, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 173.** Section 3 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in lines 72 and 73, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 174.** Section 5 of said chapter 161A, as so appearing, is hereby amended by striking out, in line 184, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 175.** Section 11A of said chapter 161A, as so appearing, is hereby amended by striking out, in line 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 176.** Section 22 of said chapter 161A, as so appearing, is hereby amended by striking out, in line 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 177.** Said section 22 of said chapter 161A, as so appearing, is hereby further amended by striking out, in line 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 178.** Section 6 of chapter 161B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 61, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 179.** Section 8 of said chapter 161B, as so appearing, is hereby amended by striking out, in line 82, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 180.** Said chapter 161B is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. In the event of any conflict between the regulatory powers and duties of the department of telecommunications and energy in respect to mass transportation service within an area, the department of telecommunications and energy shall resolve such dispute and exercise such powers as it deems required in the particular instance.

**SECTION 181.** Section 1 of chapter 162 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 182.** Section 1 of chapter 163 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 183.** Section 1 of chapter 164 of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Alternative energy producer" the following definition:-

"Aggregator", an entity which groups together electricity customers for retail sale purposes, except for public entities, quasi-public entities or authorities, or subsidiary organizations thereof, established pursuant to the laws of the commonwealth.

**SECTION 184.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Alternative energy producer" the following definition:-

"Ancillary services", those functions which support generation, transmission, and distribution, and shall include the following services: (1) reactive power/voltage control; (2) loss compensation; (3) scheduling and dispatch; (4) load following; (5) system protection service; and (6) energy imbalance service.

**SECTION 185.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Cogeneration facility" the following definition:-

"Contract termination fee", the fees owed by the distribution company to its wholesale power supplier, as determined and approved by the department.

**SECTION 186.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 59, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 187.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Department" the following six definitions:-

"Default Service", the electricity services provided to a retail customer upon either the (i) failure of a distribution company or supplier to provide such electricity services as required by law or as contracted for under the standard service offer, (ii) the completion of the term of the standard service offer, or (iii) upon the inability of a customer to receive standard service transition rates during the term of the standard service offer pursuant to section 1B.

"Distributed generation", a generation facility or renewable energy facility connected directly to distribution facilities, or to retail customer facilities which alleviate or avoid transmission or distribution constraints or the installation of new transmission facilities or distribution facilities.

"Distribution", the delivery of electricity over lines which operate at a voltage level typically equal to or greater than 110 volts and less than 69,000 volts to an end-use customer within the commonwealth. The distribution of electricity shall be subject to the jurisdiction of the department.

"Distribution company", a company engaging in the distribution of electricity or owning, operating, or controlling distribution facilities; provided, however, a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam, and chilled water, or any affiliate engaged solely in the provision of such electricity, steam, and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation prior to January 1, 1986.

"Distribution facility", plant or equipment used for the distribution of electricity and which is not a transmission facility, a cogeneration facility, or a small power production facility.

"Distribution service", the delivery of electricity to the customer by the electric distribution company from points on the transmission system or from a generating plant, at distribution voltage.

**SECTION 188.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking out the definition of "Electric company" and inserting in place thereof the following four definitions:-

"Electric company", a corporation organized under the laws of the commonwealth for the purpose of making by means of water power, steam power or otherwise and selling, or distributing and selling, or only distributing, electricity within the commonwealth, or authorized by special act so to do, even though subsequently authorized to make or sell gas; provided, however, that electric company shall not mean an alternative energy producer; and provided further, that a distribution company shall not include any entity which owns or operates a plant or equipment used to produce electricity, steam, and chilled water, or any affiliate engaged solely in the provision of such electricity, steam, and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation prior to January 1, 1986.

"Electric service", the provision of generation, transmission, distribution, or ancillary services.

"Energy efficiency", the implementation of an action, policy, or measure which entails the application of the least amount of energy required to produce a desired or given output.

"FERC", the federal energy regulatory commission.

**SECTION 189.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking out the definition of "Gas company" and inserting in place thereof the following seven definitions:-

"Gas company", a corporation organized for the purpose of making and selling, or distributing and selling, gas within the commonwealth, even though subsequently authorized to make or sell electricity; provided, however, that gas company shall not mean an alternative energy producer.

"Generation", the act or process of transforming other forms of energy into electric energy, or the amount of electric energy so produced.

"Generation company", a company engaged in the business of producing, manufacturing, or generating electricity for retail sale to the public.

"Generation facility", plant or equipment used to produce, manufacture, or otherwise generate electricity and which is not a transmission facility.

"Generation service", the provision of generation and related services to a customer.

"Horizontal market power", a situation in which one or a few market participants combined have undue concentration in the ownership of facilities at the same level in the chain of production resulting in the ability to influence price to his or their own benefit.

"Mitigation", all actions or occurrences which reduce the amount of money that a distribution company seeks to collect through the transition charge, including those amounts resulting from both matters within the company's control and from matters not wholly within the company's control. Mitigation shall, in accordance with the provisions of section 1G, include, but not be limited to, the following: (1) sales of capacity, energy, ancillary services,



reserves, and emission allowances from generating facilities that are wholly or partly owned by the company; (2) sales of capacity, energy, ancillary services, reserves, and emission allowances from generating facilities with which the company has a power purchase agreement; (3) adjustments to the company's minimum obligations under purchase power agreements that decrease such obligations, such as those that may be obtained through contract buy-out or renegotiation; (4) residual value; (5) sales and voluntary write downs of company generation-related assets; (6) any market value in excess of net book value associated with the sale, lease, transfer, or other use of the assets of the company unrelated to the provision of transmission service or distribution service at regulated prices, including, but not limited to, rights-of-way, property, and intangible assets when the costs associated with the acquisition of those assets have been reflected in the company's rates for regulated service; provided, however, that the department shall determine their market values based on the highest prices that such assets could reasonably realize after an open and competitive sale; and (7) any allowed refinancing of stranded assets or other debt obligations as provided by law.

**SECTION 190.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Primary energy source" the following six definitions:-

"Renewable energy" or "renewables", either (i) resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited, or (ii) existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commercialization in New England and New York, and shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; and low-emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.

"Residual value", the value of electric company assets, not including the income which may be obtained through generation facility operation.

"Retail access", the use of transmission and distribution facilities owned by a transmission company or a distribution company to transmit or distribute electricity from a generation company, supplier, or aggregator to retail customers.

"Retail customer", a customer who purchases electricity for its own consumption.

"Securitization", the use of rate reduction bonds to refinance debt and equity associated with transition costs pursuant to section 1H.

"Service territory", the geographic area in which a distribution company provided distribution service on July 1, 1997.



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**SECTION 191.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Small power production facility" the following definition:-

"Supplier", any supplier of generation service to retail customers, including power marketers, brokers, and marketing affiliates of distribution companies, except that no electric company shall be considered a supplier.

**SECTION 192.** Said section 1 of said chapter 164, as so appearing, is hereby further amended by adding the following nine definitions:-

"Transition charge", the charge that provides the mechanism for recovery of an electric company's transition costs.

"Transition costs", the embedded costs as determined pursuant to section 1H which remain after accounting for maximum possible mitigation, subject to determination by the department.

"Transmission", the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts from generating facilities across interconnected high voltage lines to where it enters a distribution system.

"Transmission company", a company engaging in the transmission of electricity or owning, operating, or controlling transmission facilities. A transmission company shall provide transmission service to all generation companies, municipal lighting plants, suppliers, and load aggregators in the commonwealth, whether affiliated or not, on comparable, nondiscriminatory prices and terms, pursuant to provisions of federal law and regulation.

"Transmission facility", plant or equipment used for the transmission of electricity, as determined by the federal energy regulatory commission pursuant to federal law and regulation.

"Transmission service", the delivery of electricity to a retail customer, supplier, distribution company, or wholesale customer by a transmission company.

"Unbundled rates", rates designed to separate the costs of providing generation, the costs of transmission and distribution services, and transition and general access charges.

"Vertical market power", a situation in which one or a few market participants, having joint ownership of facilities at differing levels of the chain of production, such as generation, transmission, and distribution, possess the ability to use such joint ownership to influence price to the participants' own benefit.

"Wholesale generation company", a company engaged in the business of producing, manufacturing, or generating electricity for sale at wholesale only.

**SECTION 193.** Said chapter 164 is hereby further amended by inserting after section 1 the following eight sections:-

Section 1A. (a) The department is hereby authorized and directed to require electric companies organized pursuant to the provisions of this chapter to accommodate retail access to generation services and choice of suppliers by retail customers, unless otherwise provided by this chapter. Such companies shall file plans that include, but shall not be limited to, the provisions set forth in this section.

On or before January 1, 1998, each electric company organized under the provisions of this chapter, which has not filed a plan prior to the enactment of this section, shall file with the department a detailed plan for restructuring its operations to allow for the introduction of retail competition in generation supply in accordance with the provisions of this chapter. The department shall review each plan and make an express finding to determine whether such plan is consistent or substantially complies with the provisions of this chapter. An electric company that has filed a plan which substantially complies or is consistent with this chapter as determined by the department shall not be required to file a new plan, and the department shall allow such plans previously approved or pending before the department to be implemented. Approval of such previously filed or approved plans shall be deemed to satisfy the requirements contained in section 1G including for the department to conduct an audit of previously incurred costs and find reasonable mitigation of transition costs, and shall allow the department to approve charges for transition costs, provided that the department shall audit, review and reconcile the difference between projected transition costs and actual transition costs by March 1, 2000, and every 18 months, thereafter and provided that such approved plans provide a reduction of 10% for customers choosing the standard service transition rate from the average of undiscounted rates for the sale of electricity in effect during August 1997 or such other date as the department may determine. Each plan shall be designed to implement a restructured electric generation market by March 1, 1998. Each electric company shall offer retail access to all customers as of said date. The department may issue an initial order prior to March 1, 1998, approving any plan filed pursuant to this section subject to further review and reconciliation in order to allow implementation of retail access for all customers after March 1, 1998.

Each restructuring plan shall include, without limitation, the following: an estimate and detailed accounting of total transition costs eligible for recovery pursuant to subsection (b) of section 1G; a description of the company's strategies to mitigate such transition costs; unbundled prices or rates for generation, distribution, transmission, and other services; proposed charges for the recovery of transition costs; proposed programs to provide universal service for all customers; proposed programs and recovery mechanisms to promote energy conservation and demand-side management; procedures for ensuring direct retail access to all electric generation suppliers; and discussions of the impact of the plan on the company's employees and the communities served by the company.

The department shall review the restructuring plan filed by each electric company and shall issue an order accepting, modifying, or rejecting such plan at the earliest date possible. If the department rejects a restructuring plan, the department shall state the specific reasons for rejection and direct the company to file an alternative plan addressing these objections within 30 days of the department's order rejecting the plan. The department shall review this alternative plan and issue a final order within 60 days of the filing of the revised plan.

(b)(1) If an electric company chooses to divest itself of its existing non-nuclear generation facilities, such electric company shall transfer or separate ownership of generation, transmission, and distribution facilities into independent affiliates of the electric company or functionally separate such facilities within 30 business days of federal approval. The transmission facilities owned by the electric company, including all rights-of-way, property, fiber optic cable, and other tangible or intangible assets used directly or indirectly by the utility in the transmission of electricity, as of December 31, 1996, or acquired thereafter, shall be transferred to a transmission company at a price that shall equal the book value of said transmission facilities on the electric company's accounts net of depreciation as of the date of transfer. The distribution facilities owned by an electric company, including all rights-of-way, property, fiber optic cable, and other tangible or intangible assets used directly or indirectly by the utility in the distribution of electricity, as of December 31, 1996, or acquired thereafter, shall be transferred to a successor distribution company at a price that shall equal the book value of the distribution facilities on the electric company's accounts net of depreciation as of the date of transfer. The newly created distribution companies shall be prohibited from selling electricity at retail, except as provided in sections 1B to 1F, inclusive, and shall be prohibited from directly owning, operating, or controlling transmission facilities, generating facilities, or marketing affiliates, and shall be prohibited from selling, leasing, renting, or otherwise transferring all or a portion of any assets it obtains from the utility pursuant to this section without the expressed approval of the department. In providing such approval, the department shall conduct evidentiary hearings and must issue a finding that such transfers will mitigate to the maximum extent possible the total amount of transition costs of the utility and will minimize the impact of recovery of transition costs on ratepayers in the commonwealth. Except as otherwise provided in this section, an electric company divesting existing non-nuclear generation facilities shall be in no way disadvantaged by virtue of the fact that it has or plans to divest its existing electricity generating facilities. In the event that an electric company chooses to divest its existing generation facilities, such electric company shall demonstrate to the department that the sale process is equitable and maximizes the value of the existing generation facilities being sold.

(2) For the purposes of this section and sections 1B to 1H, inclusive, the requirement to divest generation facilities shall be deemed satisfied if an electric company divests its non-nuclear generation facilities by (i) selling such non-nuclear facilities in a competitive auction or sale in a process approved by the department which shall ensure complete, uninhibited, non-discriminatory access to all data and information by any and all interested parties seeking to participate in such auction or sale; provided, however, that an affiliated company may participate and bid in such competitive auction or sale; or (ii) transferring such non-nuclear generation facilities and purchase power contracts to an affiliated company at a value determined to be reasonable and appropriate by the department including but not limited to a value based on the sale value of comparable plants through prior divestiture actions; provided, however, that in no instance shall such minimum price be lower than the highest price per kilowattage of capacity for any capacity sold in New England, as determined by the department; provided, further, that in the case of the divestiture of any



non-nuclear generation facility currently containing only combustion turbine generation capacity of less than 50 megawatts but situated on a site containing free standing retired or unused structures formerly containing steam electric generating units of greater than 200 megawatts capacity, the electric company so divesting shall cause, either through its own efforts prior to said divestiture or through assignment of such obligation to the purchaser of each facility in an agreement approved by the department, said unused structures to be appropriately removed and decommissioned, which may be subject to a re-use plan. The minimum price for the transfer of such assets pursuant to this paragraph shall be determined and approved by the department prior to any such proceeding.

(3) All proceeds from any such divestiture and sale of generation facilities pursuant to paragraphs (1) and (2), net of tax effects and less any other adjustments approved by the department that inure to the benefit of ratepayers, shall be applied to reduce the amount of the selling electric company's transition costs.

(c) If an electric company chooses not to sell its existing non-nuclear generation facilities, then the electric company's recovery of transition costs shall be net of any market value in excess of book value of the non-divested non-nuclear facilities, as determined in this section and in accordance with section 1G, and it shall transfer all of its non-nuclear generation facilities and purchased power contracts to an affiliate that is a generating company at a price to be determined and approved by the department herein prior to any such proceeding; and in accordance with subsection (b). Such generation company affiliate shall exist separate from and independent of the distribution and transmission operations of such electric company. There shall exist strict separation between such generation affiliate and the distribution and transmission operations of such electric company. Both nuclear and non-nuclear generation facilities and the electric company's purchased power contracts shall be subject to a valuation by the department where such facilities are either sold or assessed by an assessor independent of the electric company or otherwise valued pursuant to the provisions of this chapter, to determine the maximum market value of such assets that could reasonably be realized after an open and competitive sale, and the electric company's recovery of transition costs shall be net of any market value in excess of book value as determined in this section in a competitive market. A generation company formed pursuant to this section shall be prohibited from acquiring new generation facilities as of March 1, 1998. If an electric company chooses not to divest all of its non-nuclear generating facilities, then the electric company's recovery of transition costs shall be net of any market value in excess of book value of the non-divested non-nuclear facilities, as determined in this section and in accordance with section 1G. Such electric company shall not be assessed or charged any costs through its rates established by the department to transfer such generation facilities to an unregulated affiliate or subsidiary or as a consequence of transferring such generation facilities to an unregulated affiliate or subsidiary; provided, however, that should any generation facility so transferred to an unregulated subsidiary be further sold, transferred to, or disposed of, to a third party within 48 months of the generation facility's transfer to an unregulated affiliate or subsidiary of the electric company, then any amount recovered in



such a sale, transfer, or disposition in excess of the remaining net book value of the generation facility shall be applied to reduce the amount of the selling electric company's transition costs. Except as otherwise provided in this section, an electric company retaining all or a portion of its existing generation facilities shall be in no way disadvantaged by virtue of the fact that it is so retaining existing generation facilities.

(d) In the event that (i) an electric company with generation facilities in the commonwealth owns, or has an affiliate that owns, generation facilities in another state in the New England region, and (ii) an electric company or its affiliate continues to operate one or more generation facilities in another state in the New England region, then the electric company, should it choose not to divest its existing fossil-fuel fired generation facilities and its existing hydroelectric generation facilities, shall be allowed for purposes of efficiency and local ownership of local generation facilities, to retain any such facilities as set forth in subsection (c); provided, however, that an electric company not divesting its existing fossil-fuel fired and hydroelectric generation facilities shall not recover through rates, charges, or elsewhere any amount of transition costs associated with the retained existing fossil-fuel fired generation facilities and existing hydroelectric generation facilities. Each reference to existing generation facilities in this section shall include, without limitation, existing generation facilities, regardless of size, and associated property. The department should determine a value for any facilities retained pursuant to this subsection and reduce the amount of the electric company's transition costs by such value in accordance with subsection (b).

(e) A generation company shall not be subject to regulation as a public utility or as an electric company, except as specifically provided in this chapter. A wholesale generation company shall be subject to regulation only as specifically provided in this chapter.

Section 1B. (a) The department shall define service territories for each distribution company by March 1, 1998, based on the service territories actually served on July 1, 1997, and following to the extent possible municipal boundaries. After March 1, 1998, until terminated by effect of law or otherwise, the distribution company shall have the exclusive obligation to provide distribution service to all retail customers within its service territory, and no other person shall provide distribution service within such service territory without the written consent of such distribution company which shall be filed with the department and the clerk of the municipality so affected.

(b) Each distribution company shall provide a standard service transition rate to those customers who are within said company's service territory and who choose not to purchase electricity from a non-affiliated generation company after March 1, 1998. A distribution company shall provide a standard service transition rate which, together with the transmission, distribution, and transition charges, produces for such a service package for all retail customers including the facilities on Deer island operated by the Massachusetts Water Resources Authority, prior to the implementation of securitization pursuant to section 1H and the application of a residual value credit pursuant to section 1A or the deduction of the market value of generation facilities pursuant to said section 1A, a rate reduction of at

least 10 per cent beginning on March 1, 1998. Said reduction shall be applied against the average of the undiscounted rates for the sale of electricity in effect during August 1997 or such other date as the department may determine to be representative of 1997 rates for such company, but excluding customers with contracts for electricity sales that provide for percentage discounts below cost-based or tariffed rates executed and approved by the department prior to January 1, 1997. Upon the approval by the department of (i) a financing order to implement securitization pursuant to section 1H or (ii) the residual value credits from divestitures or market valuations for such a company, the distribution company shall apply the net proceeds from the divestiture and the net savings from the securitization. The total rate reduction, net proceeds from the divestiture and the net savings from securitization, in combination with the rate reduction implemented by or on March 1, 1998, shall be 15 per cent on or before September 1, 1999, applied against the rate adjusted for inflation from August 1997 or such other date as the department may determine to be representative of 1997 rates for such company, which was the benchmark for the March 1, 1998, rate reduction; provided, however that a company unable to meet the rate reduction required under this section shall be subject to the provisions of paragraph (3) of subsection (c) of section 1G. The standard service transition rate shall be offered for a transition period of seven years at prices and on terms approved by the department and shall require a distribution company to purchase electricity after a competitive bid process that is reviewed and approved by the department. Any customer who has chosen retail access from a non-affiliated generation company but who otherwise requires electric service due to said generation company's failure to provide contracted service shall be eligible for service through the distribution company's default service provided pursuant to the provisions of subsection (d).

(c) Effective March 1, 1998, no electric company regulated by the department and no affiliate of such electric company shall be allowed to use the distribution system of another electric company or make sales, either directly or indirectly through third parties, to end-use customers in another electric company's service territory unless the department has approved a restructuring plan for the supplying electric company which provides for comparable direct access to end-use customers within its own distribution service territory or the supplying electric company has entered into an agreement, on or before January 1, 1997, for direct access to an end-use customer located on the border of its service territory, in which event the department shall authorize service by an electric company to such end-use customer. No electric company and no affiliate of such electric company shall be allowed to prohibit sales of electricity or restrict such sales through non-comparable distribution charges to end-use customers in its service territory by another electric company or its affiliate operating under a restructuring plan approved by the department.

(d) Beginning on March 1, 1998, each distribution company shall provide its customers with default service and shall offer a default service rate to its customers who have chosen retail electricity service from a non-utility affiliated generation company or supplier but who require electric service because of a failure of such company or the supplier

to provide contracted service or who, for any reason, have stopped receiving such service, and to all customers at the end of the term of the standard offer. The distribution company shall procure such service through competitive bidding; provided, however, that the default service rate so procured shall not exceed the average monthly market price of electricity; and provided, further, that all bids shall include payment options with rates that remain uniform for periods of up to six months. Any department-approved provider of service, including an affiliate of a distribution company, shall be eligible to participate in the competitive bidding process. Notwithstanding the actual issuer of a ratepayer's bill, the default service provider shall be entitled to furnish a one-page insert accompanying the ratepayer's bill. The department may authorize an alternate generation company or supplier to provide default service, as described herein, if such alternate service is in the public interest. In implementing the provisions of this section, the department shall ensure universal service for all ratepayers and sufficient funding to meet the need therefor.

(e) As of March 1, 1999, the total, average rates for all of the distribution company's customers purchasing electricity under said standard service transition rate, shall be subject to an inflation cap through the remainder of the standard offer period. The calculation and implementation of the rate reduction and the inflation cap shall be subject to adjustment, review, and approval in accordance with procedures in the rules and regulations promulgated by the department, which shall require that, the economic value of the rate reduction required under this section, be maintained during the standard service transition rate period.

(f) The department is hereby authorized and directed to promulgate rules and regulations necessary to carry out the provisions of this section, including the procedure for default service procurement and governing a customer's ability to return to the standard service after choosing retail access from a non-utility affiliated generation company.

Section 1C. Any marketing company formed by an electric company shall be in the form of an affiliate of the electric company and shall be separate from any generation, transmission, or distribution company affiliate of the electric company. The department shall promulgate standards of conduct which shall ensure the separation of such affiliates and which shall be consistent with the following provisions: (i) a distribution company shall not give any affiliates any preference over non-affiliated suppliers or customers thereof in matters relating to any product or service; (ii) all products, services, discounts, rebates, and fee waivers offered by a distribution company shall be available to all customers and suppliers simultaneously, to the extent technically possible, on a comparable basis; (iii) a distribution company shall process all same or similar requests for any product, service, or information in the same manner and within the same period of time; (iv) a distribution company shall not condition or tie the provision of any product, service, or rate agreement by the distribution company to the provision of any product or service to which an affiliate is involved; (v) a distribution company shall not share with any affiliate any market information acquired or developed by the distribution company in the course of responding to requests for distribution service or any proprietary customer information without the prior written authorization by the customer; (vi) a distribution company shall refrain from presenting that any advantage accrues to customers or others in the use of its services as a



result of that customer or others dealing with any such affiliate; (vii) a distribution company shall not engage in joint advertising or marketing programs with any affiliate; and (viii) employees of a distribution company shall not be shared with, and shall be physically separated from those of, any generating or marketing affiliate.

Section 1D. Beginning January 1, 1998, all electric and gas bills sent to a retail customer shall be unbundled to separately reflect the rates charged for generation, transmission, and distribution services, as well as any other charges, as added pursuant to any provision of law, contained in the total retail price. Any transition charge, if so allowed to be assessed, shall be reflected separately on bills as of March 1, 1998. Electric and gas bills may reflect the total costs of services, without breakdown for type of service, in addition to, but not instead of, separately itemized rates for generation, transmission, and distribution services and transition charges as of March 1, 1998. Not later than six months after said March 1, in order to promote customer choice and convenience in a restructured electricity and gas market, distribution companies shall create and send bills to retail customers pursuant to either of the following billing options: (1) single bill from the distribution company that shows such charges; or (2) two bills: one from the non-utility supplier that shows energy-related charges, and one from the distribution company that shows distribution-related charges; provided, however, that all bills shall contain information concerning the quantity of gas or electricity consumed by said customer during the same billing period for the previous year. Costs for such inserts shall be apportioned accordingly between the parties. The department is hereby authorized and directed to determine whether any additional information shall be required to be disclosed on the bills and to promulgate rules and regulations to implement the provisions of this subsection. Rules and regulations relative to the appeals process for billing disputes or damage claims made by customers shall be published and distributed to customers as part of an education and outreach program.

Section 1E. (a) The department is hereby authorized to promulgate rules and regulations to establish and require performance based rates for each distribution, transmission, and gas company organized and doing business in the commonwealth pursuant to the provisions of this chapter. In promulgating such performance based rate schemes, the department shall establish service quality standards each distribution, transmission, and gas company, including, but not limited to, standards for customer satisfaction service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, and public safety provided, however, that such service quality standards shall include benchmarks for employee staff levels and employee training programs for each such distribution, transmission, and gas company.

(b) In complying with the service quality standards and employee benchmarks established pursuant to this section, a distribution, transmission, or gas company that makes a performance based rating filing after the effective date of this act shall not be allowed to engage in labor displacement or reductions below staffing levels in existence on November 1, 1997, unless such are part of a collective bargaining agreement or agreements between such company and the applicable organization or organizations representing such workers,



or with the approval of the department following an evidentiary hearing at which the burden shall be upon the company to demonstrate that such staffing reductions shall not adversely disrupt service quality standards as established by the department herein. Nothing in this paragraph shall prevent reduction of forces below the November 1, 1997 level through early retirement and severances negotiated with labor organizations before said date.

(c) Each distribution, transmission, and gas company shall file a report with the department by March first of each year comparing its performance during the previous calendar year to the department's service quality standards and any applicable national standards as may be adopted by the department. The department shall be authorized to levy a penalty against any distribution, transmission, or gas company which fails to meet the service quality standards in an amount up to and including the equivalent of 2 per cent of such company's transmission and distribution service revenues for the previous calendar year.

(d) The department is authorized and directed to promulgate regulations relative to an alternative dispute resolution process for the handling of damage claims by customers in an amount under \$100. The department shall establish a 60 day timeline for the resolution of all mediation claims. The department shall issue a biannual report to the house and senate clerks and the joint committee on government regulations which shall include, but not be limited to, the following information: nature of consumer claims, number of consumer claims and resolutions of consumer claims reviewed by the department during the previous six months. Said report shall be available for public review at the department.

Section 1F. The department is hereby authorized and directed to require electric companies organized pursuant to this chapter to accommodate retail access to generation services and choice of suppliers by retail customers, unless otherwise provided by this chapter. The department shall promulgate rules and regulations to provide retail customers with the utmost consumer protections contained in law, including, but not limited to, the following provisions:

(1) The department shall license to do business in the commonwealth all generation companies, aggregators, suppliers, energy marketers, and energy brokers in accordance with the provisions of subparagraphs (i), (ii), and (iii). The department shall maintain a list of all licensed generation companies, aggregators, energy brokers, energy marketers, and suppliers, which shall be available to any consumer requesting such information through the department for a reasonable fee.

(i) All generation companies shall submit a license application to the department for approval to sell electric power or provide generation services within the commonwealth. Such application shall include the following: the company's technical ability, as defined pursuant to regulations promulgated by the department, to generate or otherwise obtain and deliver electricity and provide any other proposed services; documentation of financial capability of the applicant to provide the proposed services; a description of the company's form of ownership; and documentation regarding any valid purchase power contracts between the company, the company's affiliates, or the company's parent or subsidiary, and

any electric company formed pursuant to the provisions of this chapter. A license shall not be granted unless and until all of the above information is provided with the payment of a fee, the amount to be determined by the department.

(ii) All private, non-profit, or co-operative aggregators established pursuant to sections 135 and 136 seeking to do business in the commonwealth shall submit a license application to the department, subject to rules and regulations promulgated by the department and subject to the payment of a fee, the amount to be determined by the department.

(iii) All energy brokers, energy marketers, and other suppliers seeking to do business in the commonwealth shall submit a license application to the department, subject to rules and regulations promulgated by the department and subject to the payment of a fee, the amount to be determined by the department.

(2) Pursuant to this paragraph, the department shall promulgate rules and regulations which shall include, but not be limited to, the following provisions: (i) a requirement that all distribution companies, generation companies, aggregators, marketers and suppliers notify their customers in writing of the terms of their agreement to provide service at the time service is initiated, a formal procedure allowing a customer to file a complaint against a distribution or generation company, aggregator, or supplier; and (ii) a formal dispute resolution procedure developed in consultation with the Massachusetts office of dispute resolution, which shall include options for mediation, arbitration, facilitation or other dispute resolutions methods. Under such procedure, the department or a professional neutral provided by the Massachusetts office of dispute resolution and approved by the department will assist in resolving disputes between any customer and a distribution or generation company, aggregator, or supplier against which a complaint is issued, subject to a penalty determined by the department, including any fines authorized by paragraph (7). No distribution or generation company may disconnect or discontinue service to a customer for a disputed amount if that customer has filed a complaint which is pending with the department.

(3) The department is hereby authorized and directed to establish rules and regulations to (i) promote effective competition; (ii) to investigate disputes; (iii) to institute a complaint mechanism for the resolution of disputes, including, but not limited to, those arising from alleged vertical or horizontal market power abuses; (iv) to hear such disputes in the first instance at an informal level and, if requested, at a formal hearing before the department; (v) to refer complaints to the attorney general where appropriate; and (vi) to impose fines or penalties, including when appropriate a reduction in return on equity of a regulated distribution company, for violations of any regulations establishing the corporate rules of conduct.

(4)(i) The department shall require that distribution companies provide discounted rates for low income customers comparable to the low-income discount rate in effect prior to March 1, 1998. Said discount shall be in addition to any reduction in rates that becomes effective pursuant to said subsection (b) of said section 1B on March 1, 1998, and to any subsequent rate reductions provided by a distribution company after said date pursuant to

said subsection. The cost of such discounts shall be included in the rates charged to all other customers of a distribution company. Each distribution company shall guarantee payment to the generation supplier for all power sold to low-income customers at said discounted rates. Eligibility for the discount rates established herein shall be established upon verification of a low-income customer's receipt of any means tested public benefit, or verification of eligibility for the low-income home energy assistance program, or its successor program, for which eligibility does not exceed 175 per cent of the federal poverty level based on a household's gross income. Said public benefits may include, but are not limited to, assistance which provides cash, housing, food, or medical care, including, but not limited to, transitional assistance for needy families, supplemental security income, emergency assistance to elders, disabled, and children, food stamps, public housing, federally-subsidized or state-subsidized housing, the low-income home energy assistance program, veterans' benefits, and similar benefits. The division of energy resources shall make available to distribution companies the eligibility guidelines for said public benefit programs. Each distribution company shall conduct substantial outreach efforts to make said low-income discount available to eligible customers and shall report to said division, at least annually, as to its outreach activities and results. Outreach may include establishing an automated program of matching customer accounts with lists of recipients of said means tested public benefit programs and based on the results of said matching program, to presumptively offer a low-income discount rate to eligible customers so identified; provided, however, that the distribution company, within 60 days of said presumptive enrollment, informs any such low-income customer of said presumptive enrollment and all rights and obligations of a customer under said program, including the right to withdraw from said program without penalty.

Not later than March 1, 1999 the department shall conduct an investigation and report to the joint committee on government regulations regarding the cost and benefits of expanding eligibility for the discount rates established in clause (i) of subparagraph (4) of the first paragraph of section 1F to any low-income customer who is eligible for any means tested public benefit for which eligibility does not exceed 175 per cent of the federal poverty level based on gross household income. The department shall further provide to said committee any legislative recommendations necessary to implement this section.

(ii) Prior to the termination of the seven year period of the standard service transition rate, the department shall, in consultation with said division, evaluate the effects of electricity restructuring on the affordability of electric power for low-income customers. The department shall make recommendations to the general court relative to the continuation of the low-income discount rate authorized pursuant to this subsection or to make modifications thereto. The department shall, in its recommendations, consider whether or not to modify said discount by establishing a sliding scale low-income discount program.

(iii) A residential customer eligible for low-income discount rates shall receive the service on demand and may return to standard offer service at any time including from default service. Each distribution company shall periodically notify all customers of the availability of and method of obtaining low-income discount rates and standard offer service.



An existing residential customer eligible for low-income discount on the date of start of retail access who orders service for the first time from a distribution company shall be offered standard offer service by that distribution company. A residential customer eligible for low-income discount receiving standard offer service shall be allowed to retain standard offer service upon moving within the service territory of a distribution company.

(iv) There shall be no charge to any residential customer for initiating or terminating low-income discount rates, default service, or standard offer service when said initiation or termination request is made after a regular meter reading has occurred and the customer is in receipt of the results of said reading. A distribution company may impose a reasonable charge, as set by the department through regulation, for initiating or terminating low-income discount rates, default service, or standard offer service when a customer does not make such an initiation or termination request upon the receipt of said results and prior to the receipt of the next regularly scheduled meter reading. For purposes of this subsection, there shall be a regular meter reading conducted of every residential account no less often than once every two months. Notwithstanding the foregoing, there shall be no charge when the initiation or termination is involuntary on the part of the customer.

(5)(i) Before service is initiated by a generation company, aggregator, or supplier to any customer, the generation company, aggregator, or supplier shall disclose information on rates and other information to a customer in a written statement which the customer may retain. The department shall promulgate rules and regulations prescribing the form, content, and distribution of such information to be disclosed, which shall include, but not be limited to, the following: the disclosure of the rate to be charged; whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute; any charges, fees, penalties, or other conditions imposed upon a customer should he or she choose to purchase power from another generation company, aggregator, or supplier during the term specified in the contract; the fuel mix and emissions of the generation sources; whether a credit agency will be contacted; deposit requirements and the interest paid on deposits; due date of bills and all consequences of late payment; consumer rights where a bill is estimated; consumer rights of third-party billing and like arrangements; consumer rights to deferred payment arrangements; low-income rates; limits, if any, on warranty and damages; the applicable provisions of this section; the provisions for default service; a toll-free telephone number for service complaints; any other fees, charges, or penalties; and the methods by which a consumer shall be notified of any changes to any of these items. A generation company, a supplier, or an aggregator licensed by the department to do business in the commonwealth pursuant to this section shall prepare an information booklet describing a customer's rights under the provisions of this chapter. Such company, supplier, or aggregator shall annually mail this booklet to its customers.

(ii) A generation company, an aggregator, or a supplier shall be allowed to advertise the percentage of its power or energy portfolio that is generated by employers that operate under collective bargaining agreements or that operate with employees hired as replacements



during the course of a labor dispute or that connotes or signifies to the ratepayer the relative environmentally beneficial effects of the power or energy sold by said generation company, an aggregator, or a supplier pursuant to rules and regulations promulgated by the department.

(iii) In addition to the disclosure requirements provided for in subparagraphs (i) and (ii), the department shall promulgate such rules and regulations prescribing information to be disclosed by a generation company in any advertising or marketing of electricity rates, which regulations shall include, but not be limited to, disclosure of the rate to be charged in bold print in the case of print advertisements or through clear spoken language in the case of television or radio advertisements and on any monthly billing materials. The department shall coordinate with the attorney general to avoid duplication and to ensure consistency with the attorney general's regulations.

(6) The department shall promulgate uniform labeling regulations which shall be applicable to all suppliers as a condition of licensure pursuant to paragraph (1). Such information to be required by regulation in said labeling shall include price data, information on price variability, and customer service information and information about whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute, fuel sources, and air emissions of sulfur dioxide, nitrogen dioxides, carbon dioxide, heavy metals, and any other emission which the department may determine causes significant health or environmental impact and for which sufficiently accurate and reliable data is available. The department shall require that such an electricity information label provide prospective and existing customers with adequate information by which to readily evaluate power supply options available in the market. Electricity suppliers shall be required to present such information, including information about the environmental characteristics of the sale of electric power products and services and whether the generation company or supplier operates under collective bargaining agreements and whether such generation company or supplier operates with employees hired as replacements during the course of a labor dispute to customers, in conformance with department requirements as to form and substance, and shall comply with federal and state laws governing unfair advertising and labeling.

(7) The department shall establish a code of conduct applicable to the provision of distribution and transmission services and the retail sale of electricity to all customers, including, but not limited to, rules and regulations governing the confidentiality of customer records, metering, billing, and information systems, and conformance with fair labor practices. The department is authorized and directed to oversee quality and reliability of service and to require that quality and reliability are the same as or better than levels that exist on November 1, 1997. The department is authorized and directed to retain or make increasingly protective of retail ratepayers the rules adopted by the department and codified at Title 220 of the Code of Massachusetts Regulations, sections 25, 27, 28, and 29, and the policies reflected in the department's adjudication of customer complaints, and, notwithstanding anything in this chapter to the contrary, shall continue to apply them to generation

and thus to all generation companies, generation facilities, aggregators, and suppliers. The department is authorized and directed to promulgate rules and regulations to establish service quality standards for each distribution, transmission, and gas company, including, but not limited to, standards for universal service, customer satisfaction, service outages, telephone service, billing service, and public and employee safety. Any person, firm, electric or generation company, supplier, or other corporation doing business in the commonwealth who violates any provisions of said code or of any rule or regulation promulgated by the department pursuant to sections 1A to 1H, inclusive, or any provision of chapter 93A, pursuant to authority established by section 102C, shall be subject to a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists; provided, however, that the maximum civil penalty shall not exceed \$1,000,000 for any related series of violations. Any such civil penalty shall be determined by the department after a public hearing. In determining the amount of the penalty, the department shall consider the following: the appropriateness of the penalty to the size of the business of the person, firm, or corporation charged; the gravity of the violation; and the good faith of the person, firm, or corporation charged in attempting to achieve compliance after notification of a violation.

(8)(a) Each customer choosing a generation company or its affiliate, subsidiary, or parent company, or a supplier or aggregator shall be required to affirmatively choose such entity. It shall be unlawful for a generation company, supplier, or aggregator to provide power or other services to such a customer without first obtaining said affirmative choice from the customer. For the purposes of this section, the term "affirmative choice" shall mean the signing of a letter of authorization, third party verification, or the completion of a toll-free call made by the customer to an independent third party operating in a location physically separate from the telemarketing representative who has obtained the customer's initial oral authorization to change to a new electricity provider. For the purposes of this section, the term "third party verification" shall mean an appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative who has obtained the customer's oral authorization to change to a new electricity service provider, such authorization to include appropriate verification data, such as the customer's date of birth and social security number; provided, however, any such information or data in the possession of the third party verifier or the marketing company shall not be used, in any instance, for commercial or other marketing purposes, and shall not be sold, delivered, or shared with any other party for such purposes. Such authorization shall include appropriate verification data, such as the customer's date of birth and social security number; provided, however, any information or data in possession of the independent third party verifier or the marketing company shall not be used, in any instance, for commercial or other marketing purposes, and shall not be sold, delivered, or shared with any other party for such purposes.

For the purposes of this section, the term "letter of authorization" shall mean, (i) a separate document, an easily separable document containing only the authorizing language described in paragraph (d), whose sole purpose is to authorize a generation company, aggregator, or supplier to initiate a primary generation company, aggregator, or supplier

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change. The letter of authorization must be signed and dated by the consumer requesting the primary generation company, aggregator, or supplier change.

(ii) The letter of authorization shall not be combined with inducements of any kind on the same document.

(iii) At a minimum, the letter of authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

(1) The consumer's billing name and address;

(2) The decision to change electricity service from the current generation company, aggregator, or supplier to the prospective generation company, aggregator or supplier;

(3) That the consumer understands that only one generation company, aggregator, or supplier may be designated as the consumer's electric company; and

(4) That the consumer understands that any primary generation company, aggregator, or supplier selection the consumer chooses may involve a charge to the consumer for changing the consumer's primary generation company, aggregator, or supplier.

(iv) Letters of authorization shall not suggest or require that a consumer take some action in order to retain the consumer's current generation company, aggregator, or supplier.

(v) If any portion of a letter of authorization is translated into another language, then all portions of the letter of authorization must be translated into that language.

Each customer choosing a generation company or its affiliate, subsidiary, or parent company, a supplier or aggregator shall have the right to rescind, without charge or penalty, his or her choice of generation company, aggregator, or supplier no later than midnight on the third day following the customer's receipt of a written confirmation of an agreement to purchase electricity. Upon the switching of a customer's service provider, there shall be included in the customer's first bill an acknowledgment to be completed by the customer agreeing to the service switch. Such bill shall also include all information mandated under clause (i) of subparagraph (5).

Each customer choosing a generation company or its affiliate subsidiary, or parent company, a supplier or aggregator shall have the right to rescind, without charge or penalty, the choice of generation company, aggregator, or supplier no later than midnight on the third day following the customer's receipt of a written confirmation of an agreement to purchase electricity and a statement of the terms and conditions of service as described in subsection (5)(i). Upon switching of a customer's service provider, there shall be included in the customer's bill for distribution service an acknowledgment of the service switch, along with information on how to file a complaint regarding an unauthorized switch.

(b) A customer may initiate a complaint that his retail electricity service has been switched by or to another service provider without his prior authorization. Said complainant shall file the complaint with the department within 30 days after the statement date of the notice indicating that the customer's retail electricity service has been switched. The department shall, within 10 business days of receiving the complaint, request from the customer a copy of the customer's electricity bill, the name of the original service provider,



the name of the new service provider, and any other information the department may deem relevant. The customer shall, within 15 business days of the department's notifying the customer, submit to the department the requested information. Within 15 business days of receiving the request of information from the customer, the department shall send (i) to the customer, a letter acknowledging receipt of the information; (ii) to the original service provider, a letter informing it of the pending complaint and requesting it to provide information relevant to the service switch; and (iii) to the new service provider, a letter informing it of the pending complaint, requesting the proof of the customer's affirmative choice to switch his service provider, and requesting it to provide other information the department deems relevant. The original service provider and the new service provider shall, within five business days of the department's request, return the requested information to the department. Within 25 business days after receiving a copy of the customer's third party verification and all relevant information as required herein, the department shall determine if the customer authorized the new service provider to switch the customer's service.

(c) If the department determines that the new service provider does not possess the required proof of the customer's affirmative choice, the department shall calculate and require the new service provider to refund the following: (i) to the customer, the difference between what the customer would have paid to the previous service provider and actual charges paid to the new service provider; (ii) to the customer, any reasonable expense the customer incurred in switching back to the original service provider; and (iii) to the original service provider, any lost revenue, which shall consist of the amount of money the original service provider would have received for the service used by the customer during the time the customer received services from the new service provider if the customer's service had not been switched. This amount shall gross, irrespective of expenses, what the original service provider would have reasonably incurred providing the services to the customer. The department shall promulgate rules and regulations for the implementation of this subsection.

(d) Any generation company, supplier, or aggregator determined by the department to have switched any customer's service provider without proper authorization from the customer one or more times in a 12 month period shall be subject to a civil penalty not to exceed \$1,000 for the first offense and not less than \$2,000 nor more than \$3,000 for any subsequent offense per customer. In determining the amount of the civil penalty, the department shall consider the nature, circumstances, and gravity of the violation, the degree of the respondent's culpability, and the respondent's history of prior offenses.

(e) Any generation company, supplier, or aggregator determined to have switched any customer's service provider without proper authorization more than 20 times in a 12 month period may, after a full hearing and determination by the department that such generation company supplier or aggregator intentionally, maliciously or fraudulently switched the service or more than 20 customers in a 12 month period, be prohibited from selling electricity in the commonwealth for a period of up to one year. In determining the length of suspension, the department shall consider the nature, circumstances and gravity of each violation and the degree of the culpability of the generation company, supplier or aggregator.



(f) The department shall track instances in which a generation company, supplier, or aggregator switched a customer's electricity service without the customer's prior authorization. The department shall keep a record of all unauthorized switches which occurred during a calendar year. Beginning with calendar year 1999, the department shall, by March 31 of each year, file an annual report with the joint committee on government regulations and the house and senate committees on ways and means detailing the total number of unauthorized switches, enforcement procedures undertaken by the department against such slamming tactics, so-called, the total amount of dollars returned to customers, the total amount of dollars collected in civil penalties pursuant to subsection (c), and the overall impact of the provisions of this section.

(9) Distribution companies which have at any time in the past three years billed their commercial or industrial customers, including institutional customers, in part on a demand basis, shall, in response to a customer's written request, provide such customers with a complete and accurate historic record of monthly demand profiles. Distribution companies shall be required to exercise best efforts to furnish such data to the customer on a timely basis. At a distribution company's election, the data may be provided in written form or electronically; provided, however, that, in the case of an electronic response by the distribution company, the distribution company shall be allowed to bill the customer for the out-of-pocket cost of providing such electronic record. The historic record of monthly demand shall be for a period not less than the most recent 12 months and shall include, at a minimum, the highest demand level observed over the month as well as the average monthly demand sustained over the month. To the extent deviations in the definition of the month are consistent with the distribution company's prior billing practices, such adjustments shall be permitted and so noted. To the extent the distribution company has imputed a demand usage profile in any or all prior periods, the distribution company shall indicate where prior measurements have not been based on actual recorded usage. In those instances where a distribution company has applied an imputed method for purposes of estimating a customer's demand profile, such distribution company shall describe the method used to define monthly demands.

Section 1G. (a)(1) The department shall, in accordance with the provisions of this section, identify and determine, upon application by a distribution company and the applicable electric company, those costs and categories of costs for generation-related assets, investments, and obligations, as determined pursuant to subsection (b), which may be allowed to be recovered through a non-bypassable transition charge authorized to be assessed and collected in accordance with the provisions of subsection (e). The department shall conduct a comprehensive audit of each distribution company and applicable electric company in order to assure substantial compliance with the provisions of this section; provided, however, that said audit shall be conducted in an expeditious manner. The department shall be authorized to contract for such services through an auditing or accounting company or organization which is fully independent of any such distribution company or applicable electric company. The department shall make a finding that any agreement filed by a company under this section is substantially consistent with an initial

audit before allowing the recovery of transition costs by an electric company doing business in the commonwealth to commence. For electric companies without an agreement, transition costs shall not be reviewed or approved by the department until the department completes an initial audit of electric company records maintained on file at the department. Such audit shall include an accounting of all costs eligible for recovery in accordance with the provisions of this section. The department shall complete the comprehensive audit no later than December 31, 1998. No amount shall be collected by a distribution company through such non-bypassable transition charge unless such amount has been approved by the department in accordance with the provisions of this section.

(2) Notwithstanding any other provision of this section, the department shall review a financing order periodically, at a minimum not less than every 18 months from the inception of the original financing order, to determine if the amount of reimbursable transition costs amounts proved to be accurate. Such review shall be limited to a comparison of assumed costs and assumed mitigation to the actual costs determined through actual mitigation. If the amount of reimbursable transition costs amounts previously included in a financing order exceeds the correct amount of the reimbursable transition costs amounts, then the electric company shall provide ratepayers with a uniform rate credit based on usage that in total equals the amount of the excess including carrying costs or pay to the financing entity an amount equal to such excess and, provided that all reserve funds are fully funded, the financing entity shall use or escrow such funds to redeem or otherwise reduce the amount of the principal of the electric rate reduction bonds; provided, however, that any such transfers or adjustments shall not affect the rate of transition charges, the collection of such charges, or the transfer to the bondholder trustee of the charges which have been collected.

(b)(1) The department may allow a distribution company, which qualifies pursuant to the requirements of subsection (c), and upon the commencement of mitigation efforts as required by subsection (d), to collect a charge for net, non-mitigable past investment commitments incurred prior to January 1, 1996, by the applicable investor-owned electric company during its operations within a regulated electricity system which, subject to the conditions included in this section, are classified to be transition costs in accordance with the provisions of this section. The department shall develop guidelines and parameters to identify and determine which transition costs may be recovered by collection of a transition charge, which shall include only the following:

(i) the amount of any unrecovered fixed costs determined by the department for those costs and categories of costs for generation-related assets and obligations to have been prudently incurred and associated with producing electricity from existing generation facilities which were being collected in department-approved rates on January 1, 1997, and that become uneconomic as a result of the creation of a competitive generation market, in that these costs may not be recoverable in market prices in a competitive market;

(ii) the department-authorized recovery for nuclear entitlements by those electric companies which have divested their non-nuclear generation facilities pursuant to section 1A and those previously incurred or known liabilities incurred for post-shutdown and decommissioning costs associated with nuclear power plants which are not recoverable from

the decommissioning fund as administered by the federal nuclear regulatory commission; provided, however, that the department shall monitor the amount to be recovered to assure that it shall not exceed the actual total costs necessary to effect shutdown and decommissioning;

(iii) the unrecovered amount of the reported book balances of existing generation-related regulatory assets, as approved by the department; provided, that, for the purposes of this clause, the term "regulatory assets" shall refer to the unrecovered balance of deferred costs that otherwise would have been recognized in the period in which they were incurred but have been specifically approved for deferral and later recovery by the department; and

(iv) the amount by which the costs of existing contractual commitments for purchased power exceeds the competitive market price for such power, upon the reaffirmation, restructuring, renegotiation, or termination of such contracts, or the liquidated payments associated with the disposal of these contracts in a department-approved divestiture plan, as determined in accordance with the provisions of paragraph (2) of subsection (d) of this section.

(2) In addition to the aforementioned amounts of transition costs allowed to be recovered pursuant to clauses (i) to (iv), inclusive, a distribution company may be allowed to recover through the transition charge certain costs incurred after January 1, 1996, which shall include only the following:

(i) in order to mitigate potential negative impacts on utility personnel directly affected by electric industry restructuring, costs associated with employee-related transition costs for personnel performing services in connection with services provided by electric utilities, as approved by the department, including costs incurred and projected for severance, retraining, early retirement, outplacement, supplemental unemployment benefits, and related expenses for the personnel; provided, that said costs result either from the execution of agreements reached through collective bargaining for union personnel or from the company's programs and policies for non-union personnel; provided, however, that there shall be no recovery for employee-related transition costs associated with officers, senior supervisory employees, and professional employees performing predominantly regulatory functions; and provided, further, that these costs so incurred and approved by the department shall be eligible for recovery only until March 1, 2005;

(ii) any payments or payments in lieu of taxes made pursuant to section 38H of chapter 59; and

(iii) any costs to remove and decommission retired structures at fossil fuel-fired generation facilities required pursuant to paragraph (2) of subsection (b) of section 1A.

(3) To the extent that the department does allow a distribution company to collect a transition charge under this subsection (b), for purposes of the computation of any carrying costs that the department may determine to allow, the cost of equity component of any such computation shall be determined as follows:



(a) to the extent that the cumulative average of the transition charge is no more than \$0.01 per kilowatt-hour, the company may collect total revenue under that transition charge sufficient to provide for carrying charges computed with a cost of equity capital no more than one hundred basis points above the cost of common equity capital determined by the department in the most recent adjudicated base rate proceeding under section 94 of this chapter prior to December 31, 1996 that involved an electric company;

(b) to the extent that the cumulative average of the transition charge is more than \$0.01 but not more than \$0.02 per kilowatt hour, the company may collect total revenue under that transition charge sufficient to provide for carrying charges computed with a cost of equity capital no more than the rate set forth in subsection (a), less one basis point for each one tenth of one mil by which the cumulative average transition charge is more than \$0.01; and

(c) to the extent that the cumulative average of the transition charge is more than \$0.02 the company may collect total revenue under that transition charge sufficient to provide for carrying charges computed with a cost of equity capital no more than the rate set forth in subsection (a), less 100 basis points, and less an additional two basis points for each one tenth of one mil (\$0.0001) by which the cumulative average transition is more than \$0.02 above the market rate for power provided under comparable terms.

(d) provided that in no event shall the department determine to allow any carrying costs for any period beyond the year 2009 on any unamortized balance of costs allowable as transition costs under clauses (i) and (ii) of paragraph (1) of subsection (b).

(c)(1) The department may, in accordance with the provisions of this subsection, authorize a distribution company to recover eligible transition costs if the following conditions are met:

(i) the company has filed on or before March 1, 1998, a plan to provide all of its retail customers the ability to purchase electricity from an alternative supplier or generation company as of March 1, 1998;

(ii) the distribution company, through the applicable electric company, has developed and will implement a plan to divest itself of its portfolio of all non-nuclear generation assets by August 1, 1999, pursuant to subsection (b) of section 1A;

(iii) the applicable electric company, pursuant to subsection (d) of this section, has developed and will implement a plan for all required, necessary, and reasonable mitigation methods to reduce potential transition costs; and

(iv) the plan formulated pursuant to clause (i) herein provides a standard service transition rate and rate reduction as required pursuant to section 1B.

(2) A distribution company is hereby authorized to attain the additional rate reduction required pursuant to said section 1B through the use of securitization, subject to the provisions of section 1H. A distribution company's use of securitization shall be approved by the department and shall be subject to the achievement of mitigation efforts satisfactory to the department pursuant to subsection (d); provided, that if a company chooses to achieve any such required rate reduction through securitization, the company shall demonstrate to



the department that said rate reduction is not financially viable without the use of securitization.

(3) If, after the submittal of a restructuring plan to the department pursuant to section 1A, a distribution company claims that it is unable to meet a price reduction of 10 per cent reduction pursuant to subsection (a) of section 1A and subsection (b) of section 1B it shall petition the department to explore any and all possible mechanisms and options within the limits of the constitution which may be available to the department to achieve compliance with the provisions of this section, including, but not limited to, the department may authorize an alternate generation company or supplier to provide the standard offer service package as set forth in subsection (b) of section 1B if said alternate service is determined by the department to be in the public interest and necessary to achieve said required rate reductions for its consumers.

(4) If, after the submittal of a restructuring plan to the department pursuant to section 1A, a distribution company claims that it is unable to meet a price reduction of 15 per cent reduction pursuant to subsection (b) of section 1B it shall petition the department to explore any and all possible mechanisms and options within the limits of the constitution which may be available to the department to achieve compliance with the provisions of this section, including, but not limited to, the department may authorize an alternate generation company or supplier to provide the standard offer service package as set forth in subsection (b) of section 1B if said alternate service is determined by the department to be in the public interest and necessary to achieve said required rate reductions for its consumers; provided, however, that the department may, upon petition of a company unable to comply with the rate reduction required under subsection (b) of section 1B, certify that the petitioner is eligible to receive funds from the Ratepayer Parity Trust Fund, established pursuant to section 62 of chapter 10. The department shall, in cooperation with the secretary of administration and finance, promulgate regulations to establish a procedure to disburse monies appropriated from said trust fund. The department shall consider and may adopt proposals submitted by other parties, including but not limited to the office of the attorney general, outlining means and mechanisms by which a company could further mitigate its assets in order to comply with said rate reduction of 15 per cent as referenced in subsection (b) of section 1B; provided, however, in the event a company claims that it is unable to meet at least the 15 per cent reduction as set forth in subsection (b) of section 1B, the department shall work with said company to explore and implement all methods to achieve the required 15 per cent reduction; and provided, further, that said company shall be excluded from the provisions of paragraph (2) of section 1A or subsection (c).

(d)(1) Any electric company seeking to recover transition costs pursuant to this section shall, in accordance with the provisions of this subsection, mitigate any such transition costs. Prior to the approval by the department of any plan allowing for such recovery, the department shall issue an order finding that the electric company has taken all reasonable steps to mitigate to the maximum extent possible the total amount of transition costs that will be recovered and to minimize the impact of recovery of such transition costs

on ratepayers in the commonwealth. Mitigation efforts which an electric company shall engage in shall include, but not be limited to, the following: (i) the divestiture of non-nuclear generation facilities in accordance with the provisions of section 1A; provided, however, that all net proceeds from such divestiture pursuant to said section 1A shall be dedicated to reducing such company's total transition cost amount and the transition charge allowed to be assessed and collected by a distribution company pursuant to this section; (ii) the electric company, in accordance with the provisions of paragraph (2), shall engage in good faith efforts to renegotiate, restructure, reaffirm, terminate, or dispose of existing contractual commitments for purchased power which exceed the competitive market price for such power as determined in accordance with said paragraph (2); provided, however, that the department shall not begin to review a registration application filed pursuant to paragraph (1) of section 1F until such company with a purchased power contract with a price determined to be above-market commences such good faith efforts with such electric company as required herein; and provided further, that the department shall promulgate rules and regulations which shall establish a standard for good faith; (iii) an examination and analysis of the historic level of performance over the life of such contractual commitments for purchase power, regardless of whether or not they exceed the competitive market price; (iv) upon the determination of an amount of transition costs, further mitigation shall include netting against such above-market costs any below market assets other than those associated with distribution or transmission which are owned by the company; (v) except to the extent that such matters are provided for in collective bargaining agreements or asset purchase agreements negotiated prior to this act, or amendments to such previously negotiated asset purchase agreements, by obtaining written commitments that purchasers of divested operations will offer employment to the impacted employees who were employed in non-managerial positions to provide services for the divested operations at any time during the three month period prior to the divestiture, at levels of wages and overall compensation not lower than the employees' prior levels for a period of six months; and (vi) any other mitigation and analytical activities which the department determines to be reasonable and effective mechanisms for reducing identifiable transition costs.

(2)(i) In order to mitigate any costs in excess of the projected market value of power associated with purchased power contracts approved by the department on or by December 31, 1995, except with respect to facilities which burn trash to generate electricity, electric companies and the sellers under such contracts shall make good faith efforts to renegotiate those contracts which contain a price for electricity which is above-market as of March 1, 1998, in order to achieve reductions in the transition charges, authorized to be assessed pursuant to subsection (e), which are attributable to any such contract, as determined by the department. For the purposes of this chapter, the standard of good faith shall not require either party to agree to a proposal or require the making of concessions, but shall require active participation in negotiations and a willingness to make reasonable concessions in order to equitably mitigate stranded costs, and to provide justification for proposals, and a sincere effort to reach agreement. Beginning July 1, 1998, and at least annually thereafter, the department shall continue to review said aforementioned purchased power contracts in order

to determine if such contracts contain a price for electricity which is above-market as of the date of review. If such contract is determined to be above-market, the electric company and the seller under such contract shall, in accordance with the provisions of this chapter, attempt to make a good-faith effort to renegotiate such contract in order to achieve further reductions in the transition charge. If an electric company has as a part of a department-approved divestiture plan assigned such contract to a buyer having adequate financial resources, the electric company shall have met its obligations under this paragraph. Furthermore, if a seller under such contract has consented to assignment of the existing contract to the buyer and has agreed to release the electric company from its obligations under such contract, the seller shall have met its obligations under this paragraph.

(ii) Upon a finding by the department that a negotiated contract buyout or other modification to the terms and conditions of such contracts is likely to achieve savings to the ratepayers and is otherwise in the public interest, the remaining amounts in excess of market value associated with such contract shall be included in the transition charges, which are authorized to be assessed pursuant to said subsection (e) and upon commencement of mitigation efforts as required herein. Upon a finding by the department that a seller has made a bona fide offer for a contract buyout or modification which is likely to achieve ratepayer savings and is otherwise in the public interest, which offer has been refused by the purchasing electric company, only those amounts in excess of market value associated with such contract that would not have been mitigated by such offer shall be included in the transition charges authorized pursuant to said subsection (e), and the seller shall be deemed to have met its obligation to negotiate in good faith. In order to compel such negotiations, (a) electricity companies are hereby authorized to use securitization, only to the extent allowed pursuant to section 1H, to finance the costs of buydowns or buyouts of said contracts, and (b) the department shall not begin to review a licensure application filed pursuant to paragraph (1) of section 1F until such time as the seller under a purchased power contract with a price determined to be above-market has commenced good faith efforts in accordance with the standard for good faith set forth in subparagraph (i) of paragraph (2). The department is hereby authorized to approve the recovery of such costs associated with such contract buydowns or buyouts. At least every 30 days, said companies shall report the status of such renegotiations to the department.

(3) An electric company which fails to commence and complete the divestiture of its non-nuclear generation assets shall not be eligible to benefit from the securitization provisions and the issuance of electric rate reduction bonds pursuant to section 1H, subject to determination by the department. An electric company, which chooses under section 1A not to divest all of its non-nuclear generation facilities shall subject its nuclear and non-nuclear generation facilities and purchased power contracts to a valuation pursuant to said section 1A under which the department shall determine the market value of such generation facilities and contracts. The department shall require a reconciliation of projected transition costs to actual transition costs by March 1, 2000, and for every 18 months thereafter through March 1, 2008, or the termination date of any transition charge allowed to be assessed pursuant to subsection (e).



(4) Securitization shall not be made available pursuant to section 1H unless the electric company proves to the satisfaction of the department the following: (i) it has fully mitigated, as defined in section 1, the related transition costs, including but not limited to, as applicable, divestiture of its non-nuclear generation facilities pursuant to section 1A, renegotiation of existing power purchase contracts, and the valuation of assets of the company, including, but not limited to, rights-of-way, property, and intangible assets; (ii) savings to ratepayers will result from securitization; (iii) all such savings derived from securitization shall inure to the benefit of ratepayers; (iv) except to the extent that such matters are provided for in collective bargaining agreements or asset purchase agreements negotiated prior to this act, or amendments to such previously negotiated asset purchase agreements, it has obtained written commitments that purchasers of divested operations will offer employment to the impacted employees who were employed in non-managerial positions to provide services for the divested operations at any time during the three month period prior to the divestiture, at levels of wages and overall compensation no lower than the employees' prior levels; and (v) the electric company demonstrates that it has established, with the approval of the department, an order of preference for use of bond proceeds such that transition costs having the greatest impact on customer rates will be the first to be reduced by those proceeds.

(e) The department is hereby authorized and directed to allow any approved transition costs to be recovered from ratepayers through a non-bypassable transition charge collected by the distribution company providing transmission or distribution service to such ratepayers. For each electric company submitting requests to the department for the recovery of transition costs, the department shall impose a cap upon the level of the transition charge, which shall remain in effect until altered upon action by the department; provided, however, that in no instance shall such charge be adjusted to reflect inflation. Any transition charge collected shall be used for the specific purposes of paying for transition costs as identified pursuant to the provisions of subsection (b) of this section. Amortization of transition cost recovery may be accelerated relative to recovery of such costs assumed in current rates, but in no case shall such amortization result in an increase in rates for any class of customer of an electric company over rates in effect as of December 31, 1997, for that company. The department shall, on a case by case basis, determine the date upon which there shall be no allowance for transition cost recovery in any rate charged by any transmission or distribution company.

(f) The department shall, in writing, notify the joint committee on government regulations of the general court within one business day upon the approval and initiation of a transition charge to any electric company pursuant to the provisions of this section. Subsequent to such notification, said committee may conduct a public hearing or hearings on such a determination for the purpose of updating the general court on the methodology used by the department to determine allowable transition cost recovery and the results of mitigation measures agreed to by electric companies to lower their transition costs.



(g) Effective as of March 1, 1998, if the utility and the department have received at least a six months notice of the customer's plans to install on-site cogeneration equipment, renewable energy technologies, fuel cells, or to purchase electricity through cogeneration equipment, a customer that reduces purchases of electricity through the operation of, or purchases from, on-site generation or cogeneration equipment, shall not be subject to an exit charge if (i) such customer provided less than or equal to 10 per cent of the annual gross revenues collected by its previous service provider in the year prior to the customer leaving the system after the retail date established in this bill; provided, however, that in the event that two or more customers who, at any time within a 36-month time period, leave such system, after the retail access date established in this bill, and represent together the aggregate of greater than or equal to more than 10 per cent of the annual gross revenues collected by such previous service provider in the year prior to the initial exit from the system, all such customers shall be subject to an exit charge based upon that portion of the annual gross revenues which is over the 10 per cent limit; and provided, further, that such fee shall be prorated amongst such customers who have left or are leaving on the system based upon the proportion of annual gross revenues each customer represented within the total amount of gross revenues being subtracted from the service provider's system; or (ii) the customer reduces purchases through the operation of, or purchases from, on site renewable energy technologies, fuel cells, or cogeneration equipment with a combined heat and power system efficiency of at least 50 per cent, based upon the higher heating value of the fuel used in the system; or (iii) the customer reduces purchases through the operation of, or purchases from, an on site generation or cogeneration facility of 60 kilowatts or less which is eligible for net metering. Except as provided in existing contracts or tariffs, the department and the utility shall not require more than six months notice of the customer's plans to install said equipment. Any such exit charge shall be payable to the customer's distribution company for the benefit of other customers. Such exit charge may be equal to but no greater than the expected value of the access charge payments the customer would have paid out but for the operation of such equipment and shall be determined by the department based upon federal and state law, any applicable judicial determinations, and criteria promulgated by the department through rules and regulations. Notwithstanding clauses (i) to (iv), inclusive, if the total kilowatt hour usage in any service territory falls below usage levels following the installation of such on-site generation or cogeneration equipment, and the department determines that the aggregate reduction in future purchases of electricity and transition charge payments resulting from customers' installing such equipment will have a significant adverse impact on electric bill to be paid by other customers in said distribution company's territory during the remaining period of transition cost recovery, then the department may order that an exit charge shall be paid on such terms as determined by the department based upon criteria promulgated herein and through rules and regulations. The department shall issue a report on July 1, 1999 and every year thereafter, for the period of transition cost recovery, relative to degree of impact on the aggregate reduction of the electricity and impact on transition charges due to implementation or use of cogeneration systems, fuel cell and renewable energy technologies.

(h) If an electric company or distribution company challenges through the administrative or judicial process a determination of the department relative to an amount or particular component of transition costs allowed or disallowed to be recovered pursuant to the provisions of this section, or if an electric company or distribution company challenges through the administrative or judicial process the manner or mechanism the department utilizes to determine an amount or particular of such transition costs, such challenge shall not prevent the department from implementing any provision of chapter 25, 25A or 164 as it relates to said electric company or distribution company or any other electric company or distribution company not involved in the dispute. During the period of time such challenge is in effect until a resolution of such is attained, said electric company or distribution company shall continue to collect any and all monies so authorized to be collected and maintain the amount under dispute in an escrow account. Once a resolution of such challenge is attained, the department shall, if necessary, make any adjustment upwards or downwards to any charge such electric company or distribution company is allowed to collect pursuant to section 1H, and such electric company or distribution company shall dispose of such monies in said escrow account accordingly.

(i) The department is hereby authorized and directed to promulgate rules and regulations to carry out the provisions of this section.

Section 1H. (a) As used in this section the following words shall, unless the context otherwise requires, have the following meanings:-

"Agency", the Massachusetts Industrial Finance Agency, established pursuant to section 31 of chapter 23A.

"Authority", the Massachusetts Health and Educational Facilities authority, established pursuant to chapter 614 of the acts of 1968.

"Department", the department of telecommunications and energy.

"Electric company", an electric company as defined in section 1.

"Electric rate reduction bonds", bonds, notes, certificates of participation or beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed indenture, financing document, or other agreement of the financing entity, secured by or payable from transition property, the proceeds of which are used to provide, recover, finance, or refinance transition costs or to acquire transition property and that are secured by or payable from transition property.

"Financing entity", (i) the Massachusetts Industrial Finance Agency and the Massachusetts Health and Educational Facilities Authority acting jointly pursuant to a mutual agreement, (ii) any special purpose trust, or (iii) any financing entity which is authorized by the department pursuant to a financing order to issue electric rate reduction bonds or acquire transition property in accordance with the provisions of this section.

"Financing order", an order of the department adopted in accordance with this section approving a plan, which shall include, without limitation, a procedure to review and approve periodic adjustments to transition charges to include recovery of principal and interest and the costs of issuing, servicing, and retiring electric rate reduction bonds contemplated by the financing order.

"Reimbursable transition costs amounts", the total amount authorized by the department in a financing order to be collected through the transition charge, as defined pursuant to section 1, and allocated to an electric company in accordance with a financing order.

"Special purpose trust", any trust, partnership, limited partnership, association, corporation, nonprofit corporation, limited liability company, or other entity established and authorized by the agency and the authority to acquire transition property or to issue rate reduction bonds, or both, subject to approvals by the agency and the authority and the powers of the agency and the authority as provided by the agency and the authority in their resolutions authorizing the entities to issue rate reduction bonds.

"Transition costs", the costs determined pursuant to section 1G which remain after accounting for maximum possible mitigation, subject to determination by the department.

"Transition charge", the charge to the customers which provides the mechanism for the recovery of an electric company's transition costs.

"Transition property", the property right created pursuant to this section, including, without limitation, the right, title, and interest of an electric company or a financing entity to all revenues, collections, claims, payments, money, or proceeds of or arising from or constituting reimbursable transition costs amounts which are the subject of a financing order, including those non-bypassable rates and other charges that are authorized by the department in the financing order to recover transition costs and the costs of providing, recovering, financing, or refinancing the transition costs, including the costs of issuing, servicing, and retiring electric rate reduction bonds.

(b)(1) The department may issue financing orders in accordance with this section to facilitate the provision, recovery, financing, or refinancing of transition costs. A financing order shall specify that amounts collected from a customer shall be allocated first to current and past due transition charges and then other charges and that, upon the issuance of electric rate reduction bonds, transition charges collected shall be allocated first to transition property and second to transition charges, if any, that are not subject to a financing order.

(2) An electric company may, by January 1, 1999, and from time to time thereafter as established by the department, file with the department an application that provides that its transition costs may be recovered through reimbursable transition costs amounts, which would therefore constitute transition property under this section. An electric company may, upon the department's written determination of substantial and documentable relative rate reduction, utilize a financing entity other than the state-designated financing entity or special purpose trust. The department shall promulgate rules and regulations establishing the form and content of said applications and establishing the procedure to be utilized for the filing and approval of said applications. The department may view such applications in separate proceedings or in an order instituting investigation or order instituting rule making, or both. The electric company shall in its application specify that its customers would benefit from reduced electricity rates through the issuance of electric rate reduction bonds. The department shall determine reimbursable transition costs amounts recoverable in one or more



financing orders if the department determines, as part of its findings in connection with the financing order, that the designation of the reimbursable transition costs amounts and the issuance of electric rate reduction bonds by the financing entity in connection with some or all of the reimbursable transition costs amounts would reduce rates that an electric company's customers would have paid if the financing order were not adopted, and that such rates will be reduced in aggregate amounts equal to savings realized by the electric company with respect to the financing order; provided, however, that said bonds may qualify for tax-exempt status to the full extent of state and federal law; provided further, that the department shall consult with the financing entity in making its determinations concerning electric rate reduction bonds; and provided, further, that the electric company has complied with the applicable transition cost mitigation measure, pursuant to subsection (d) of section 1G. The transition charge and its payment as provided in the financing order shall be binding on all current and future distribution companies and users of such distribution system until the bonds are paid in full by the financing entity. A financing order shall expire after two years if no rate reduction bonds have been issued pursuant thereto.

(3) Notwithstanding any other general or special law, rule, or regulation to the contrary, except as otherwise provided in this section with respect to transition property which has been made the basis for the issuance of electric rate reduction bonds, the financing orders and the reimbursable transition costs amounts shall be irrevocable, and the department shall not have authority, either by rescinding, altering, or amending the financing order or otherwise, to revalue or revise for ratemaking purposes the transition costs, determine that the reimbursable transition costs amounts or transition charges are unjust or unreasonable, or in any way reduce or impair the value of transition property either directly or indirectly by taking reimbursable transition costs amounts into account when setting other rates for the electric company, nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this paragraph, the commonwealth does hereby pledge and agree with the owners of transition property and holders of electric rate reduction bonds that the commonwealth shall not (i) alter the provisions of this chapter which make the transition charges imposed by the financing order irrevocable and binding or (ii) limit or alter the reimbursable transition costs amounts, transition property, financing orders, and all rights thereunder until the electric rate reduction bonds, together with the interest thereon, are fully met and discharged. The financing entity as agent for the commonwealth is hereby authorized to include this pledge and undertaking for the commonwealth in these electric rate reduction bonds.

(4)(i) Financing orders issued pursuant to the provisions of this section shall not constitute a debt or liability of the commonwealth or of any political subdivision thereof, other than the financing entity, and shall not constitute a pledge of the full faith and credit of the commonwealth or any of its political subdivisions, other than the financing entity, but shall be payable solely from the funds provided therefor pursuant to the provisions of this section. All the bonds shall contain on the face thereof the following statement: Neither the full faith and credit nor the taxing power of the commonwealth of Massachusetts is pledged to the payment of the principal of, or interest on, this bond.



(ii) The issuance of electric rate reduction bonds pursuant to the provisions of this section shall not obligate the commonwealth, or any political subdivision thereof, to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(iii) The exercise of the powers granted by this section shall be in all respects for the benefit of the people of the commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. As the exercise of such powers shall constitute the performance of essential governmental functions, the financing entity shall not be required to pay any taxes or assessments upon the property acquired or used by the financing entity pursuant to the provisions of this section or upon the income therefrom. The bonds or other instruments issued pursuant to the provisions of this section, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the commonwealth.

(iv) Any electric rate reduction bonds or other instruments issued by the financing entity shall be used to pay for mitigated transition costs related to subsection (b) of section 1G.

(v) Electric rate reduction bonds and other instruments so approved and issued by a financing entity pursuant to the provisions of this section are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, and savings banks, cooperative banks and trust companies in their banking departments and within the limits set by section 14 of chapter 167E, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature, may properly and legally invest funds, including capital in their control or belonging to them, and such bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section 15B of chapter 167. 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 other obligations of the commonwealth is now or may hereafter be authorized by law.

(vi) The repayment of terms of any electric rate reduction bonds issued for the purpose of paying for transition costs related to clause (iv) of paragraph 1 of subsection (b) of section 1G shall, subject to the department's approval, extend for not more than 15 years; provided, that in the event the department determines that a longer repayment period would inure to the benefit of residential ratepayers, the department shall approve any securitization plan that maximizes rate affordability to such ratepayers.

(5) The department shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the electric company filing; provided, however, that an electric company shall file a new application with the department within 45 days of any such disapproval, if so ordered by the department. A financing order shall also include a procedure whereby the department

shall periodically review the rate of transition charges authorized therein on each anniversary of the date of such order and at such additional intervals as may be provided for in such order, and shall approve adjustments, if required, within 60 days of each such anniversary and of each such additional interval date, such rate of transition charges if and to the extent necessary to ensure the timely recovery of revenues sufficient to provide for the payment of all principal, interest, premium, if any, and other charges in respect of the electric rate reduction bonds approved by the department pursuant to such financing order.

(6) Reimbursable transition costs amounts shall constitute transition property when, and to the extent that, a financing order authorizing the reimbursable transition costs amounts have become effective in accordance with the provisions of this section. The transition property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this section for the period and to the extent provided in the financing order, but in any event until the electric rate reduction bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon. Prior to its sale or other transfer by the electric company pursuant to this section, transition property shall be a vested contract right of the electric company, notwithstanding any contrary treatment thereof for accounting, tax, or other purpose.

(7) Any unanticipated transition costs that are generated in excess of the amounts necessary to pay principal, premium, if any, interest, and expenses of the issuance of the electric rate reduction bonds shall be remitted to the financing entity to be held or distributed in accordance with the financing order and, provided that all reserve funds are fully funded, may be used to benefit customers if this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, the following intended characteristics: (i) avoiding the recognition of debt on the electric company's balance sheet for financial accounting and regulatory purposes; (ii) treating the electric rate reduction bonds as debt of the electric company or its affiliates for federal income tax purposes; (iii) treating the transfer of the transition property by the electric company as a true sale for bankruptcy purposes; and (iv) avoiding any adverse impact of the financing on the electric company's credit rating.

(8) In no event shall any financing order (i) authorize or require the customers of an electric company other than the electric company applying for such financing order and its successors to pay any transition charges or other amounts with respect to the transactions authorized by such financing order; or (ii) authorize, permit, or require that any amounts arising from the transactions authorized by such financing order be used to subsidize or benefit an electric company or the customers thereof other than the electric company and the affiliates thereof applying for such financing order and its affiliates' customers. A financing order shall require that transition charges be paid over to the financing entity within one calendar month of collection.

(c)(1) The financing entity may issue electric rate reduction bonds approved by the department in the pertinent financing orders. Electric rate reduction bonds shall be nonrecourse to the credit of it or any assets of the electric company, other than the transition property as specified in the pertinent financing order.

(2) Electric companies may sell or assign all or portions of their interest in transition property to an affiliate. Electric companies or their affiliates may sell or assign their interests to one or more financing entities that make that property the basis for issuance of electric rate reduction bonds to the extent approved in the pertinent financing orders. Electric companies, their affiliates, or financing entities may pledge transition property as collateral for electric rate reduction bonds to the extent approved in the pertinent financing orders providing for a security interest in the transition property, in the manner as set forth in subsection (d).

In addition, transition property may be sold or assigned by either (i) the financing entity or a trustee for the holders of electric rate reduction bonds in connection with the exercise of remedies upon a default, or (ii) any person acquiring the transition property after a sale or assignment pursuant to this subsection.

(3) To the extent that any interest in transition property is so sold or assigned, or is so pledged as collateral, the department shall require, pursuant to the policing and regulatory power of the commonwealth, the electric company and any successor or any other entity acting as an electric company within the service territory to contract with the financing entity that it will continue to operate its system to provide service to its customers, will collect amounts in respect of the reimbursable transition costs amounts for the benefit and account of the financing entity, and will account for and remit these amounts to or for the account of the financing entity. Contracting with the financing entity in accordance with such authorization shall not impair or negate the characterization of the sale, assignment, or pledge as an absolute transfer, a true sale, or security interest, as applicable.

(4) Notwithstanding any general or special law, rule, or regulation to the contrary, any provision under this section or a financing order requiring the department take action with respect to the subject matter of a financing order shall be binding upon the department, as it may be constituted from time to time, and any successor agency exercising functions similar to the department and the department shall have no authority to rescind, alter, or amend that requirement in a financing order.

(d)(1) A security interest in transition property is valid and enforceable against the pledgor and third parties, subject to the rights of any third parties holding security interests in the transition property perfected in the manner described in this subsection, and attaches when all of the following have taken place: (i) the department has issued the financing order authorizing the bondable reimbursable transition costs amounts included in the transition property; (ii) value has been given by the pledgees of the transition property; and (iii) the pledgor has signed a security agreement covering the transition property.

(2) A valid and enforceable security interest in transition property shall be perfected when it has attached and when a financing statement has been filed in accordance with article 9 of chapter 106 naming the pledgor of the transition property as "debtor" and identifying the transition property. Any description of the transition property shall be sufficient if it refers to the financing order creating the transition property. A copy of the financing statement shall be filed with the department by the electric company which is the



pledgor or transferor of the transition property, and the department may require the electric company to make other filings with respect to the security interest in accordance with procedures it may establish; provided, however, that the filings shall not affect the perfection of the security interest.

(3) A perfected security interest in transition property shall be a continuously perfected security interest in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting security interests shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing electric rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(4) Subject to the terms of the security agreement covering the transition property and the rights of any third parties holding security interests in the transition property perfected in the manner described in this subsection, the validity and relative priority of a security interest created pursuant to this subsection shall not be defeated or adversely affected by the commingling of revenues arising with respect to the transition property with other funds of the electric company that is the pledge or transferor of the transition property. Subject to the terms of the security agreement, the pledgees of the transition property shall have a perfected security interest in all cash and deposit accounts of the electric company in which revenues arising with respect to the transition property have been commingled with other funds, but the perfected security interest shall be limited to an amount not greater than the amount of the revenues with respect to the transition property received by the electric company within 12 months before either (i) any default under the security agreement, or (ii) the institution of insolvency proceedings by or against the electric company, less payments from the revenues to the pledgees during that 12-month period.

(5) If an event of default occurs under the security agreement covering the transition property, the pledgees of the transition property, subject to the terms of the security agreement, shall have all rights and remedies of a secured party upon default pursuant to article 9 of chapter 106 and such other rights and remedies as may be provided in the financing order, and shall be entitled to foreclose or otherwise enforce their security interest in the transition property, subject to the rights of any third parties holding prior security interests in the transition property perfected in the manner provided in this section. In addition, the department may require, in the financing order creating the transition property, that, in the event of default by the electric company in payment of revenues arising with respect to the transition property, the commission and any successor thereto, upon the application by the pledgees or transferees, including transferees under subsection (f), of the transition property, and without limiting any other remedies available to the pledgees or transferees by reason of the default, shall order the sequestration and payment to the pledgees or transferees of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, costs, and arrearages on the electric rate reduction bonds, and other costs arising



under the security agreement, shall be remitted to the debtor or to the pledgor or transferor.

(6) The state secretary shall establish and maintain a separate system of records to reflect the date and time of receipt of all filings made under this subsection (d) to perfect security interests in transition property and to effect the transfer to an assignee of any interest in a financing order.

(e) Unless otherwise ordered by the department with respect to any series of electric rate reduction bonds on or prior to the issuance of the series, there shall exist a statutory lien as provided in this subsection. Upon the effective date of the financing order, there shall exist a first priority lien on all transition property then existing or thereafter arising pursuant to the terms of the financing order. This lien shall arise by operation of this subsection automatically without any action on the part of the electric company, any affiliate thereof, the financing entity, or any other person. This lien shall secure all obligations, then existing or subsequently arising, to the holders of the electric rate reduction bonds issued pursuant to the financing order, the trustee or representative for the holders, and any other entity specified in the financing order. The persons for whose benefit this lien is established shall, upon the occurrence of any defaults specified in the financing order, have all rights and remedies of a secured party upon default pursuant to article 9 of chapter 106, and shall be entitled to foreclose or otherwise enforce this statutory lien in the transition property. This lien shall attach to the transition property regardless of whom shall own, or shall subsequently be determined to own, the transition property, including any electric company, any affiliate thereof, the financing entity, or any other person. This lien shall be valid, perfected, and enforceable against the owner of the transition property and all third parties upon the effectiveness of the financing order without any further public notice; provided, however, that any person may, but shall not be required to, file a financing statement in accordance with subsection (d). Financing statements so filed may be "protective filings" and shall not be evidence of the ownership of the transition property.

A perfected statutory lien in transition property shall be a continuously perfected lien in all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Conflicting liens shall rank according to priority in time of perfection. Transition property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

In addition, the department may require, in the financing order creating the transition property, that, in the event of default by the electric company in payment of revenues arising with respect to transition property, the department and any successor thereto, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the transition property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor, pledgor, or transferor of the transition property. Any surplus in excess of amounts necessary to pay principal, premium,

if any, interest, costs, and arrearages on the electric rate reduction bonds, and other costs arising in connection with the documents governing the electric rate reduction bonds, shall be remitted to the debtor or to the pledgor or transferor.

(f)(1) A transfer of transition property by an electric company to an affiliate or to a financing entity, or by an affiliate of an electric company or a financing entity to another financing entity, which the parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in a financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest, as in a true sale, and not as a pledge or other financing, of the transition property, other than for federal and state income purposes. Granting to holders of electric rate reduction bonds a preferred right to revenues of the electric company, or the provision by the company of other credit enhancement with respect to electric rate reduction bonds, shall not impair or negate the characterization of any transfer as a true sale, other than for federal and state income purposes.

(2) A transfer of transition property shall be deemed perfected as against third persons when both of the following have taken place: (i) the department has issued the financing order authorizing the fixed transition amounts included in the transition property; and (ii) an assignment of the transition property in writing has been executed and delivered to the transferee.

(3) As between bona fide assignees of the same right for value without notice, the assignee first filing a financing statement in accordance with article 9 of chapter 106 naming the assignor of the transition property as debtor and identifying the transition property has priority. Any description of the transition property shall be sufficient if it refers to the financing order creating the transition property. A copy of the financing statement shall be filed by the assignee with the department. The department may require the assignor or the assignee to make other filings with respect to the transfer in accordance with procedures it may establish, but these filings shall not affect the perfection of the transfer.

(g) Any successor to the electric company, whether pursuant to any bankruptcy, reorganization, or other insolvency proceeding, or pursuant to any merger, sale, or transfer, by operation of law, or otherwise, shall perform and satisfy all obligations of the electric company pursuant to this section in the same manner and to the same extent as the electric company, including, but not limited to, collecting and paying to the holders of electric rate reduction bonds or their representatives or the financing entity, revenues arising with respect to the transition property sold to the financing entity or pledged to secure electric rate reduction bonds. This requirement that a successor electric company perform the obligations of its predecessor is made pursuant to the commonwealth's policing and regulatory authority.

**SECTION 194.** Section 2 of said chapter 164, as so appearing, is hereby amended by inserting after the word "producer", in line 14, the following words:- other than persons, firms, associations, and private corporations expressly excluded from the definition of "electric company" in section 1 of this chapter.

**SECTION 195.** Said section 2 of said chapter 164, as so appearing, is hereby further amended by adding the following sentence:- Electric companies, which engage in generation and which are not part of a vertically integrated electric company or do not have a distribution affiliate in the commonwealth, shall be exempt from the provisions of sections 3 to 33, inclusive, and section 93.

**SECTION 196.** Said chapter 164 is hereby further amended by inserting after section 34 the following two sections:-

Section 34A. (a) Any city or town receiving street lighting service from an electric company pursuant to a tariff which provides for the use by such municipality of lighting equipment owned by the electric company, such as lighting ballasts, fixtures, and other equipment necessary for the conversion of electric energy into street lighting service, shall have the rights with respect to such lighting equipment as set forth in this section. Such rights shall apply in the event that such municipality does not establish a municipal lighting plant in accordance with this chapter or such lighting plant is established but ownership and control of the distribution facilities needed to deliver electric energy to such lighting equipment is held and retained by the electric company serving the municipality prior to the establishment of the lighting plant. A municipality subject to the provisions of this section, at its option, upon 60 days notice to the electric company and to the department, and subject to the provisions of subsections (b) to (e), inclusive, may:

(i) convert its street lighting service from the subject tariff to an alternative tariff approved by the department providing for delivery service by the electric company of electric energy, whether supplied by the electric company or any other person, over distribution facilities and wires owned by the electric company to lighting equipment owned or leased by the municipality, and further providing for the use by such municipality of the space on any pole, lamp post, or other mounting surface previously used by the electric company for the mounting of the lighting equipment of the electric company;

(ii) purchase electric energy for use in such municipal lighting equipment from the electric company or any other person allowed by law to provide electric energy; and

(iii) acquire, or compensate the electric company for, the lighting equipment of the electric company in the municipality in accordance with subsection (b).

(b) Any municipality exercising the option to convert its street lighting service pursuant to subsection (a) shall be required to compensate the electric company for its unamortized investment, net of any salvage value obtained by the electric company under the circumstances, in the lighting equipment owned by the electric company in the municipality as of the date the electric company receives notice of such exercise pursuant to subsection (a). In meeting this requirement, the municipality may acquire all or any part of such lighting equipment of the electric company upon the payment of the unamortized investment allocable to such acquired equipment. Upon such payment, the municipality shall have the right to use, alter, remove, or replace such acquired equipment in any way the municipality deems appropriate. In addition, the municipality may request that the electric company remove any unacquired part of such lighting equipment. Thereupon, the municipality shall pay to the electric company the cost of removal by the electric company,



along with the unamortized investment allocable to such unacquired part, net of any salvage value attributable to the removed equipment.

(c) In connection with the exercise by any municipality of the option to convert its street lighting service pursuant to subsection (a), any person other than the electric company controlling the right to use space on any pole, lamp post, or other mounting surface previously used by the electric company in such municipality shall allow the municipality to assume the rights and obligations of the electric company with respect to such space for the unexpired term of any lease or other agreement under which the electric company used such space; provided, however, that in the assumption of the rights and obligations of the electric company by such a municipality, such municipality shall in no way or form restrict, impede, or prohibit universal access for the provision of electric and other services.

(d) In connection with the exercise by any municipality of the option to convert its street lighting service pursuant to subsection (a), any dispute concerning the terms of the alternative tariff, the compensation to be paid the electric company, or any other matter arising in connection with such exercise, including, but not limited to, the terms on which space is to be provided to the municipality in accordance with subsection (c), shall be resolved by the department within 60 days of any request for such resolution by the municipality or any person involved in such dispute.

(e) Notwithstanding any general or special law, rule, or regulation to the contrary, any affiliate of any electric company whose street lighting service is converted by any municipality in accordance with the provisions of this section may solicit and compete for the business of any such municipality for the provision of lighting equipment or any other service such as equipment maintenance in connection therewith.

Section 34B. A distribution company or a telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall complete the transfer of wires, all repairs, and the removal of the existing pole from the site within 90 days from the date of installation of the new pole; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such pole within six months from the date of installation of the new pole. The owner of such pole shall notify all other users of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work, and said owner shall require all other users to remove their wiring and other attachments from the poles in a timely manner.

**SECTION 197.** Said chapter 164 is hereby further amended by inserting after section 47 the following four sections:-

Section 47A. (a) Any municipal lighting plant established pursuant to the provisions of this chapter or special law shall be exempt from the requirements to allow competitive choice of generation supply, unless and until such lighting plant is dissolved pursuant to existing statutory procedures.

(b) A municipal lighting plant established pursuant to the provisions of this chapter or special law may prohibit retail sales by suppliers and electric companies to customers



within the service territory of said lighting plant; provided, however, that a municipal lighting plant may supply generation service outside its own service territory for retail purposes only if outside suppliers may provide generation service within the service territory of said municipal lighting plant by mutual agreement with said lighting plant. Such agreement, upon execution, shall be submitted to the department and shall detail the manner in which any such supplier shall conduct business within the service territory of said lighting plant.

(c) A municipal lighting plant may sell electricity at wholesale, for resale, to aggregators, or other entities in bulk and shall not, in doing so, be deemed to be supplying generation services outside its own service territory for the purposes of subsection (b).

(d) A municipal lighting plant may sell electricity at retail, by mutual agreement or by order of the department as provided pursuant to section 47 or section 60 of this chapter, in the service territory of an adjoining electric company or a municipal lighting plant, and such sale shall not be deemed to be supplying generation service outside its own service territory for the purposes of subsection (b). Such mutual agreement shall be between the municipal lighting plant selling such electricity at retail and the adjoining electric company or other municipal lighting plant.

(e) No municipality, private corporation, or other entity selling or distributing electricity shall use existing lines or extend its lines except by mutual agreement with a municipal lighting plant or by order of the department as provided pursuant to section 47 or section 60 of this chapter in order to distribute or sell electricity to customers presently served by such municipal lighting plant.

(f) If a municipal lighting plant has not allowed retail customers served by it competitive choice of generation supply by March 1, 2003, the governing body for each city or town with such municipal lighting plant shall conduct a study, which shall include the holding of public hearings, and may make recommendations which may include, but shall not be limited to, conducting a referendum relative to competitive choice of generation supply for the customers of such municipal lighting plant.

Section 47B. Any municipality acting by and through its municipal light board may construct, purchase, operate, own, lease, rent, maintain, dispose of, share costs of, or otherwise have the right to the use, or portions thereof, of subtransmission, transmission, distribution, and generation facilities and equipment located outside of the municipality's limits. All such subtransmission, transmission, distribution, and generation facilities and equipment, or portions thereof, referred to in this section so constructed, purchased, owned, leased, rented, operated, maintained, or otherwise having the right to be used by any municipality shall hereafter be considered "plant" under the provisions of sections 34, 40, and 57 of this chapter. Any municipality acting by and through its municipal light board is hereby authorized to pay for the construction, purchase, lease, rent, or the right to use, or portions thereof, of the subtransmission, transmission, distribution, and generation facilities and equipment referred to in this section from those amounts accumulated for depreciation.

Section 47C. (a) Any municipal lighting plant created in a manner provided for in this chapter shall be allowed to form cooperative public corporations for the purpose of furnishing efficient, low cost, and reliable electric power and energy-related services as provided in this section.

(b) A municipal lighting plant cooperative established pursuant to the provisions of this section shall constitute a body politic and corporate and is constituted a public instrumentality, and the exercise of the powers conferred by this section shall be deemed and held to be the performance of an essential public function.

(c) Any number of municipal lighting plants may associate themselves together and with other public corporations, established under the laws of the commonwealth or any other state or the federal government, as a municipal lighting plant cooperative, with or without capital stock, for the transaction of any lawful business associated with the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services to wholesale or retail customers, subject to federal and state laws and regulations; provided, however, that no such cooperative organized pursuant to this section shall be associated or create a partnership with the corporation established pursuant to chapter 775 of the acts of 1975; and provided, further, that said corporation established pursuant to said chapter 775 shall not be allowed to participate in any activity or have an ownership share in any cooperative formed pursuant to this section.

(d) A municipal lighting plant cooperative may be formed for any purpose stated in subsection (c) which may lawfully be carried out by any other corporation; provided, that a municipal lighting plant cooperative shall be organized and shall conduct its business primarily for the mutual benefit of its members as patrons of the cooperative. A municipal lighting plant cooperative shall have all of the powers of a natural person, including the power to participate with others in any partnership, joint venture or other association, transaction, or arrangement of any kind. In addition, each municipal lighting plant cooperative shall have the following powers:

(i) To have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation;

(ii) To sue and be sued, complain, and defend its corporate name;

(iii) To have and use a corporate seal;

(iv) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property or any interest therein, wherever situated;

(v) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets;

(vi) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, use, and deal in and with shares or other interest in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or any other government, state, territory, governmental district, or municipality, or any instrumentality thereof;

(vii) To make contracts and incur liabilities, borrow money at rates of interest the cooperative may determine, issue notes, bonds, certificates of indebtedness, and other obligations, receive funds from members and pay interest thereon, issue capital stock and certificates representing equity interests in assets, allocate earnings and losses at the times and in the manner the articles of incorporation or bylaws or other contract specify, create book credits, capital funds, and reserves, and secure obligations by mortgage or pledge of any of its property, franchises, and income;

(viii) To lend money for corporate purposes, invest and reinvest funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

(ix) To conduct business, carry on operations, have offices, and exercise the powers granted by this subsection, within or without this commonwealth;

(x) To elect or appoint officers and agents of the corporation, define their duties, and fix their compensation;

(xi) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this commonwealth, for the administration and regulation of the affairs of the cooperative;

(xii) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(xiii) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

(xiv) To be a partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise;

(xv) To cease corporate activities and surrender its corporate franchise;

(xvi) To purchase, acquire, distribute, sell, resell, supply, and dispose of energy in any form or other services;

(xvii) To purchase, acquire, distribute, sell, resell, supply, and provide any energy or energy-related services to wholesale or retail customers within or without the commonwealth;

(xviii) To have access on comparable terms to energy transportation systems for delivery of energy to its members and other customers;

(xix) To sell electricity to any consumer, including, but not limited to, a consumer that receives electric distribution, transmission, or other services from an entity other than the municipal light plant cooperative organized under subsection (a), other than consumers served by municipal light plants which are not members of a municipal light plant cooperative, that is selling such electricity to such consumer; provided, that an entity providing such distribution, transmission, or other services shall provide non-discriminatory access and pricing for the use of its property and services and shall otherwise facilitate such transactions;

(xx) To contract with natural persons, firms, corporations, business trusts, partnerships, public and private agencies, non-profit organizations and corporations, other cooperatives, and local municipalities to accomplish any purposes of the cooperative;



(xxi) To have and exercise all powers necessary or convenient to effect its purposes;  
(xxii) To exercise and perform all or part of its power and functions through one or more wholly-owned or partly-owned corporations or other business entities; and

(xxiii) To exercise all other powers not inconsistent with the state constitution or the United States Constitution, which may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(e) A municipal lighting plant cooperative organized pursuant to this section shall be managed by a board of not less than three directors. The directors shall be elected by and from the members of the cooperative at such time, in such manner, and for such term of office as the bylaws may prescribe and shall hold office during the term for which they were elected and until their successors are elected and qualified. Any vacancy occurring in the board of directors, and any directorship to be filled by reason of an increase in the number of directors, may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office.

(f) Any municipal lighting plant cooperative organized pursuant to the provisions of this section may enact bylaws to govern itself in the implementation of the provisions of this section which are not inconsistent with the provisions of this section.

(g) The provisions of chapter 258 shall apply to the municipal lighting plant cooperatives established under the provisions of this section as if said municipal lighting plant cooperatives were municipal lighting plants.

(h) The right of a member of a cooperative to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on each matter submitted to a vote of members.

(i) A member of the board of directors or an officer of any cooperative subject to the provisions of this section shall have immunity from liability equivalent to that granted to directors and officers of for-profit corporations in the commonwealth. Except for debts lawfully contracted between a member and the cooperative, no member shall be liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock.

(j) Except as provided for herein, a municipal lighting plant cooperative shall be exempt from paying taxes, including, but not limited to taxes on its income and real and personal property situated within the commonwealth and owned by the municipal light plant cooperative; provided, however, that the cooperative shall agree, in lieu of property taxes, to pay to any governmental body authorized to levy local property taxes the amount which would be assessable as local property taxes on the real and tangible personal property if such



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property were the property of a domestic corporation; provided, further, that no such municipal lighting plant cooperative shall be allowed to commence any such operations allowed pursuant to this section or exercise any such powers pursuant to subsection (d) until such payment in lieu of taxes is executed. The cooperative shall pay all sales or excise taxes which are properly assessed on its business activities under this section to the extent such taxes are assessed against domestic corporations.

(k) A municipal lighting plant cooperative created pursuant to the provisions of this section shall be exempt from the public records requirement of section 10 of chapter 66 and the open meeting requirements of section 23B of chapter 39 only in those instances when necessary for protecting trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter.

Section 47D. A municipal lighting plant created pursuant to the provisions of this chapter or any special law shall be exempt from the public records requirement of section 10 of chapter 66 and the open meeting requirements of section 23B of chapter 39 only in those instances when necessary for protecting trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter when such municipal lighting plant board determines that such disclosure will adversely affect its ability to conduct business in relation to or other entities making, selling, or distributing electric power and energy pursuant to this chapter.

**SECTION 198.** Section 56D of said chapter 164, as appearing in the 196 Official Edition, is hereby amended by striking out the fifth and sixth sentences and inserting in place thereof the following sentence:- This section shall not apply to contracts for the supply of electricity to a municipal lighting plant.

**SECTION 199.** Section 57 of said chapter 164, as so appearing, is hereby amended by inserting after the word "years", in line 32, the following words:- , and for the cost of plant, nuclear decommissioning costs, the costs of contractual commitments, and deferred costs related to such commitments which the city council, the board of selectmen, or the municipal light board, if any, determines are above market value.

**SECTION 200.** Section 69G of said chapter 164, as so appearing, is hereby amended by striking out the definition of "Certificate" and inserting in place thereof the following definition:-

"Certificate", a certificate of environmental impact and public interest, as provided for in sections 69K and 69K½.

**SECTION 201.** Said section 69G of said chapter 164, as so appearing, is hereby further amended by striking out, in line 18, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 202.** Said section 69G of said chapter 164, as so appearing, is hereby further amended by striking out the definition of "Facility" and inserting in place thereof the following definition:-

"Facility", (1) a generating facility; (2) a new electric transmission line having a design rating of 69 kilovolts or more and which is one mile or more in length on a new transmission corridor; (3) a new electric transmission line having a design rating of 115 kilovolts or more which is 10 miles or more in length on an existing transmission corridor except reconductoring or rebuilding of transmission lines at the same voltage; (4) an ancillary structure which is an integral part of the operation of any transmission line which is a facility; (5) a unit, including associated buildings and structures, designed for or capable of the manufacture or storage of gas, except such units below a minimum threshold size as established by regulation; and (6) a new pipeline for the transmission of gas having a normal operating pressure in excess of 100 pounds per square inch gauge which is greater than one mile in length except restructuring, rebuilding, or relaying of existing transmission lines of the same capacity.

**SECTION 203.** Said section 69G of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Gas company" the following definition:-

"Generating facility", any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities.

**SECTION 204.** Section 69H of said chapter 164, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There is hereby established an energy facilities siting board within the department, but not under the supervision or control of the department. Said board shall implement the provisions contained in sections 69H to 69Q, inclusive, so as to provide a reliable energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost. To accomplish this, the board shall review the need for, cost of, and environmental impacts of transmission lines, natural gas pipelines, facilities for the manufacture and storage of gas, and oil facilities; provided, however, that the board shall review only the environmental impacts of generating facilities, consistent with the commonwealth's policy of allowing market forces to determine the need for and cost of such facilities. Such reviews shall be conducted consistent with section 69J¼ for generating facilities and with section 69J for all other facilities.

**SECTION 205.** The fifth paragraph of said section 69H of said chapter 164, as so appearing, is hereby further amended by adding the following paragraph:-

(4) The board shall have the opportunity to issue orders with respect to any matter over which it has jurisdiction. Any applicant who violates any such order shall be subject to a civil penalty not to exceed \$1000 for each violation for each day that the violation persists; provided, however, that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

**SECTION 206.** Section 69H½ of said chapter 164, as so appearing, is hereby amended by striking out, in line 20, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 207.** Section 69I of said chapter 164, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

As regional plans covering longer time periods are developed, they shall be filed with the department. Neither said department, the board, nor any other person, in taking any action pursuant to sections 69I to 69J½, inclusive, shall be subject to any of the provisions of sections 61 to 62H, inclusive, of chapter 30.

**SECTION 208.** Said section 69I of said chapter 164, as so appearing, is hereby further amended by adding the following two paragraphs:-

The department and the siting board shall prepare and file with the general court, by March first of each year, an annual report for the previous calendar year detailing the substance of all plans and forecasts filed pursuant to this section, any and all actions taken by the department pursuant to implementing the provisions of this section, and an analysis of the reliability and diversity of electric power and gas needs based on such filings with the department and decisions made and issued by the department.

The department is authorized to exempt any electric or gas company from any or all provisions of this section upon a determination by the department and the siting board, after notice and hearing, that an alternative process is in the public interest.

**SECTION 209.** Section 69J of said chapter 164, as so appearing, is hereby amended by adding the following paragraph:-

The provisions of this section shall not apply in the case of a petition to construct a generating facility, which shall be subject to the provisions of section 69J½.

**SECTION 210.** Said chapter 164 is hereby further amended by inserting after section 69J the following section:-

Section 69J½. No applicant shall commence construction of a generating facility unless a petition for approval of construction of that generating facility has been approved by the board. In addition, no state agency of the commonwealth shall issue a construction permit for any such generating facility unless the petition to construct such generating facility has been approved by the board pursuant to this section.

To streamline its review of petitions to construct generating facilities which have state of the art environmental performance characteristics, the board periodically shall conduct a rulemaking to establish a technology performance standard generating facilities emissions, including, but not limited to, emissions of sulfur dioxide, nitrogen oxides, particulate matter, fine particulates, carbon monoxide, volatile organic compounds, and heavy metals. As to each such pollutant, the performance standard shall reflect the best available control technology or the lowest achievable emissions rate, whichever would be applicable in the commonwealth for such pollutant that year. The performance standard shall also reflect the best available and most efficient technology to control and reduce water withdrawals. Such standard shall reflect emission rates that are achievable by state of the art fossil fuel generating and control technologies, as demonstrated by air permits for construction that have been issued by the department of environmental protection. The technology performance standard shall be used solely to determine whether a petition to construct a generating facility shall include information regarding other fossil fuel generation



technologies. The promulgation or application of this standard shall not in any way supersede or impair the authority of the department of environmental protection with respect to these or other facilities.

A petition to construct a generating facility shall include, in such form and detail as the board shall from time to time prescribe, the following information: (i) a description of the proposed generating facility, including any ancillary structures and related facilities; (ii) a description of the environmental impacts and the costs associated with the mitigation, control, or reduction of the environmental impacts of the proposed generating facility; (iii) a description of the project development and site selection process used in choosing the design and location of the proposed generating facility; (iv) either (a) evidence that the expected emissions from the facility meet the technology performance standard in effect at the time of filing, or (b) a description of the environmental impacts, costs, and reliability of other fossil fuel generating technologies, and an explanation of why the proposed technology was chosen; and (v) any other information necessary to demonstrate that the generating facility meets the requirements for approval specified in this section.

The board shall, after public notice and a period for comment, be authorized to issue and revise its own list of guidelines. Sufficient data shall be required from the applicant by these guidelines to enable the board to review the local and regional land use impact, local and regional cumulative health impact, water resource impact, wetlands impact, air quality impact, solid waste impact, radiation impact, visual impact, and noise impact of the proposed generating facility; provided, however, that these guidelines shall not require any data related to the necessity or cost of the proposed generating facility, except for data related to the costs associated with the mitigation, control, or reduction of the environmental impacts of the proposed generating facility, and, if the proposed facility does not meet the technology performance standard in effect at the time of filing, data related to the costs, including costs associated with the mitigation, control, or reduction of environmental impacts, of other fossil fuel generating technologies. Within 60 days of the filing of a petition to construct a generating facility, the board shall conduct a public hearing in each locality in which the generating facility would be located. In addition, the board shall, within 180 days of the filing thereof, conduct public evidentiary hearings on every petition to construct a generating facility. Such evidentiary hearings shall be adjudicatory proceedings under the provisions of chapter 30A.

The board shall, within one year from the date of filing, approve a petition to construct a generating facility if the board determines that the petition meets the following requirements: (i) the description of the proposed generating facility and its environmental impacts are substantially accurate and complete; (ii) the description of the site selection process used is accurate; and (iii) the plans for the construction of the proposed generating facility are consistent with current health and environmental protection policies of the commonwealth and with such energy policies as are adopted by the commonwealth for the specific purpose of guiding the decisions of the board; (iv) such plans minimize the environmental impacts consistent with the minimization of costs associated with the mitigation, control, and reduction of the environmental impacts of the proposed generating



facility; and (v) if the petitioner was required to provide information on other fossil fuel generating technologies, the construction of the proposed generating facility on balance contributes to a reliable, low-cost, diverse, regional energy supply with minimal environmental impacts. Nothing in this chapter shall be construed as requiring the board to make findings regarding the need for, the cost of, or alternative sites for a generating facility; provided, however, that the board may, at its discretion, evaluate a noticed alternative site for a generating facility if the applicant requests such an evaluation, or if such an evaluation is an efficient method of administering an alternative site review required by another state or local agency. In addition, nothing in this chapter shall be construed as requiring the board to make findings regarding alternative generating technologies for a proposed generating facility whose expected emissions meet the technology performance standard in effect at the time of filing.

If the board determines that the standards set forth above have not been met, it shall, within one year of the date of filing, either reject, in whole or in part, the petition, setting forth in writing its reasons for such rejection, or approve the petition subject to stated conditions. In the event of rejection or conditional approval, the applicant may, within 180 days, submit an amended petition. Public and evidentiary hearings on the amended petition shall be held on the same terms and conditions applicable to the original petition.

Upon fulfilling the requirements of this section, a generating facility shall be deemed to contribute to a necessary energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost. If the board approves a petition to construct a generating facility, the approval shall have no bearing or precedent-setting effect upon any department proceeding regarding the recovery of costs associated with the generating facility or upon any proceeding conducted pursuant to section 94A of this chapter.

**SECTION 211.** Section 69K of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the word "need" and inserting in place thereof the following word:- interest.

**SECTION 212.** Said section 69K of said chapter 164, as so appearing, is hereby further amended by striking out, in line 26, the word "need" and inserting in place thereof the following word:- interest.

**SECTION 213.** Said section 69K of said chapter 164, as so appearing, is hereby further amended by adding the following paragraph:-

The provisions of this section shall not apply in the case of a petition for a certificate with respect to a generating facility, which shall be subject to the provisions of section 69K½.

**SECTION 214.** Said chapter 164 is hereby further amended by inserting after section 69K the following section:-

Section 69K½. Any applicant that proposes to construct or operate a generating facility in the commonwealth may petition the board for a certificate of environmental impact and public interest with respect to such generating facility. The board shall consider such petition; provided, that (i) the applicant is prevented from building a generating facility

because it cannot meet standards imposed by a state or local agency with reasonable and commercially available equipment; or (ii) because the processing or granting by a state or local agency of any approval, consent, permit, or certificate has been unduly delayed for any reason, including the preparation and publication of any environmental impact report required by section 62 of chapter 30; or (iii) the applicant believes there are inconsistencies among resource use permits issued by such state or local agencies; or (iv) the applicant believes that a nonregulatory issue or condition has been raised or imposed by such state or local agencies, such as, but not limited to, aesthetics and recreation; or (v) the generating facility cannot be constructed due to any disapprovals, conditions, or denials by a state or local agency or body, except with respect to any lands or interests therein, excluding public ways, owned or managed by any state agency or local government; or (vi) the facility cannot be constructed because of delays caused by the appeal of any approval, consent, permit, or certificate.

In addition to the foregoing determinations, the board shall, upon petition, consider an application for a certificate of environmental impact and public interest if it finds that any state or local agency has imposed a burdensome condition or limitation on any license or permit which has a substantial impact on the responsibilities of the board as set forth pursuant to section 69H. Any generating facility, with respect to which a certificate is issued by the board, shall thereafter be constructed, maintained, and operated in conformity with such certificate and any terms and conditions contained therein.

A certificate shall be issued only in accordance with the provisions of sections 69K to 69 O½, inclusive. Notwithstanding the provisions of any other law to the contrary, a certificate may be so issued; provided, however, that when so issued no state agency or local government shall require any approval, consent, permit, certificate, or condition for the construction, operation, or maintenance of the generating facility with respect to which the certificate is issued, and no state agency or local government shall impose or enforce any law, ordinance, by-law, rule, or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation, or maintenance of such generating facility; provided, however, that the board shall not issue a certificate, the effect of which would be to grant or modify a permit, approval, or authorization, which, if so granted or modified by the appropriate state or local agency, would be invalid because of a conflict with applicable federal water or air standards or requirements. A certificate, if issued, shall be in the form of a composite of all individual permits, approvals, or authorizations which would otherwise be necessary for the construction and operation of the generating facility, and that portion of the certificate which relates to subject matters within the jurisdiction of a state or local agency shall be enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by the said agency.

A certificate may be transferred to any other electric company by the holder thereof, subject to the terms and conditions contained therein. The board may amend the terms and conditions of a certificate in accordance with the requirement of subsection (d) of section 69L½. Each national pollutant discharge elimination system permit issued by the board pursuant to the provisions of this chapter shall have a fixed term which shall not exceed five

years and which shall commence to run when the certificate is issued.

**SECTION 215.** Section 69L of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the word "An" and inserting in place thereof the following:- Except in the case of an application for a certificate with respect to a generating facility, which shall be subject to the provisions of section 69L½, an.

**SECTION 216.** Said chapter 164 is hereby further amended by inserting after section 69L the following section:-

Section 69L½. (a) An applicant for a certificate pursuant to section 69K½ shall file with the board a petition, in such form as the board may prescribe, containing the following information:

(1) A description of the location of the generating facility to be constructed or operated thereon;

(2) A summary of the studies which the applicant has made of the environmental impact of the generating facility and a statement of the reasons for its choice of the location;

(3) A copy of the petition for the construction of a generating facility approved under the provisions of section 69J¼; provided, however, that this requirement may be waived by the board for emergency or unforeseen conditions which may jeopardize the health and safety of the public;

(4) A statement setting forth the reasons for the application for the certificate, which statement shall include the following: (i) all licenses, permits, and other regulatory approvals required by law for the construction or operation of the generating facility which have been granted; (ii) a representation as to the good faith effort made by the applicant to obtain from state agencies and local governments the licenses, permits, and other regulatory approvals required by law for construction or operation of the generating facility; (iii) either (a) a representation as to the inability, if any, of the applicant to comply with any law, ordinance, by-law, rule, and regulation affecting the construction or operation of the generating facility, or (b) a representation as to the applicant's inability to proceed with the construction or operation of the generating facility by reason of the denial, delay, appeal, or imposition of a burdensome condition in issuing specified licenses, permits, or approvals; and (iv) such other information as the applicant may deem relevant or the board may by regulation require; and

(5) A copy or copies of said information, studies, and other pertinent information shall be filed and made available for public inspection and copying; provided, however, that the board shall not permit disclosure, other than to another government agency concerned with the same matter, of any information, other than data pertaining to the nature or constituency of any water or air discharge, obtained by or submitted to the board pursuant to the provisions of sections 69H to 69R, inclusive, upon a showing, satisfactory to a majority of the board, that such information if made public would divulge methods or processes entitled to protection as trade secrets of any person.

(b) Each petition shall be accompanied by an affidavit of the applicant certifying that: (i) a copy of the petition and a notice as to the date on which the petition is to be filed have



been served on each of the following: the mayor of each city and the board of selectmen of each town in which any part of the proposed generating facility is to be located, the secretary of each executive office, and the attorney general; and (ii) public notice thereof containing a summary of the petition and the date on which notice is to be filed was given by publication, in such manner as the board may by regulation provide.

(c) Failure to give such service or notice may be cured pursuant to an order of the board subsequent to the filing of the petition. The board may further order additional service and notice on such other persons as it deems appropriate.

(d) Each petition may be amended by the applicant at any time, subject to such reasonable requirements of notice as the board may impose. A petition for an amendment of a certificate shall be in such form and subject to such requirements of notice and hearings as the board may provide, consistent with the nature and extent of the proposed amendment.

**SECTION 217.** Section 69M of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 2, the words "section sixty-nine L" and inserting in place thereof the following words:- section 69L or section 69L½, whichever is applicable.

**SECTION 218.** Said section 69M of said chapter 164, as so appearing, is hereby further amended by striking out, in line 5, the words "section sixty-nine L" and inserting in place thereof the following words:- section 69L or section 69L½, whichever is applicable,.

**SECTION 219.** Section 69N of said chapter 164, as so appearing, is hereby amended by striking out, in line 4, the words "section sixty-nine L" and inserting in place thereof the following words:- section 69L or section 69L½, whichever is applicable.

**SECTION 220.** Said section 69N of said chapter 164, as so appearing, is hereby further amended by striking out, in line 6, the words "section sixty-nine L" and inserting in place thereof the following words:- 69L or section 69L½, whichever is applicable.

**SECTION 221.** Section 69 O of said chapter 164, as so appearing, is hereby amended by inserting after the word "petition", in line 2, the following words:- for a certificate pursuant to section 69K.

**SECTION 222.** Said section 69 O of said chapter 164, as so appearing, is hereby further amended by adding the following paragraph:-

The provisions of this section shall not apply in the case of a petition for a certificate with respect to a generating facility filed pursuant to section 69K½, which shall be subject to the provisions of section 69 O½.

**SECTION 223.** Said chapter 164 is hereby further amended by inserting after section 69 O the following section:-

Section 69 O½. As expeditiously as possible, but in no event later than 180 days from the date of filing a petition for a certificate with regard to a generating facility pursuant to section 69K½, the board shall, by a majority vote, render a decision upon the petition either by denying the petition or by granting the petition, or by granting the petition subject to such terms and conditions as the board may determine. Neither the board nor any other person shall be bound by the requirements of sections 61 to 62H, inclusive, of chapter 30 to the extent that compliance with said requirements will prevent the board from rendering a decision



upon the petition within the time limits of the section.

A certificate shall be issued only if the board determines that the issues raised by state agencies or local governments regarding the proposed generating facility have been addressed in a comprehensive manner by the board either in its approval of said generating facility under section 69J $\frac{1}{4}$  or in its review under section 69K $\frac{1}{2}$ . The board shall make its decision in writing and shall include therein its findings and opinions with respect to the following: (i) the compatibility of the generating facility with considerations of environmental protection, public health, and public safety; (ii) the extent to which construction and operation of the generating facility will fail to conform with existing state and local laws, ordinances, by-laws, rules, and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in this chapter; and (iii) the public interest or convenience requiring construction and operation of the generating facility.

**SECTION 224.** Section 69R of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any electric or gas company, generation company, or wholesale generation company may petition the department for the right to exercise the power of eminent domain with respect to the facility or facilities specified and contained in a petition submitted in accordance with section 69J or a bulk power supply substation if such electric or gas company is unable to reach agreement with the owners of land for the acquisition of any necessary estate or interest in land. The applicant shall forward, at the time of filing such petition, a copy thereof to each city, town, and property owner affected.

**SECTION 225.** Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words "the community in which the greater portion of the unit is located" and inserting in place thereof the following:- in the community in which the land to be taken is located. For facilities involving takings in several communities, a public hearing or hearings shall be held in communities in proximity to the land to be taken, as determined by the department.

**SECTION 226.** Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

This section shall not be construed as abrogating the department's jurisdiction described in section 72 in respect to transmission lines or the department's jurisdiction described in sections 75B to 75G, inclusive, in respect to natural gas transmission lines.

**SECTION 227.** Section 76B of said chapter 164, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 228.** Said chapter 164 is hereby further amended by striking out section 78, as so appearing, and inserting in place thereof the following section:-

Section 78. If any electric, gas, generation, transmission, or distribution company, or any supplier violates or fails to comply with the provisions of law, or violates or fails to comply with any lawful order of the department, the department shall give written notice thereof to such company or supplier and to the attorney general.

**SECTION 229.** Said chapter 164 is hereby further amended by striking out section 79, as so appearing, and inserting in place thereof the following section:-

Section 79. The supreme judicial or superior court shall have jurisdiction in equity, upon application of the department, to enforce its lawful orders and all laws relative to cities and towns engaged in the manufacture and sale or distribution and sale of electricity or gas, generation, transmission or distribution companies, or suppliers.

**SECTION 230.** Section 87 of said chapter 164, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "manufacture or sale" and inserting in place thereof the following words:- manufacture, sale or distribution.

**SECTION 231.** Section 92 of said chapter 164, as so appearing, is hereby amended by inserting after the word "or", in line 3, the second time it appears, the following words:- the distribution of.

**SECTION 232.** Said section 92 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 10, the words "electricity or".

**SECTION 233.** Section 92A of said chapter 164, as so appearing, is hereby amended by striking out, in line 2, the words "or electricity".

**SECTION 234.** Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking out, in line 5, the words "or electricity".

**SECTION 235.** Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking out, in line 9, the words "or electricity".

**SECTION 236.** Said section 92A of said chapter 164, as so appearing, is hereby further amended by striking out, in line 15, the words "or electricity".

**SECTION 237.** The last paragraph of section 94 of said chapter 164, as so appearing, is hereby amended by adding the following sentence:- Generation companies and suppliers shall be exempt from the provisions of this section.

**SECTION 238.** Section 94A of said chapter 164, as so appearing, is hereby amended by adding the following sentence:- The department is authorized to exempt any electric or generation company from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

**SECTION 239.** Section 94G of said chapter 164, as so appearing, is hereby amended by adding the following subsection:-

(g) The department is authorized to exempt any electric or generation company or supplier from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

**SECTION 240.** Section 94G½ of said chapter 164, as so appearing, is hereby amended by adding the following paragraph:-

The department is authorized to exempt any electric, generation, or gas company from any or all of the provisions of this section upon a determination by the department, after notice and a hearing, that an alternative process or incentive mechanism is in the public interest.

**SECTION 241.** Section 95 of said chapter 164, as so appearing, is hereby amended by striking out, in line 2, the words "manufacture or sale" and inserting in place thereof the following words:- manufacture, sale, or distribution.

**SECTION 242.** Section 96 of said chapter 164, as so appearing, is hereby amended by inserting after the word "companies", in line 4, the following:- or to a wholesale generation company.

**SECTION 243.** Said section 96 of said chapter 164, as so appearing, is hereby further amended by inserting after the word "interest", in line 12, the following words:- ; provided, however, that the purchase or sale of properties by, or the consolidation or merger of, wholesale generation companies shall not require departmental approval.

**SECTION 244.** Said chapter 164 is hereby further amended by inserting after section 102B the following section:-

Section 102C. (a) The attorney general is hereby authorized to bring an action under section 4 of chapter 93A to enforce the consumer protection provisions of sections 1B, 1C, 1D, 1E, 1F, and 137 of this chapter and to obtain restitution, civil penalties, injunctive relief and any other relief awarded pursuant to said chapter 93A. At the attorney general's discretion, pursuant to subsection (c) of section 2 of said chapter 93A, the attorney general shall promulgate rules and regulations relative to methods, acts, and practices of electric and generation companies and suppliers.

(b) All electric companies, aggregators, marketers, and all suppliers doing business in the commonwealth shall submit to arbitration, if such arbitration is requested by a retail electric customer or any company or other such entity organized and governed pursuant to the provisions of this chapter alleging an unfair or deceptive trade practice by its retail electric suppliers or electric company. The department shall, in coordination with the office of consumer affairs, promulgate rules and regulations to implement this section to provide for the expeditious treatment of complaints brought by any retail consumer. Said rules and regulations shall include, but not be limited to, a description of the procedures available to redress violations of the rules and regulations and afford said consumers the opportunity to participate in a voluntary mediation process with the supplier or electric company to settle the claim without recourse to arbitration, and a provision that any violation of said rules and regulations shall be deemed an unfair and deceptive act pursuant to the provisions of chapter 93A. Said arbitration shall be performed by the department or by a state-certified professional arbitrator or arbitration firm appointed by the department and operating in accordance with the rules and regulations promulgated by the department.

**SECTION 245.** Section 125A of said chapter 164, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "company", in line 1, the following words:- , generation company, wholesale generation company, or supplier.



**SECTION 246.** Section 128 of said chapter 164, as so appearing, is hereby amended by inserting after the word "distribution", in line 2, the following words:- or only distribution..

**SECTION 247.** Said chapter 164 is hereby further amended by adding the following four sections:-

Section 134. (a) Any municipality or any group of municipalities acting together within the commonwealth is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries; provided, however, that such municipality or group of municipalities shall not aggregate electrical load if such are served by an existing municipal lighting plant. Such municipality or group of municipalities may group retail electricity customers to solicit bids, broker, and contract for electric power and energy services for such customers. Such municipality or group of municipalities may enter into agreements for services to facilitate the sale and purchase of electric energy and other related services. Such service agreements may be entered into by a single city, town, county, or by a group of cities, towns, or counties.

A municipality or group of municipalities which aggregates its electrical load and operates pursuant to the provisions of this section shall not be considered a utility engaging in the wholesale purchase and resale of electric power. Providing electric power or energy services to aggregated customers within a municipality or group of municipalities shall not be considered a wholesale utility transaction. The provision of aggregated electric power and energy services as authorized by this section shall be regulated by any applicable laws or regulations which govern aggregated electric power and energy services in competitive markets.

A town may initiate a process to aggregate electrical load upon authorization by a majority vote of town meeting or town council. A city may initiate a process to authorize aggregation by a majority vote of the city council, with the approval of the mayor, or the city manager in a Plan D or Plan E city. Two or more municipalities may as a group initiate a process jointly to authorize aggregation by a majority vote of each particular municipality as herein required.

Upon an affirmative vote to initiate said process, a municipality or group of municipalities establishing load aggregation pursuant to this section shall, in consultation with the division of energy resources, pursuant to section 6 of chapter 25A, develop a plan, for review by its citizens, detailing the process and consequences of aggregation. Any municipal load aggregation plan established pursuant to this section shall provide for universal access, reliability, and equitable treatment of all classes of customers and shall meet any requirements established by law or the department concerning aggregated service. Said plan shall be filed with the department, for its final review and approval, and shall include, without limitation, an organizational structure of the program, its operations, and its funding; rate setting and other costs to participants; the methods for entering and terminating agreements with other entities; the rights and responsibilities of program participants; and termination of the program. Prior to its decision, the department shall conduct a public hearing. The department shall not approve any such plan if the price for energy would initially exceed the



price of the standard offer, as established pursuant to section 1B of this chapter, for such citizens in the municipality or group of municipalities, unless the applicant can demonstrate that the price for energy under the aggregation plan will be lower than the standard offer in the subsequent years or the applicant can demonstrate that such excess price is due to the purchase of renewable energy as described by the division of energy resources pursuant to chapter 25A.

Participation by any retail customer in a municipal or group aggregation program shall be voluntary. If such aggregated entity is not fully operational on the retail access date, any ratepayer to be automatically enrolled therein shall receive standard offer service unless affirmatively electing not to do so. Within 30 days of the date the aggregated entity is fully operational, such ratepayers shall be transferred to the aggregated entity according to an opt-out provision herein. Following adoption of aggregation through the votes specified above, such program shall allow any retail customer to opt-out and choose any supplier or provider such retail customer wishes. Once enrolled in the aggregated entity, any ratepayer choosing to opt-out within 180 days shall do so without penalty and shall be entitled to receive standard offer service as if he was originally enrolled therein. Nothing in this section shall be construed as authorizing any city or town or any municipal retail load aggregator to restrict the ability of retail electric customers to obtain or receive service from any authorized provider thereof.

It shall be the duty of the aggregated entity to fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and that they have the right to opt-out of the aggregated entity without penalty. In addition, such disclosure shall prominently state all charges to be made and shall include full disclosure of the standard offer rate, how to access it, and the fact that it is available to them without penalty. The division of energy resources shall furnish, without charge, to any citizen a list of all other supply options available to them in a meaningful format that shall enable comparison of price and product.

(b) A municipality or group of municipalities establishing a load aggregation program pursuant to subsection (a) may, by a vote of its town meeting or legislative body, whichever is applicable, adopt an energy plan which shall define the manner in which the municipality or municipalities may implement demand side management programs and renewable energy programs that are consistent with any state energy conservation goals developed pursuant to chapter 25A or chapter 164. After adoption of the energy plan by such town meeting or other legislative body, the city or town clerk shall submit the plan to the department to certify that it is consistent with any such state energy conservation goals. If the plan is certified by the department, the municipality or group of municipalities may apply to the Massachusetts Technology Park Corporation for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to subsection (a) of chapter 40J, and receive, and if approved, expend moneys from the demand side management system benefit charges or line charges in an amount not to exceed that contributed by retail customers within said municipality or group municipalities. This will not prevent said municipality or

municipalities from applying to the Massachusetts Technology Park Corporation for additional funds. If the department determines that the energy plan is not consistent with any such state-wide goals, it shall inform the municipality or group of municipalities within six months by written notice the reasons why it is not consistent with any such state-wide goals. The municipality or group of municipalities may re-apply at anytime with an amended version of the energy plan.

The municipality or group of municipalities shall not be prohibited from proposing for certification an energy plan which is more specific, detailed, or comprehensive or which covers additional subject areas than any such state-wide conservation goals. This subsection shall not prohibit a municipality or group of municipalities from considering, adopting, enforcing, or in any other way administering an energy plan which does not comply with any such state-wide conservation goals so long as it does not violate the laws of the commonwealth.

The municipality or group of municipalities shall, within two years of approval of its plan or such further time as the department may allow, provide written notice to the department that its plan is implemented. The department may revoke certification of the energy plan if the municipality or group of municipalities fails to substantially implement the plan or if it is determined by independent audit that the funds were misspent within the time allowed under this subsection.

Section 135. Any for-profit corporation, non-profit corporation, or quasi-public authority, organized pursuant to the laws of the commonwealth, is hereby authorized to establish a corporate retail load aggregator for the purpose of purchasing bulk electricity to serve affiliated corporations or affiliated business units organized pursuant to the laws of the commonwealth which are not sited within the boundaries of a municipal light department within the commonwealth. A corporate retail load aggregator shall be authorized (i) to purchase electricity from any entity authorized to sell electricity; (ii) to sell electricity at retail to any corporate affiliate or business unit located outside of the boundaries of communities served by municipal light departments within the commonwealth; and (iii) to enter into such contracts and agreements as are necessary or appropriate to provide such service. A corporate retail load aggregator shall be prohibited from engaging in the generation of electric power and from owning or operating any facilities for the transmission or distribution of electric power, with the exception of meters.

A corporation may establish a corporate retail load aggregator upon authorization by a majority vote of its board of directors. After a corporation has voted to establish a corporate retail load aggregator, the secretary of the corporation shall forthwith transmit to the department a certified copy thereof. A corporation that has established a corporate retail load aggregator shall appoint, by a majority vote of its board of directors or, as the case may be, a manager or a managing board of the corporate retail load aggregator. Such manager or managing board shall have full charge of the operation and management of the corporate retail load aggregator; the entry into contracts and agreements pursuant to which power will be purchased and sold; the employment of attorneys, agents, and servants; the collection of

bills; and the keeping of accounts. At the discretion of the corporation, corporate officials may serve as such manager or on such managing board. The compensation and term of office of such manager or managing board shall be fixed by the corporation.

Nothing in this section shall be construed as relieving any company which provides generation, transmission, or distribution of electricity or any combination thereof, from any obligation relative to the transmission and distribution of electricity to the corporation forming a corporate retail load aggregator.

Corporate load aggregators shall be subject to any rules and regulations promulgated by the department through existing statute or amendments thereto, including licensure requirements.

Section 136. (a) Any number of persons may associate themselves together as a cooperative, with or without capital stock, for the transaction of any lawful business associated with the purchase, acquisition, distribution, sale, resale, supply, and disposition of energy or energy-related services to wholesale or retail customers, subject to federal and state laws and regulations. Unless otherwise served by a municipal light plant constructed or acquired pursuant to the provisions of this chapter or special law, any natural person, firm, corporation, business trust, partnership, public or private agency, non-profit organization or corporation, cooperative, or local municipality may become a member or shareholder of a cooperative. Such member or shareholder may thus access any services the cooperative has to offer and participate in the governance of the cooperative as provided in this subsection or by the bylaws of the cooperative.

(b) A cooperative may be established for any purpose outlined in subsection (a) of this section that may lawfully be carried out by any other corporation; provided, that a cooperative shall be organized and shall conduct its business primarily for the mutual benefit of its members as patrons of the cooperative. A cooperative shall have all of the powers of a natural person, including the power to participate with others in any partnership, joint venture, or other association, transaction, or arrangement of any kind. In addition, each cooperative subject to this chapter shall have the following powers:

(i) To have perpetual succession by its corporate name unless a limited period of duration is stated in the articles of incorporation;

(ii) To sue and be sued, complain, and defend its corporate name;

(iii) To have and use a corporate seal;

(iv) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and deal in and with real or personal property or any interest therein, wherever situated;

(v) To sell, convey, mortgage, pledge, lease, exchange, transfer, or otherwise dispose of all or any part of its property and assets;

(vi) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, use, and deal in and with shares or other interest in, or obligations of, other domestic or foreign corporations, associations, partnerships, or individuals, or direct or indirect obligations of the United States or any other government, state, territory, governmental district, or municipality, or any instrumentality thereof;



(vii) To make contracts and incur liabilities, borrow money at rates of interest the cooperative may determine, issue notes, bonds, certificates of indebtedness, and other obligations, receive funds from members and pay interest thereon, issue capital stock and certificates representing equity interests in assets, allocate earnings and losses at the times and in the manner the articles of incorporation or bylaws or other contract specify, create book credits, capital funds, and reserves, and secure obligations by mortgage or pledge of any of its property, franchises, and income;

(viii) To lend money for corporate purposes, invest and reinvest funds, and take and hold real and personal property as security for the payment of funds loaned or invested;

(ix) To conduct business, carry on operations, have offices, and exercise the powers granted by this subsection, within or without this commonwealth;

(x) To elect or appoint officers and agents of the corporation, define their duties, and fix their compensation;

(xi) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this commonwealth, for the administration and regulation of the affairs of the cooperative;

(xii) To make donations for the public welfare or for charitable, scientific, or educational purposes;

(xiii) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

(xiv) To be a partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise;

(xv) To cease corporate activities and surrender its corporate franchise;

(xvi) To purchase, acquire, distribute, sell, resell, supply, and dispose of energy or other services;

(xvii) To purchase, acquire, distribute, sell, resell, supply, and provide any energy or energy-related services to wholesale or retail customers;

(xviii) To have access on comparable terms to energy transportation systems for delivery of energy to its members and other customers;

(xix) To sell electricity to any consumer, including, but not limited to, a consumer that receives electric distribution, transmission, or other services from an entity other than the cooperative organized under subsection (a), other than consumers served by municipal light plants, that is selling such electricity to such consumer; provided, that an entity providing such distribution, transmission, or other services shall provide non-discriminatory access and pricing for the use of its property and services and shall otherwise facilitate such transactions;

(xx) To contract with natural persons, firms, corporations, business trusts, partnerships, public and private agencies, non-profit organizations and corporations, other cooperatives, and local municipalities to accomplish any purposes of the cooperative; and

(xxi) To have and exercise all powers necessary or convenient to effect its purposes.



(c) A cooperative organized pursuant to this section shall be managed by a board of not less than three directors. The directors shall be elected by and from the members of the cooperative at such time, in such manner, and for such term of office as the bylaws may prescribe and shall hold office during the term for which they were elected and until their successors are elected and qualified. Any vacancy occurring in the board of directors, and any directorship to be filled by reason of an increase in the number of directors, may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office.

(d) Any cooperative organized pursuant to the provisions of this section may enact bylaws to govern itself in the implementation of the provisions of this section which are not inconsistent with the provisions of this section.

(e) The right of a member of a cooperative to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on each matter submitted to a vote of members.

(f) A member of the board of directors or an officer of any cooperative subject to the provisions of this section shall have immunity from liability equivalent to that granted to directors and officers of for-profit corporations in the commonwealth. Except for debts lawfully contracted between a member and the cooperative, no member shall be liable for the debts of the cooperative to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock.

Section 137. Notwithstanding any general or special law, rule, or regulation to the contrary, any non-profit institution in the commonwealth or any agency, executive office, department, board, commission, bureau, division, or authority of the commonwealth, including the executive, legislative, and judicial branches of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, may, unless located within the boundaries of a community served by a municipal light department, participate in and become a member of any program organized and administered, pursuant to the provisions of this chapter, by or on behalf of any public instrumentality of the commonwealth or of any subsidiary organization thereof for the purpose of group purchasing of electricity, natural gas, telecommunications services, or similar products.

**SECTION 248.** Section 1 of chapter 164A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 249.** Section 8 of said chapter 164A, as so appearing, is hereby amended by striking out, in lines 73 and 74, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 250.** Section 1 of chapter 165 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 251.** Section 28 of said chapter 165, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 252.** Section 4 of chapter 166 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 253.** Section 7 of said chapter 166, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 254.** Section 8 of said chapter 166, as so appearing, is hereby amended by striking out, in line 9, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 255.** Section 11 of said chapter 166, as so appearing, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 256.** Section 15E of said chapter 166, as so appearing, is hereby amended by striking out, in line 62, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 257.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 65, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 258.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 71, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 259.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in lines 76 and 77, the words "Department of Public Utilities" and inserting in place thereof the following words:- said department's.

**SECTION 260.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 83, the letters "D.P.U." and inserting in place thereof the following words:- said department's.

**SECTION 261.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 125, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 262.** Said section 15E of said chapter 166, as so appearing, is hereby further amended by striking out, in line 131, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 263.** Section 22A of said chapter 166, as so appearing, is hereby amended by striking out, in line 5, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 264.** Section 22L of said chapter 166, as so appearing, is hereby amended by striking out, in line 4, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 265.** Section 25A of said chapter 166, as so appearing, is hereby amended by striking out, in line 24, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 266.** Said section 25A of said chapter 166, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following two paragraphs:-

No attachments shall be made without the consent of the utility to the poles, towers, piers, abutments, conduits, manholes, and other fixtures necessary to sustain, protect, or operate the wires or cables of any lines used principally for the supply of electricity in bulk.

Said department, pursuant to the provisions of this section, shall determine a just and reasonable rate for the use of poles and communication ducts and conduits of a utility for attachments of a licensee by assuring the utility recovery of not less than the additional costs of making provision for attachments nor more than the proportional capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit occupied by the attachment. Such portion shall be computed by determining the percentage of the total usable space on a pole or the total capacity of the duct or conduit that is occupied by the attachment.

**SECTION 267.** Section 27 of said chapter 166, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 268.** Section 44 of said chapter 166, as so appearing, is hereby amended by striking out, in line 11, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 269.** Said section 44 of said chapter 166, as so appearing, is hereby further amended by striking out, in line 25, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 270.** Section 1 of chapter 166A of the General Laws, as amended by section 110 of chapter 43 of the acts of 1997, is hereby further amended by striking out the definition of "Community antenna television system" or "CATV system" and inserting in place thereof the following two definitions:-

"Commission", the commission appointed pursuant to section 2 of chapter 25.

"Community antenna television system" or "CATV system", a facility as defined by federal law at 47 USC section 522 (7).

**SECTION 271.** Said section 1 of said chapter 166A, as most recently amended by said section 33 of chapter 88 of the acts of 1997, is hereby further amended by striking out the definition of "Director" and inserting in place thereof the following definition:-

"Department", the department of telecommunications and energy established pursuant to chapter 25.



**SECTION 272.** Said section 1 of said chapter 166A, as most recently amended by said section 33 of said chapter 88, is hereby further amended by striking out the definition of "Licensee" and inserting in place thereof the following definition:-

"Licensee", a person who is issued a license pursuant to section 3.

**SECTION 273.** Section 2 of said chapter 166A, as most recently amended by section 35 of said chapter 88, is hereby further amended by striking out the first three paragraphs and inserting in place thereof the following paragraph:-

There shall be established in the department of telecommunications and energy a division of community antenna television. Subject to the provisions of section 4 of chapter 25, the chairman of the department shall designate a director of said division who shall have the full scope of authority of all of the provisions of this chapter, including, but not limited to, presiding at hearings pursuant to section 2A; the right to maintain or intervene in an action pursuant to section 12; the authority to hear appeals and issue enforcement orders pursuant to section 14; the authority to regulate rates pursuant to section 15; the authority to promulgate rules and regulations pursuant to section 16; its enforcement powers pursuant to section 17; and all other authority to carry out the duties and responsibilities of this chapter. Appeals of any decision, order, or ruling of the director may be brought within 14 days of the issuance of said decision to the full body of the commissioners of the department. When so requested by any party interested, the department shall rule upon any question of substantive law properly arising in the course of any proceeding before the division within 14 days. Except as otherwise provided in this chapter, appeals taken from orders of the department shall be governed by section 5 of chapter 25.

**SECTION 274.** Said section 10 of said chapter 166A is hereby amended by striking out, in line 6, as appearing in the 1996 Official Edition, the words "every three months" and inserting in place thereof the following:- annually.

**SECTION 275.** Section 12 of said chapter 166A, inserted by section 124 of said chapter 43, is hereby further amended by striking out the words "division and the consumer's council" and inserting in place thereof the following word:- department.

**SECTION 276.** Section 5 of chapter 167B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 78, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 277.** Section 20 of said chapter 167B, as so appearing, is hereby further amended by striking out, in line 55, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 278.** Section 1 of chapter 182 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 279.** Section 32 of chapter 184 of the General Laws, as so appearing, is hereby amended by striking out, in line 96, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.



**SECTION 280.** Section 5 of chapter 187 of the General Laws, as so appearing, is hereby amended by striking out, in line 17, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 281.** Said section 5 of said chapter 187, as so appearing, is hereby further amended by striking out, in line 23, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 282.** Section 76 of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 283.** Section 34 of chapter 262 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 56, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 284.** Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 60, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 285.** Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 66, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 286.** Said section 34 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 70, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 287.** Section 44 of said chapter 262, as so appearing, is hereby amended by striking out, in line 1, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 288.** Section 120D of chapter 266, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 41, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 289.** Section 6 of chapter 268 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 290.** Section 33 of said chapter 268, as so appearing, is hereby amended by striking out, in line 6, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 291.** Chapter 268A of the General Laws is hereby amended by inserting after section 8A the following section:-

Section 8B. No member of the department of telecommunications and energy commission, appointed pursuant to section 2 of chapter 25, shall, within one year after his service has ceased or terminated on said commission, be employed by, or lobby said commission on behalf of, any company or regulated industry over which said commission had jurisdiction during the tenure of such member of the commission.

**SECTION 292.** Section 17B of chapter 271 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the words "public utilities" and inserting in place thereof the following words:- telecommunications and energy.

**SECTION 293.** Chapter 614 of the acts of 1968 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

*Section 1. Declaration of Policy.* - It is hereby declared that, for the benefit of the people of the commonwealth, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the commonwealth be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that hospitals and other charitable institutions within the commonwealth be provided with appropriate additional means to expand, enlarge, and establish health care, hospital, charitable, and other related facilities; that it is essential that cultural institutions within the commonwealth be provided with appropriate additional means to expand the services and resources which they offer for the intellectual and artistic enrichment of the people of the commonwealth and for educational and scientific purposes; and that it is the purpose of this act to provide a measure of assistance and an alternative method to enable institutions for higher education, hospitals, other charitable institutions, and cultural institutions in the commonwealth to provide the facilities and structures which are sorely needed to accomplish the purposes of this act, all to the public benefit and good, to the extent and manner provided herein.

**SECTION 294.** Paragraph (b) of section 3 of said chapter 614, as most recently amended by section 1 of chapter 789 of the acts of 1985, is hereby further amended by inserting after the word "parties", in line 60, the following words:- ; and, notwithstanding anything in this definition to the contrary, "project" may also include any capital or operating expenditure which may legally be made by any participating institution and the thing produced or acquired by such expenditure.

**SECTION 295.** Paragraph (g) of said section 3 of said chapter 614, as amended by section 2 of said chapter 789, is hereby further amended by inserting after the word "facility", in line 9, the following words:- ; or any other non-profit charitable institution in the commonwealth not otherwise eligible to participate under this act; provided, however, that such other non-profit charitable institution may only undertake the financing and construction or acquisition of a project or undertake the refunding or refinancing of obligations or of a mortgage or of advances to the extent that such projects, obligations, mortgages, or advances consist of or result from the purchase of energy or from energy conservation or related projects of such other non-profit charitable institution; and provided further, that such other non-profit charitable institution participates in or is a member of a group power purchasing program organized and administered by or on behalf of the authority.

**SECTION 296.** Section 5 of chapter 614 of the acts of 1968 is hereby amended by inserting after paragraph (o) the following paragraph:-

(o½) to issue electric rate reduction bonds, as defined in section 1H of chapter 164 of the General Laws, for the benefit of any electric company, as defined in section 1 of said chapter 164, that is determined to be eligible for said bond financing by the department of telecommunications and energy pursuant to said chapter 164, provided, however, that such electric rate reduction bonds shall constitute bonds as defined in clause (d) of section 3; provided, further, that such an electric company shall be deemed to be a participating institution as defined in clause (n) of section 3; and provided further, that the financing or refinancing of transition costs or the acquiring of transition property as provided for in said section 1H of said chapter 164 shall be deemed to be a project as defined in clause (b) of section 3.

**SECTION 297.** Sections 2 and 3 of chapter 292 of the acts of 1978 are hereby repealed.

**SECTION 298.** The first sentence of subsection (e) of section 7 of chapter 465 of the acts of 1980, as appearing in section 89 of chapter 233 of the acts of 1983, is hereby amended by striking out, in lines 1 and 2, the words "and the department are hereby each severally" and inserting in place thereof the following word:- is.

**SECTION 299.** The third sentence of said section (e) of said section 7 of said chapter 465, as so appearing, is hereby amended by striking out, in line 1, the words "or department".

**SECTION 300.** The sixth sentence of said section (e) of said section 7 of said chapter 465, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "or department".

**SECTION 301.** Section 3 of chapter 234 of the acts of 1985, is hereby repealed.

**SECTION 302.** Section 8 of chapter 428 of the acts of 1993 is hereby amended by inserting after the word "generators", in line 7, the following words:- who are then.

**SECTION 303.** Said section 8 of said chapter 428 is hereby further amended by striking out, in line 8, the words "storing waste" and inserting in place thereof the following words:- are storing or have in storage waste.

**SECTION 304.** Notwithstanding any general or special law, rule, or regulation to the contrary, the Massachusetts emergency management agency is hereby authorized to make an assessment against each operator of a nuclear power plant inside and outside of the commonwealth which is within a ten mile radius of a municipality within the commonwealth to defray the costs incurred by the office of emergency preparedness in the performance of its duties pertaining to nuclear safety emergency preparedness in an amount to be appropriated annually by the general court.

**SECTION 305.** Notwithstanding any general or special law, rule or regulation to the contrary, the department of telecommunications and energy is hereby authorized and directed to coordinate with the operator of the bulk power system in New England, the federal energy regulatory commission, and the other public utility commissions in the states



of Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to adopt and implement appropriate policy initiatives and statutory reforms, including, but not limited to, the further development of the operator of the bulk power system, to ensure the independent operation of the regional bulk power system in order to provide for full and fair competition in electric generation while preserving the reliability of the system.

The governor of the commonwealth, acting by and through said department, is hereby authorized and directed to pursue the formation of a regional oversight committee with members from the various public utilities regulatory bodies from Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont to monitor any independent systems operator serving the New England/New York area formed through federal statute or regulation. Said committee shall be encouraged to pursue regional coordination of transmission oversight, including, but not limited to, the development and execution of a regional compact agreement, subject to federal congressional and executive approval, in an effort to jointly monitor issues of reliability which affect the region as a whole and to require publicly and investor-owned utilities located in the aforementioned states that sell energy to retail customers in the commonwealth to adhere to enforceable standards and protocols to protect the reliability of the regional transmission and distribution systems.

**SECTION 306.** Notwithstanding any general or special law, rule, or regulation to the contrary, any person who is licensed pursuant to the provisions of the sixth paragraph of section 53 of chapter 146 of the General Laws or covered by section 7 of chapter 141 of the General Laws shall continue to be licensed or covered by said statutes as if such person was an employee of a previously regulated utility for so long as such person performs the same work in the same location or locations for any successor employer or employers. In the event a person who has been licensed as an employee of a utility pursuant to the provisions of said section 53 of said chapter 146 or covered by said section 7 of said chapter 141 seeks licensure under the non-utility sections of said statutes, such person shall have credited towards any experience requirements of said statutes or any rules or regulations made thereunder, all relevant service performed in the employment of the utility or successor employers. The board of regulations of the division of registration and the department of public safety shall promulgate rules and regulations in order to ensure the continuation of exemption from licensure under this section is limited to those steps necessary to enable the existing utility industry workforce to work in their places and locations of employment as of the effective date of this act. Said requirements relative to such continuation of exemption from licensure shall require, without limitation, said company or applicant to submit the names of individuals, jobs performed, nature of work, and work locations of individuals seeking continuation of said exemption.

**SECTION 307.** Notwithstanding any general or special law, rule, or regulation to the contrary, since the restructuring of the electricity industry in the commonwealth and the transition to expanded customer retail choice and competitive markets in said industry will trigger shifts in the natural gas utility industry as regulated by the department of telecommunications and energy, said gas utilities, in the implementation of any restructuring



of or the unbundling of the rate structure for the natural gas industry in the commonwealth, shall consider the experience and expertise of the work force in order to ensure the safety and reliability of the natural gas system and the continued provision of high quality customer service, and to avoid economic dislocation.

**SECTION 308.** Notwithstanding any general or special law, rule, or regulation to the contrary, if and to the extent that the power cost component of the standard service transition rate to retail customers is below the cost at which the electric company procures power for such standard service transition rate from its wholesale suppliers pursuant to chapter 164, the department of telecommunications and energy shall investigate whether or not it is appropriate to extend, through additional amendment to the provisions of said chapter 164 by the general court, such a comparability credit at an equal amount for all other retail customers, especially residential ratepayers, who are purchasing power from other suppliers. Any cost deferrals required under this section shall be recovered with a return commencing when the deficiency for sales under the standard service transition rate no longer exists with a plan to be filed by the electric company and approved by the department. Upon the enactment of enabling legislation, the department shall issue rules and regulations concerning this comparability credit which shall address issues including, but not limited to, the length of time for the credit and which customers would qualify for the credit.

**SECTION 309.** Notwithstanding any general or special law, rule, or regulation to the contrary, the department of telecommunications and energy, the division of energy resources, and the office of the attorney general shall, within 45 days after the effective date of this act, file with the executive office of administration and finance a detailed budget analyses relative to the additional fiscal and personnel resources, if any, each such agency shall require in the fiscal year beginning July 1, 1998 in order to implement the provisions of this act. Said analyses shall be forwarded to the house and senate committees on ways and means, the joint committee on government regulations and the joint committee on energy, respectively, within five business days of submission to said executive office. Said analyses shall contain recommendations, if any, for the establishment, through an assessment process upon entities regulated by said department, of new revenue sources to adequately fund said fiscal and personnel requirements.

**SECTION 310.** Notwithstanding any general or special law, rule, or regulation to the contrary, any petition to construct a generating facility filed pursuant to section 69J of chapter 164 of the General Laws, which is pending before the energy facilities siting board as of the effective date of this act, may be reviewed pursuant to the provisions of either section 69J or section 69J $\frac{1}{4}$  of said chapter 164, at the petitioner's discretion and request; provided, however, that any petition to construct a generating facility pursuant to said section 69J of said chapter 164, which has been subject to a public hearing prior to the effective date of this act, shall be subject to the provisions of said section 69J and not the provisions of said section 69J $\frac{1}{4}$ .

**SECTION 311.** Notwithstanding any general or special law, rule, or regulation to the contrary, there is hereby created a study commission, which shall be authorized and directed to review and analyze outstanding concerns regarding the siting of energy facilities

in the commonwealth. Such concerns shall include, but not be limited to, the following: (i) the development of a procedure for coordinating and consolidating applications to construct generating facilities between and among the board, the department of environmental protection, and other appropriate agencies, to enable one-stop shopping, so-called, for necessary permits or certificates or other appropriate streamlining of the permitting system; (ii) the expansion of such coordinated procedures to other energy facilities, if appropriate; (iii) possible changes to the energy facilities siting board's procedures for reviewing electric and gas transmission lines in light of recent and proposed changes in the structure and regulation of the electric and gas industries, including regional approaches to the siting of such facilities; (iv) clarification of the energy facilities siting board's jurisdiction over the repowering of existing generating facilities at existing sites and the appropriate standards for reviewing such repowerings; (v) the development of coordinated procedures to encourage the reuse of existing industrial sites for the development of generating facilities; (vi) the issue of application fees paid by developers to the energy facilities siting board and the correlation of such fees to the board's procedures, as statutorily revised pursuant to this act, in reviewing such applications; provided, that said study shall include, but not be limited to, recommendations, if any, on reducing the application fee paid by developers to the board in light of the board's statutorily revised standards of review of such applications pursuant to the provisions of this act; (vii) the establishment of a site characterization and suitability commission within the department of environmental protection, which would promulgate criteria to be applied to sites included in an application before the energy facilities siting board and rule on suitability of a proposed site as before said application is approved; and (viii) the possibility of requiring applicants to provide either (a) evidence that the proposed facility would employ the best available and most efficient technology to control and reduce water withdrawals, or (b) a description of the environmental impacts, costs, and reliability of the water withdrawal method chosen and an explanation of why the proposed technology was chosen.

Said study commission shall consist of the following members: the chairman of the department of telecommunications and energy, or his designee, who shall serve as the chairman of said study commission; the commissioner of the department of environmental protection, or his designee; a member of the energy facilities siting board other than the chairman of the department of telecommunications and energy, who shall be selected to serve on said commission by the governor; the house and senate chairmen of the joint committee on government regulations; the house and senate chairmen of the joint committee on energy; and ten 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 health boards, two of whom shall be a representative of an environmental protection organization, two of whom shall be representatives of the electric industry, including one member of the electric generation industry and one member representing an electric utility, one of whom shall be a representative of the gas industry, one of whom shall represent residential ratepayers, and two of whom shall be recommended by the Massachusetts AFL-CIO. Said study commission

shall issue a final report, which shall include the results of its review and analysis, to the joint committees on government regulations and energy, respectively, and the house and senate committees on ways and means on or before December 31, 1998.

**SECTION 312.** Notwithstanding any general or special law, rule, or regulation to the contrary, no sooner than January 1, 2000, the department of telecommunications and energy, in conjunction with the division of energy resources, is hereby authorized and directed to commence an investigation and study relative to the manner in which metering, meter maintenance and testing, customer billing, and information services have been provided by distribution companies since March 1, 1998, pursuant to the provisions of chapter 164 of the General Laws, to analyze and determine whether such services should be unbundled and provided through a competitive market, whether in doing so any substantive savings accrues to consumers, and whether such substantive savings can be effected with little, if no, disruptions to employee staffing levels of those distribution companies presently conducting those activities. Said study shall also include an investigation and review of the creation of exclusive distribution service territories, pursuant to section 1B of said chapter 164, to determine if such exclusivity shall be terminated or altered in any manner. As part of its investigation and study, said department shall consult with and seek input from, through a public hearing process conducted in accordance with the provisions of chapter 30A of the General Laws, any and all interested parties, including, but not limited to, employees of and representatives of employees of distribution companies engaged in such services, electricity ratepayers, consumer representatives, and representatives of electricity services interests, including distribution and transmission companies and natural gas industry interest. Said department shall require all distribution companies operating in the commonwealth pursuant to said chapter 164 to file detailed information relative to their costs of providing such metering, billing, and information services, including, but not limited to, capital costs, depreciation, operating expenses, and taxes. In the event that said department determines that such services shall be subject to unbundling and competition, or that territorial exclusivity shall be terminated or altered in any manner, said department shall, by no later than January 1, 2001, file its recommendations, along with drafts of legislation necessary to implement said recommendations, with the clerk of the house of representatives. Any unbundling and creation of retail competition of such services shall not commence unless statutorily allowed through amendments to said chapter 164 upon said department's compliance with the provisions herein. In the event of unbundling of retail competition in metering and billing services, the department will ensure that firms providing these services collect the correct amounts from ratepayers. If the department determines a firm is not collecting the full amount due or a firm defaults on its obligation to collect sums owed to the electric company, the distribution company, a transmission company, a generation company, the financing entity, or electric rate reduction bondholders, it shall order that such firm cease and desist metering and billing operations and the distribution company resume providing such services within 30 days.



**SECTION 313.** Notwithstanding any general or special law, rule, or regulation to the contrary, all distribution transformers sold or first installed in the commonwealth after December 31, 1999, shall meet the minimum efficiency levels contained in tables 4-1 and 4-2 of National Electrical Manufacturers Association standard TP1-1996. Efficiency shall be tested in accordance with TP1-1996. These requirements shall only apply to transformers within the scope of TP1-1996. For the purposes of this section, the term "distribution transformer" shall be defined as transformers designed for operation on electrical distribution systems at primary voltages of 34.5kV and below and secondary voltages of 600 volts or below.

**SECTION 314.** Notwithstanding any general or special law, rule, or regulation to the contrary, the department of telecommunications and energy shall, by no later than July 1, 1998, disclose publicly all rates approved by said department prior to July 1, 1997, for the sale of electricity pursuant to section 94 of chapter 164 of the General Laws which were previously not disclosed to the public pursuant to section 5D of chapter 25 of the General Laws. For the purposes of this section, any such rate shall be considered public information and in no manner shall continue to receive non-disclosure status pursuant to said section 5D of said chapter 25.

**SECTION 315.** Notwithstanding the provisions of any general or special law, rule, or regulation to the contrary, any distribution company, aggregator, gas company, municipal lighting plant, or supplier, as defined and governed pursuant to the provisions of chapter 164 of the General Laws, shall be required to provide electricity or gas services to persons or corporations engaged in the business of agriculture or farming, as defined pursuant to section 1A of chapter 128 of the General Laws, at rates, prices, and charges established at least 10 per cent below any other rate, price, or charge category, with further rate, price, or charge considerations granted for off-peak consumption.

**SECTION 316.** Notwithstanding any general or special law, rule, or regulation to the contrary, the chairman of the department of telecommunications and energy is hereby authorized and directed, in conjunction with the commissioner of the community antenna television commission established pursuant to chapter 166A of the General Laws, to conduct an investigation and study relative to the adequacy and effectiveness of existing licensing and regulation of cable television operations by municipalities and the commonwealth in meeting the needs of consumers across the commonwealth. In conducting such investigation and study, said director shall consult with municipal officials, consumer organizations and representatives, cable operators, and any other interested parties. Said director shall report his findings, along with any recommendations for legislation, with the joint committee on government regulations of the general court, by no later than September 1, 1998.

**SECTION 317.** No later than January 1, 2002, the department of revenue shall commence an investigation and study of the viability and effectiveness of the provisions of paragraph (3) of the clause Sixteenth of section 5 of chapter 59 of the General Laws and section 38H of said chapter 59 including the payment in lieu of taxes agreements authorized pursuant to subsection (a) of said section 38H of said chapter 59, in alleviating any undue



fiscal hardships suffered by cities and towns as a result of reduced property tax revenues from either the devaluation of property on which is located electricity generation facilities or the sale by electric or generation companies of such property and the subsequent termination of generation activities thereon. Said department shall also study and analyze the fiscal implications of applying the exemption provided therein to facilities over 30 megawatts. Said department shall also monitor the implementation of subsection (c) of said section 38H of said chapter 59 and analyze the fiscal implications which arise from such provisions. Said department shall, by May 1, 2002, file its recommendations and findings, including a determination as to whether or not such provisions relative to payments in lieu of taxes should be altered in any manner, with the joint committees on taxation and government regulations, respectively, and the house and senate committees on ways and means.

**SECTION 318.** The department of revenue shall, within 30 days of the effective date of this act, commence an investigation and study as to the potential fiscal implications to the revenues of the commonwealth, including any potential impacts arising from out-of-state occurrences, for the following two proposed amendments to the state tax code as follows:

(1) Amending section 6 of chapter 62 of the General Laws by inserting the following two subsections:-

(j) Any individual who contracts with a retail electricity supplier to purchase renewably-generated electricity in excess of minimum requirements under any renewables portfolio standard established by law, shall be entitled to take an income tax deduction equivalent to 50 per cent of the above-market price. The determination of above-market price shall be performed and certified by the department based on an analysis of current market conditions. The department may promulgate any rules, regulations, or procedures necessary to make such a determination.

(k) Any individual who purchases company qualifying energy efficiency equipment shall be entitled to an income tax deduction equivalent of 20 per cent of the cost up to a maximum of \$10,000 annually. The division of energy resources shall, through a public hearing process, determine a level of efficiency necessary to qualify a product for the deduction. Systems to be considered shall include high-efficiency lighting and ballasts, residential and commercial refrigerators and freezers, electric and gas water heating systems, ground-source or high efficiency heat pumps, horizontal-axis washing machines, and high-efficiency furnaces. The division shall set the minimum qualifying efficiency standard based upon achieving significant improvements over federal appliance efficiency standards and with the intent of creating incentives to purchase equipment consuming less energy than 75 per cent of similar products on the market. The division shall have the authority to add or alter qualifying products based upon changes in technology and federal standards.

(2) Amending section 31A of chapter 63 of the General Laws by inserting the following two subsections:-

(n) Any business which contracts with a retail electricity supplier to purchase renewably-generated electricity in excess of minimum requirements under any renewables

portfolio standard established by law, shall be entitled to take a business tax deduction equivalent to 25 per cent of the above-market price. The determination of above market price shall be performed and certified by the department based on an analysis of current market conditions. The department may devise any rules or procedures necessary to make such a determination.

(o) Any business purchasing qualifying energy efficiency equipment shall be entitled to an income tax deduction equivalent to 10 per cent of the cost up to a maximum of \$50,000 annually. The division of energy resources shall, through a public hearing process, determine a level of efficiency necessary to qualify a product for the deduction. Systems to be considered shall include high-efficiency lighting and ballasts, residential and commercial refrigerators and freezers, electric and gas water heating systems, ground-source or high efficiency heat pumps, horizontal-axis washing machines, and high-efficiency furnaces. The division shall set the minimum qualifying efficiency standard based upon achieving significant improvements over federal appliance efficiency standards and with the intent of creating incentives to purchase equipment consuming less energy than 75 per cent of similar products on the market. The division shall have the authority to add or alter qualifying products based upon changes in technology and federal standards.

Upon the completion of its investigation and study, the department of revenue shall file a report, detailing its findings and recommendations, with the joint committees on taxation and government regulations, respectively, and the house and senate committees on ways and means.

**SECTION 319.** Notwithstanding any general or special law, rule, or regulation to the contrary, the department of telecommunications and energy and the division of energy resources shall submit any rules and regulations promulgated under the provisions of this act to the joint committee on government regulations for its review at least 30 days prior to the effective date of said regulations.

**SECTION 320.** Any petition or other matter pursuant to said chapter 166A of the General Laws before the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, which is pending on January 1, 1998, shall be deemed to constitute a petition to or other matter within the jurisdiction of the department of telecommunications and energy.

**SECTION 321.** All employees of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, transferred by this act to the department of telecommunications and energy, who immediately prior to January 1, 1998, either hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions by reason of section 9A of chapter 30 of the General Laws, are hereby transferred to the department of telecommunications and energy, every such transfer to be without impairment of civil service status, seniority, retirement, or other rights of the employee and without interruption of service within the meaning of said chapter 31 or said section 9A and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer, subject to the provisions

of said chapter 31 and the rules and regulations adopted thereunder; provided, however, that the position of executive director of said community antenna television commission and said division of community antenna television, established by section 2 of said chapter 166A, shall become a managerial position of the department, classified in accordance with section 45 of chapter 30, and the salary shall be determined in accordance with section 46C of said chapter 30.

All employees of said community antenna television commission who, immediately prior to July 1, 1998, neither hold permanent appointment in such positions nor have such tenure, are hereby transferred to the department of telecommunications and energy, every such transfer to be without impairment of seniority, retirement, or other rights of such employees, and without interruption of services within the meaning of said section 9A of chapter 30 and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

Nothing in this section shall be construed to confer upon any employee any rights not held immediately prior to the effective date of this act or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited prior to said July 1, 1998.

**SECTION 322.** All petitions, hearings, and other proceedings duly brought before and all prosecutions and legal and other proceedings duly begun by the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, prior to January 1, 1998, shall continue unabated and remain in force notwithstanding the passage of this act and shall thereafter be completed before or by the department of telecommunications and energy.

All orders, rules, and regulations duly made, and all licenses or other approvals granted, and all legal and decisional precedents established by said community antenna television commission shall continue in force under said department and the provisions thereof shall be enforced, until superseded, revised, rescinded, or canceled in accordance with law by said department.

All questions regarding the identification of such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, and other approvals, and regarding the completion or enforcement of matters so transferred, shall be determined by the chairman of said department.

**SECTION 323.** All books, papers, records, property, documents, equipment, lands, interests in land, buildings, facilities, and other property, both personal and real, which, immediately prior to January 1, 1998, are in the custody of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, are hereby transferred to the department of telecommunications and energy. All questions regarding the identification and disposition of such property shall be determined by the chairman of said department in accordance with applicable law.

**SECTION 324.** All existing contracts, memoranda of understanding, leases and obligations of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, which are in force immediately prior to January 1, 1998,



shall thereafter be performed by the department of telecommunications and energy, in accordance with applicable law and as the chairman of said department may determine. No existing right or remedy of any character shall be lost, impaired, or affected by the provisions of this act.

**SECTION 325.** All monies heretofore appropriated for the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, remaining unexpended on the effective date of this act are hereby transferred to the department of telecommunications and energy and shall be available for expenditure by said department for the purposes for which such funds were originally appropriated. All questions regarding the identification and use of such monies shall be determined by the chairman of said department.

**SECTION 326.** Wherever the name of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, appears in any general or special law, or in any order, rule, regulation, or other document, such name shall mean and shall be construed as referring to the department of telecommunications and energy.

**SECTION 327.** The regulations of the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, codified in 207 Code of Massachusetts Regulations shall remain in full force and effect until such time as the department of telecommunications and energy may amend or rescind such regulations or adopt new regulations.

**SECTION 328.** Wherever in any general or special law or in any rule or regulation there is provided a right of appeal to the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, a right of appeal to the commissioners of the department of telecommunications and energy shall exist, and such appeal shall be made pursuant to the provisions of any applicable law, rule, or regulation or amendments thereto or, in the absence of such applicable law, rule, or regulation, pursuant to chapter 30A of the General Laws.

**SECTION 329.** All functions, rights, obligations, powers, duties, and statutory provisions which, prior to January 1, 1998, were assigned to or exercised by the community antenna television commission, established by section 1 of chapter 1103 of the acts of 1971, shall continue to be exercised and performed by, and to be assigned to, the department of telecommunications and energy, except as such powers, duties, or other statutory duties are modified by this act.

**SECTION 330.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance is hereby authorized and directed to commence, in conjunction with the division of energy resources and the division of operational services, an investigation and report concerning the viability, effectiveness, and cost of requiring all state agencies and facilities to enter into contracts for the purchase of electricity that include a minimum 10% of kilowatt-hour sales derived from reliable renewable energy generating sources which are available in the commonwealth on the effective date of this act. Said report shall also project the increase in such renewable energy



sources likely to be developed as a result of any of the provisions of this act, the costs to the commonwealth of procuring new renewable energy from such sources over a ten year horizon, and the benefits to such renewable energy providers of the commonwealth's preferred purchase from such sources. Said report shall be submitted to house and senate committees on ways and means by March 1, 2000, and such report shall be updated annually thereafter.

**SECTION 331.** (a) Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance, in consultation with the commissioner of the division of capital planning and operations, shall require any state agency that initiates, after the effective date of this act, the construction of a new facility, or substantial renovation of an existing facility that includes the replacement of systems, components, and other building elements which affect energy or water consumption, and which is either owned or operated by the commonwealth, shall design and construct such facility to minimize the life-cycle cost of the facility by utilizing energy efficiency, water conservation, or other renewable energy technologies pursuant to the following criteria:

(i) State agencies shall conduct a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and long-term cost and technical feasibility of using a passive or active solar energy system, wind-powered energy system or other renewable energy system to provide lighting, heat, water heating, or electricity. State agencies shall utilize solar or wind-powered systems when the life-cycle cost analysis has determined that such systems are economically feasible;

(ii) Each new educational facility, including any municipal educational facility financed through the school building assistance bureau, for which the projected demand for hot water exceeds 1,000 gallons per day, or which operates a heated swimming pool, shall be constructed, whenever economically and physically feasible, with a solar or other renewable energy system as the primary energy source for the domestic hot water system or swimming pool of the facility;

(iii) Each such state agency shall attempt, in the design, construction, equipping and operation of such facilities, to coordinate these efforts with the division of energy resources in order to maximize reliance and benefits of renewable energy research and investment activities promoted by this act; and

(iv) Each such state agency shall file with said division a report detailing its compliance with the provisions of this section with respect to each such facility.

(b) Notwithstanding the provisions of section 11C of chapter 25A of the General Laws, the division of capital planning and operations may procure energy management services jointly with a state agency or building authority that is procuring energy or related services. The provisions of said section 11C shall apply to the extent determined feasible by the commissioner of the division.

(c) For purposes of this section, the term "economically-feasible" shall mean providing a payback period of not more than 10 years, as determined by a life-cycle cost analy-

sis. The division of capital planning and operations shall establish, by no later than January 1, 1999, a methodology for use by agencies in assessing life-cycle costs. The division of energy resources shall issue an annual report to the general court detailing the compliance record of all state agencies with the construction and renovation provisions in this section.

**SECTION 332.** The division of energy resources shall conduct a study and analysis in order to determine to what extent the renewable portfolio standard, so-called, as established pursuant to section 11F of chapter 25A of the General Laws, shall create a process for awarding certified renewable energy credits to renewable energy generators or retail suppliers. In developing said process, the division is shall create a mechanism for assessing fines and penalties for violations of said process. In order to implement such a certified renewable energy credits process, upon a determination of said division, said division shall file recommendations, including drafts of legislation, with the general court, and such program shall not be implemented until provided for by law.

**SECTION 333.** The division of energy resources shall conduct a study and analysis in order to determine whether standards for the energy-efficiency of residential buildings financed in whole or in part by the department of community affairs, the Massachusetts Housing Finance Agency, or by the Massachusetts Home Mortgage Finance Agency should be implemented and enforced. The study shall consider (i) a prohibition of the use of electric resistance heat unless the building is superinsulated pursuant to standards established by the commissioner, or unless the building has a heat pump that meets energy-efficiency standards established by the commissioner, (ii) whether the department of community affairs, the Massachusetts Housing Finance Agency, and the Massachusetts Home Mortgage Finance Agency should finance projects which do not meet the standards set by the commissioner of energy resources pursuant to this section, (iii) whether owners, managers, landlords or tenants of the aforementioned residential buildings are able or enabled to access, and implement demand side management information and materials, (iv) whether the competitive electricity market is including or excluding residential buildings so financed, such that those buildings are receiving and able to participate in the same or similar energy conservation opportunities that have become available to other residential buildings not mentioned, herein, (v) any other short term or long term energy efficiency projects and economic feasibility and life-cycle costs as it relates to the above residential buildings. The division of energy resources shall issue a report to the general court detailing the results of the study and recommendations by March 1, 2001.

**SECTION 334.** Notwithstanding any general or special law, rule or regulation to the contrary, there is hereby created a special commission, which is hereby authorized and directed to investigate and study the role of the Massachusetts Municipal Wholesale Electric Company, hereinafter called MMWEC, in the deregulated market created by a restructured electric utility industry as provided in this act. Said commission shall file its report with the clerks of the house and senate, and the joint committee on government regulations on or before February 15, 1998. Said committee shall be comprised of three members of the senate, two of whom shall be appointed by the senate president, and one of whom shall be

appointed by the leader of the minority, but which appointments shall include a senator from the MMWEC community where the generation facility is located; three members of the house, two of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the minority leader, but which appointments shall include the representative from the MMWEC community where the generation facility is located; two ratepayers from the MMWEC communities appointed by the governor; a member of the MMWEC board of directors to be appointed by the board; a member of the commission of the department of telecommunications and energy to be appointed by the commission; the commissioner of the division of energy resources; and a member of the Massachusetts Municipal Association.

**SECTION 335.** Notwithstanding any general or special law, rule, or regulation, to the contrary, the operation in rental housing of an energy monitoring system installed prior to July 1, 1997, whereby the cost of heat or air conditioning is allocated or charged by the owner to the tenant based upon measurements made by a computerized monitoring system and pursuant to a rental agreement shall be permitted. Upon request of an affected tenant, the consumer division of the department of telecommunications and energy shall have jurisdiction to determine whether the allocation of cost to such tenant was substantially correct.

**SECTION 336.** The executive office of environmental affairs, the department of environmental protection, and the energy facilities siting board shall, in cooperation with each other, develop a report to analyze the environmental benefits accruing pursuant to the implementation of generation performance standards in section 142N of chapter 111 of the General Laws. Said study shall explore whether or not said department shall promulgate regulations to establish uniform performance standards for any additional pollutants other than the previously established standard established pursuant to said section 142N of said chapter 111 prior to May 1, 2003. Said report shall include any recommendations, together with proposed legislation, designed to implement the recommendations, including any expansion of said generation performance standards.

**SECTION 337.** The commissioners of the department of public utilities appointed and sworn to said positions on October 1, 1997, are hereby authorized to remain in said positions for the statutorily authorized initial term of one year that is established for the expanded department of telecommunications and energy commission pursuant to section 2 of chapter 25 of the General Laws. Notwithstanding the provisions of said section 2, the said commissioners shall be eligible for reappointment to subsequent three-year terms at the discretion of the governor. In the event that the said commissioners decline or are not nominated to said three-year extended appointments, they are hereby declared exempt from the provisions of section 8B of chapter 268A of the General Laws.

**SECTION 338.** Notwithstanding any general or special law, rule, or regulation to the contrary, no property of the Holyoke Water Power Company which is used in the manufacture and generation of electricity, except pollution control equipment operated and maintained by said company, shall be exempt from taxation pursuant to the provisions of paragraph (3) of the clause Sixteenth of section 5 of chapter 59 of the General Laws.



**SECTION 339.** Notwithstanding any general or special law, rule, or regulation to the contrary, the department of telecommunications and energy and the division of energy resources shall establish a pilot program to implement the provisions of section 134 of chapter 164 of the General Laws. Said pilot program shall consist of four initial aggregation programs, which shall consist of two municipal aggregation programs and two aggregation programs by a county or a regional government which has voted prior to the effective date of this act to pursue the creation of a county administered aggregation program; provided, however, that a county or regional government which votes to pursue the creation of an aggregation program administered by such county or regional government after the effective date of this act may submit an aggregation plan to said department, after consultation with said division, which may, during the pilot program established herein, approve such plan and the implementation of such plan prior to the conclusion of the pilot program if said department determines that such approval is in the best interest of the ratepayers of the county or the regional government.

**SECTION 340.** There is hereby created a special commission on the deregulation and convergence of industry, which shall study the ramifications of past and future efforts to restructure the major regulated businesses and industries serving the commonwealth's consumers, including, but not limited to, the electric utility industry, telephone and telecommunications industry, including the Internet system, the gas industry, the transportation industry, and the cable television industry. Said commission shall consist of: the co-chairs of the joint committee on government regulations and four additional members of the general court, including two from the minority party, one selected by the minority leader of the house of representatives and one selected by the minority leader of the senate, who among them will elect a chairman; the secretary of administration and finance or his designee; a commissioner of the department of telecommunications and energy; the attorney general, or his designee; the director of the office of consumer affairs and business regulation; one representative from each of the five aforementioned major regulated industries; one consumer protection advocate; two members representing the interests of industry employees, one of whom shall be a representative of organized labor, and one person who shall be a member of the Massachusetts municipal association. Said commission shall study and make recommendations on the potential convergence of these industries in merged or joint projects or activities and the future regulatory role of the commonwealth over these industries, including, but not limited to, requiring the department of telecommunications and energy to promulgate model rules and regulations governing the conduct, operation, and rate structure of merged regulated industries, including, but not limited to, merged electric and cable television companies, merged electric and gas companies, and merged telephone and cable television companies, and the impact on consumers of said merged industries. Said commission shall issue an initial report to the joint committee on government regulations on or before July 1, 1999.

**SECTION 341.** Notwithstanding any general or special law or regulation to the contrary, an electric company shall not be required to divest or otherwise include within its



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transition cost calculation, a generation facility that ceased to generate electricity as of January 1, 1993 and that is retired from rate base; provided that said facility and the property on which it is located is subject to a long-term lease to a non-profit, educational entity.

**SECTION 342.** The provisions of sections 200, 202 to 205, inclusive, and 207 to 226, inclusive, of this act shall take effect 90 days after the effective date of this act.

**SECTION 343.** The provisions of section 71I of chapter 151A of the General Laws, as inserted by section 119 of this act, shall expire on December 31, 2005.

**SECTION 344.** The provisions of section 273 of this act shall expire on December 31, 2001.

Approved November 25, 1997.

## Chapter 165. AN ACT RELATIVE TO NOTICES TO THE DEPARTMENT OF MENTAL HEALTH IN CERTAIN PROBATE PROCEEDINGS.

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

**SECTION 1.** Paragraph (a) of section 6 of chapter 201 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the second sentence.

**SECTION 2.** Section 7 of said chapter 201, as so appearing, is hereby amended by striking out, in lines 3 to 5, inclusive, the words "the department of mental health, in the case of a petition filed pursuant to section six, or".

**SECTION 3.** Section 13 of said chapter 201, as so appearing, is hereby amended by striking out, in line 4, the words "mentally ill or".

**SECTION 4.** Said section 13 of said chapter 201, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words "the department of mental health in the case of a guardianship established pursuant to section six or".

**SECTION 5.** Section 7 of chapter 206 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "mentally ill or".

**SECTION 6.** Said section 7 of said chapter 206, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words "the department of mental health in the case of a mentally ill person or".

**SECTION 7.** Section 24 of said chapter 206, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "to the department of mental health in the case of mentally ill persons or".

Approved November 25, 1997.

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## Chapter 166. AN ACT RELATIVE TO CERTAIN RIGHTS OF PERSONS WITH MENTAL ILLNESS.

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

**SECTION 1.** Section 23 of chapter 123 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following five paragraphs:-

This section sets forth the statutory rights of all persons regardless of age receiving services from any program or facility, or part thereof, operated by, licensed by or contracting with the department of mental health, including persons who are in state hospitals or community mental health centers or who are in residential programs or inpatient facilities operated by, licensed by or contracting with said department. Such persons may exercise the rights described in this section without harassment or reprisal, including reprisal in the form of denial of appropriate, available treatment. The rights contained herein shall be in addition to and not in derogation of any other statutory or constitutional rights accorded such persons.

Any such person shall have the following rights:

(a) reasonable access to a telephone to make and receive confidential telephone calls and to assistance when desired and necessary to implement such right; provided, that such calls do not constitute a criminal act or represent an unreasonable infringement of another person's right to make and receive telephone calls;

(b) to send and receive sealed, unopened, uncensored mail; provided, however, that the superintendent or director or designee of an inpatient facility may direct, for good cause and with documentation of specific facts in such person's record, that a particular person's mail be opened and inspected in front of such person, without it being read by staff, for the sole purpose of preventing the transmission of contraband. Writing materials and postage stamps in reasonable quantities shall be made available for use by such person. Reasonable assistance shall be provided to such person in writing, addressing and posting letters and other documents upon request;

(c) to receive visitors of such person's own choosing daily and in private, at reasonable times. Hours during which visitors may be received may be limited only to protect the privacy of other persons and to avoid serious disruptions in the normal functioning of the facility or program and shall be sufficiently flexible as to accommodate individual needs and desires of such person and the visitors of such person.

(d) to a humane psychological and physical environment. Each such person shall be provided living quarters and accommodations which afford privacy and security in resting, sleeping, dressing, bathing and personal hygiene, reading and writing and in toileting. Nothing in this section shall be construed to require individual sleeping quarters.

(e) to receive at any reasonable time as defined in department regulations, or refuse to receive, visits and telephone calls from a client's attorney or legal advocate, physician, psychologist, clergy member or social worker, even if not during normal visiting hours and regardless of whether such person initiated or requested the visit or telephone call. An attorney or legal advocate working under an attorney's supervision and who represents a client shall have access to the client and, with such client's consent, the client's record, the

hospital staff responsible for the client's care and treatment and any meetings concerning treatment planning or discharge planning where the client would be or has the right to be present. Any program or facility, or part thereof, operated by, licensed by or contracting with the department shall ensure reasonable access by attorneys and legal advocates of the Massachusetts Mental Health Protection and Advocacy Project, the Mental Health Legal Advisors Committee, the committee for public counsel services and any other legal service agencies funded by the Massachusetts Legal Assistance Corporation under the provisions of chapter 221A, to provide free legal services. Upon admission, and upon request at any time thereafter, persons shall be provided with the name, address and telephone number of such organizations and shall be provided with reasonable assistance in contacting and receiving visits or telephone calls from attorneys or legal advocates from such organizations; provided, however, that the facility shall designate reasonable times for unsolicited visits and for the dissemination of educational materials to persons by such attorneys or legal advocates. The department shall promulgate rules and regulations further defining such access. Nothing in this paragraph shall be construed to limit the ability of attorneys or legal advocates to access clients records or staff as provided by any other state or federal law.

Any dispute or disagreement concerning the exercise of the aforementioned rights in clauses (a) to (e), inclusive, and the reasons therefor shall be documented with specific facts in the client's record and subject to timely appeal.

Any right set forth in clauses (a) and (c) may be temporarily suspended, but only for a person in an inpatient facility and only by the superintendent, director, acting superintendent or acting director of such facility upon such person; concluding, pursuant to standards and procedures set forth in department regulations that, based on experience of such person's exercise of such right, further such exercise of it in the immediate future would present a substantial risk of serious harm to such person or others and that less restrictive alternatives have either been tried and failed or would be futile to attempt. The suspension shall last no longer than the time necessary to prevent the harm and its imposition shall be documented with specific facts in such person's record.

A notice of the rights provided in this section shall be posted in appropriate and conspicuous places in the program or facility and shall be available to any such person upon request. The notice shall be in language understandable by such persons and translated for any such person who cannot read or understand English.

The department, after notice and public hearing pursuant to section 2 of chapter 30A, shall promulgate regulations to implement the provisions of this section.

**SECTION 2.** Said section 23 of said chapter 123, as so appearing, is hereby further amended by striking out, in lines 21 and 22, the words ", reasonable access to telephones to make and receive confidential calls".

Approved November 25, 1997.



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**Chapter 167. AN ACT EXEMPTING THE CLERICAL POSITION WITHIN THE  
FIRE DEPARTMENT OF THE CITY OF TAUNTON FROM THE  
PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The clerical position in the fire department of the city of Taunton shall be exempt from the provisions of chapter 31 of the General Laws.

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

Approved November 25, 1997.

**Chapter 168. AN ACT RELATIVE TO THE GERIATRIC AUTHORITY OF THE  
TOWN OF MILFORD.**

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

**SECTION 1.** Subsection (i) of section 8 of chapter 76 of the acts of 1982 is hereby amended by striking out the words "two hundred thousand dollars" and inserting in place thereof the following figure:- \$500,000.

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

Approved November 25, 1997.

**Chapter 169. AN ACT AUTHORIZING THE CERTIFICATION FOR  
APPOINTMENT OF SUSAN C. SNOW AS A FIREFIGHTER IN THE  
TOWN OF NAHANT NOTWITHSTANDING THE MAXIMUM AGE  
REQUIREMENT.**

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

The personnel administrator of the division of personnel administration shall certify Susan C. Snow for appointment as a firefighter in the town of Nahant according to the grade she received on an examination for firefighter, notwithstanding the fact that she has attained the maximum age for said position, provided, that said Susan C. Snow fulfills all other requirements for certification and appointment as a firefighter.

Approved November 25, 1997.

**Chapter 170. AN ACT EXPANDING ACCESS TO QUALITY HEALTH CARE FOR  
WORKING FAMILIES, CHILDREN AND SENIOR CITIZENS IN  
THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to assist forthwith in making health care services available to low income uninsured and underinsured residents 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.** The second sentence of section 2FF of chapter 29 of the General Laws, as amended by section 1 of chapter 47 of the acts of 1997, is hereby further amended by striking out clauses (c) and (d) and inserting in place thereof the following four clauses:- (c) any income derived from the investment of amounts credited to said fund; (d) any federal reimbursement received for benefits and payments provided pursuant to section 9C of said chapter 118E; (e) any appropriations transferred to said fund pursuant to the provisions of section 24G of chapter 111; and (f) premiums paid by enrollees in the program established pursuant to the provisions of said section 24G of said chapter 111.

**SECTION 2.** The third sentence of said section 2FF of said chapter 29, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 21, the words "and (b)" and inserting in place thereof the following words:- (b) a program of health care assistance authorized pursuant to the provisions of section 16C of chapter 118E; (c) a program of primary and preventive health care for children from birth through age 18 authorized pursuant to the provisions of section 24G of chapter 111; and (d).

**SECTION 3.** Section 28 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out clauses (a) to (c), inclusive, and inserting in place thereof the following two clauses:-

(a) Forty per cent of the amount in excess of \$169,800,000 received during a fiscal year shall be credited to the Local Aid Fund;

(b) The balance remaining after crediting the amounts required under clause (a) shall be credited to the General Fund.

**SECTION 4.** Section 24F of chapter 111 of the General Laws is hereby repealed.

**SECTION 5.** Section 24G of said chapter 111, as so appearing, is hereby amended by inserting after the word "eighteen", in line 3, the following words:- ; provided, however, that only said youths who are ineligible for medical benefits pursuant to chapter 118E of the General Laws shall be eligible for the services defined herein.

**SECTION 6.** Said section 24G of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 5 to 7, inclusive, the words "health care access fund established pursuant to section twenty-four F of chapter one hundred and eleven and other appropriated funds" and inserting in place thereof the following:- Children's and Seniors' Health Care Assistance Fund established pursuant to the provisions of section 2FF of chapter 29 and other appropriated funds. The comptroller is hereby authorized and directed to transfer amounts appropriated from the General Fund or any other fiscal resource of the commonwealth designated for health care services provided to said youths from birth to age 12, inclusive, to said Children's and Seniors' Health Care Assistance Fund.

**SECTION 7.** The second paragraph of said section 24G of said chapter 111, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) prescription drugs up to \$200 per year; provided, however, that enrollees shall be responsible for a copayment of \$3 for each interchangeable drug prescription and \$4 for each brand name drug prescription; provided, further, that the department may authorize a higher prescription benefit level for any person enrolled in said program for which said higher benefit will prevent hospitalization.

**SECTION 8.** Said second paragraph of said section 24G of said chapter 111, as so appearing, is hereby further amended by striking out clauses (4) and (5) and inserting in place thereof the following five clauses:-

(4) annual and medically necessary eye examinations;

(5) medically necessary outpatient mental health services not to exceed 13 visits per year; provided, however, an additional seven outpatient visits may be approved by the department when clinically necessary according to program guidelines; provided further, that no such mental health services shall be provided by the department that would substitute for mental health services required to be provided by the division of medical assistance, or local education authorities pursuant to chapter 71B;

(6) dental health services, including preventive dental care; provided, however, that no funds shall be expended for cosmetic or surgical dentistry;

(7) durable medical equipment up to \$200 per year; provided, however, the department may authorize up to \$500 per year to prevent unnecessary hospitalization for children with chronic medical conditions, so-called, when clinically necessary according to program guidelines; and

(8) auditory screening.

**SECTION 9.** Said section 24G of said chapter 111, as so appearing, is hereby further amended by inserting after the word "households", in line 60, the following words:- ineligible for medical benefits pursuant to chapter 118E.

**SECTION 10.** Said section 24G of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 74 and 75, the words "health care access fund established pursuant to section twenty-four F of chapter one hundred and eleven" and inserting in place thereof the following words:- Children's and Seniors' Health Care Assistance Fund, established by section 2FF of chapter 29.

**SECTION 11.** Said chapter 111 is hereby further amended by inserting after section 24G the following three sections:-

Section 24H. The department shall, subject to appropriation, 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 9A of chapter 118E equal to the cost of providing such benefits to persons eligible for said programs. Any revenues generated by said program shall be credited to the General Fund.

Section 24I. There is hereby established a universal immunization program. Said program shall be administered by the department, subject to appropriation. Any revenues generated by said program shall be credited to the General Fund.

Section 24J. There is hereby established a program of medical respite services provided by the Boston health care for the homeless program. Said program shall be administered by the department, subject to appropriation. Any revenues generated by said program shall be credited to the General Fund.

**SECTION 12.** Section 8 of chapter 118E of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following definition:-

k. "Title XXI", Title XXI of the Social Security Act, 42 USC 1397 et seq. or any successor thereto.

**SECTION 13.** Subsection (2) of section 9A of said chapter 118E is hereby amended by striking out clause (b), as so appearing, and inserting in place thereof the following clause:-

(b) infants to age one and pregnant women whose financial eligibility as determined by the division does not exceed 200 per cent of the federal poverty level, and children and adolescents aged one to 18 years, inclusive, whose financial eligibility as determined by the division does not exceed 133 per cent of the federal poverty level and who would otherwise not qualify for Medicaid within the definition of traditional beneficiaries;

**SECTION 14.** Said subsection (2) of said section 9A of said chapter 118E is hereby further amended by striking out clauses (c) and (d), as amended by section 88 of chapter 43 of the acts of 1997, and inserting in place thereof the following two clauses:-

(c) children and adolescents aged one to 18 years, inclusive, whose financial eligibility as determined by the division exceeds 133 per cent of the federal poverty level but is not more than 200 per cent of the federal poverty level, including such children and adolescents made eligible for medical benefits under this chapter by Title XXI of the Social Security Act.

(d) adults 19 to 64, inclusive, whose financial eligibility as determined by the division does not exceed 133 per cent 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.

**SECTION 15.** Said section 9A of said chapter 118E, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 111 and 112, inclusive, the words "to persons in eligibility category (b) with incomes in excess of one hundred and thirty-three percent of the federal poverty level" and inserting in place thereof the following words:- to persons who would otherwise qualify for a program of medical benefits pursuant to clause (c) of subsection 2.

**SECTION 16.** Said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out, in line 118, the word "employer-sponsored".

**SECTION 17.** Section 10 of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 8 to 10, inclusive, the words "standards of eligibility established in section 1902 of the Social Security Act, as amended by section 4101 of the Omnibus Budget



Reconciliation Act of 1987 (P.L. 100-203)" and inserting in place thereof the following words:- the standards of eligibility established pursuant to section 9A, section 16C or Title XIX.

**SECTION 18.** Section 16B of said chapter 118E is hereby amended by striking out, in lines 12 and 83, as so appearing, in each instance, the word "maintenance".

**SECTION 19.** Said section 16B of said chapter 118E, as so appearing, is hereby amended by inserting after the word "herein", in line 29, the following words:- ; provided, however, that for the purposes of determining eligibility under this section, countable annual income shall not include the cost of Medicare Part B premiums unless the cost of said premiums is paid by the division.

**SECTION 20.** Said section 16B of said chapter 118E is hereby further amended by striking out the definition of "Pharmacy assistance", as so appearing, and inserting in place thereof the following definition:-

"Pharmacy assistance", an amount not exceeding \$750 per fiscal year for each eligible person to assist in the purchase of covered benefits.

**SECTION 21.** Said section 16B of said chapter 118E is hereby amended by striking out the fifth paragraph, as amended by section 3 of chapter 1 of the acts of 1997, and inserting in place thereof the following two paragraphs:-

Application to said program shall be made during an open enrollment period as determined by the division. Coverage shall be effective as of the date an application for enrollment is approved by the division. The division shall close the open enrollment period if the commissioner determines that pharmacy assistance benefits in any fiscal year are projected to exceed the amounts appropriated for the program or are expected to annualize beyond the expenditure cap imposed by the section.

The division 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, caseloads, and average benefit levels. Said report shall detail expenditures on a date of service basis and shall include a projection of total annual expenditures under said program which shall be based, in part, on reported year to date expenditures.

**SECTION 22.** The ninth paragraph of said section 16B of said chapter 118E, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- During the first year said program is in effect, income eligibility shall be limited to 150 per cent of the federal poverty level.

**SECTION 23.** Said ninth paragraph of said section 16B of said chapter 118E, as so appearing, is hereby further amended by striking out the fifth sentence and inserting in place thereof the following sentence:- 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, allow individuals with pharmaceutical expenses that are excessive in relation to income to spend-down to the income eligibility level then in effect.



**SECTION 24.** Said section 16B of said chapter 118E is hereby further amended by striking out, in line 118, as so appearing, the words "pursuant to clause (3)".

**SECTION 25.** Said section 16B of said chapter 118E is hereby further amended by inserting after the word "shall", in line 135, as so appearing, the following words:- close open enrollment.

**SECTION 26.** Said chapter 118E is hereby further amended by inserting after section 16B the following section:-

Section 16C. (1) There is hereby established the child health insurance program, which shall provide medical assistance or medical benefits to infants, children and adolescents to age 18, inclusive, whose financial eligibility as determined by the division does not exceed 200 per cent of the federal poverty level, pursuant to and in conformity with the provisions of Title XXI, the terms and conditions of the demonstration project authorized by section 9A of this chapter, or a combination thereof.

(2) Medical benefits under said program shall be available to all such infants, children and adolescents qualifying for enrollment in said program pursuant to clauses (b) and (c) of subsection (2) of said section 9A. To the extent authorized by federal law or by the terms and conditions of the demonstration project authorized pursuant to said section 9A, the division is hereby authorized to grant presumptive eligibility for up to 60 days to children and adolescents applying for enrollment in said program. The division may deny eligibility for medical benefits under said program pursuant to the provisions of subsection (3) of said section 9A.

(3) The amount, duration and scope of medical benefits provided under said program for eligible beneficiaries whose financial eligibility, as determined by the division exceeds 133 per cent of the federal poverty level but does not exceed 200 per cent of the federal poverty level, shall be established by the division; provided however, that medical benefits provided under said program shall be both consistent with the benefit levels required under the provisions of said Title XXI and comparable to the benefit levels offered under private insurance plans, shall include early and periodic screening, diagnostic and preventive services and shall include other medical services to the extent that such services are covered medical benefits under said plan.

(4) The costs of said program may be offset by copayments and deductibles to the extent permitted by Title XXI. Premiums shall not be imposed upon eligible beneficiaries by the division unless, (i) the governor submits legislation to the general court which specifies the amount of such premiums to be charged to a beneficiary and such legislation is enacted by the general court and (ii) such premiums are necessary to achieve the purpose of budget neutrality required by section 9B.

(5) Eligibility for and the medical benefits provided under said program shall not give rise 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, the terms and conditions of the demonstration project established in said section 9A or this section. The provisions of this

section shall not establish any rights or entitlements that exceed the rights or entitlements established by Title XIX in the absence of this program, or impose any obligations upon the commonwealth's administration or financing because of implementation of said program would exceed obligations established by Title XIX.

**SECTION 27.** Section 18 of chapter 118G of the General Laws, as amended by section 14 of chapter 47 of the acts of 1997, is hereby further amended by adding the following subsection:-

(o) Within the Uncompensated Care Trust Fund, there shall be established a medical assistance intergovernmental transfer account, administered by the commissioner of the division of medical assistance, consisting of any transfers to the commonwealth from publicly-operated entities providing Title XIX or Title XXI reimbursable services, and federal reimbursements related to medical assistance payments, so called, to publicly-operated entities. All amounts credited to this account shall be held in trust and shall be available for expenditure by the commissioner of the division of medical assistance to be used solely for medical assistance payments to entities designated and authorized by the general court, or which have contractually agreed to make intergovernmental transfers to said account; provided, however, that the amount of all such expenditures from said account shall be subject to annual approval by the general court. The maximum payments and transfers from said account shall not exceed those permissible for federal reimbursement under Title XIX or Title XXI of the Social Security Act or any successor federal statute. The comptroller may make payments in anticipation of receipts and shall establish procedures for reconciling overpayments or underpayments from said account to publicly-operated entities; provided, that said procedures shall include, but not be limited to, appropriate mechanisms for refunding intergovernmental transfers and federal reimbursements upon recoupment of any such overpayments. The division of medical assistance shall notify the division of health care finance and policy regarding revenue and expenditure activity within said account and submit to the secretary of administration and finance and the house and senate committees on ways and means a schedule of said payments ten days prior to any expenditures, and no funds shall be expended without an enforceable agreement with or legal obligation imposed upon the recipient public entity to make an intergovernmental transfer in an appropriate amount to said account.

**SECTION 28.** Subsection (e) of section 40 of chapter 121B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the second sentence the following sentence:- For purposes of calculating the rent of elderly tenants in state-aided public housing, local housing authorities shall treat pharmacy costs reimbursed pursuant to section 16B of chapter 118E as deductible medical expenses.

**SECTION 29.** Item 4000-0842 of section 2 of chapter 43 of the acts of 1997, inserted by section 73 of chapter 88 of the acts of 1997, is hereby amended by striking out the figure "\$206,256,201".

**SECTION 30.** Item 4000-0880 of said section 2 of said chapter 43 is hereby amended by striking out the words "clause (b) of subsection 2 of section 9A" and inserting in place thereof the words:- section 16C.

**SECTION 31.** Said item 4000-0880 of said section 2 of said chapter 43 is hereby further amended by striking out the words "provided further, that said division shall apply for an amendment to the MassHealth demonstration project waiver as required by section 26 of chapter 203 of the acts of 1996 no later than October 1, 1997;"

**SECTION 32.** Section 183 of said chapter 43 is hereby repealed.

**SECTION 33.** Section 20 of chapter 47 of the acts of 1997 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

To accommodate contractual obligations of surcharge payors, the division may by regulation delay the effective date of the surcharge percentage intended by this act to be implemented on October 1, 1997 in hospital fiscal year 1998 until January 1, 1998; provided, however that no such delay shall occur unless and until the following five conditions are met: (1) funds are appropriated from the General Fund or another fund and transferred to the uncompensated care pool in an amount equivalent to four months' projected revenues that, if said effective date had not been delayed, would otherwise be collected from the surcharge percentage authorized by said section 18A; (2) the amounts so made available and transferred are designated as a temporary start-up loan to accommodate the delay in the effective date of the surcharge percentage; (3) the amounts so made available and transferred are restricted to that portion of the pool's liability payments to acute hospitals and community health centers that otherwise would have been collected from surcharge payors during the months of October to December, 1997, inclusive, and in January 1998, if surcharge liability had accrued on payments made beginning in October, 1997; (4) the division establishes the surcharge percentage for hospital fiscal year 1998 at a level sufficient to generate \$100,000,000 in revenues from the surcharge percentage between January 1, 1998 and September 30, 1998; (5) the division certifies to the comptroller that the amount so loaned to the uncompensated care pool shall be fully repaid to the General Fund or such other fund, without interest, not later than June 30, 1998, or such other date the comptroller deems permissible to close the books on state fiscal year 1998. The comptroller is hereby authorized and directed to effectuate the repayment of said loan. If the division allows the effective date of said surcharge percentage to be delayed pursuant to this paragraph, the division shall authorize by regulation that the surcharge percentage billed by acute hospitals and ambulatory surgical centers to surcharge payors on said January 1 and for the remainder of said hospital fiscal year shall be calculated to provide sufficient funds to fully repay said loan on a timely basis while maintaining payments to acute hospitals and community health centers for uncompensated care. In order to assure that sufficient revenues are available to repay said loan, the division may authorize hospitals and ambulatory surgical centers to bill estimated advance surcharge payments due in January and February 1998; provided, however, that such payments are credited against surcharge liability in months after the loan is repaid. If the division allows the effective date of said surcharge percentage to be delayed pursuant to this paragraph, the division may redetermine the surcharge percentage as of May 1, 1998 and as of July 1, 1998 if the division projects that the surcharge percentage established previously will produce less than \$90,000,000 or more than



\$110,000,000, or if the adjustment is necessary in order to fully repay the General Fund or other fund, as required by condition (5) of this section.

**SECTION 34.** Said chapter 47 is hereby further amended by striking out section 33 and inserting in place thereof the following section:-

*Section 33.* Notwithstanding the provisions of any special or general law to the contrary, no funds shall be expended by the division of medical assistance on the MassHealth insurance reimbursement program established by section 9C of chapter 118E of the General Laws unless the commissioner of medical assistance has certified to the committee on health care and the house and senate committees on ways and means that the division has requested federal approval under the terms of the MassHealth demonstration project to implement clause (c) of subsection (2) of section 9A of said chapter 118E with respect to providing medical benefits to children and adolescents through age 18, inclusive, whose financial eligibility does not exceed 200 per cent of the federal poverty level or has requested federal approval pursuant to Title XXI of the Social Security Act to provide medical benefits to children and adolescents through age 18 whose financial eligibility does not exceed 200 per cent of the federal poverty level.

**SECTION 35.** Said chapter 47 is hereby further amended by striking out section 34 and inserting in place thereof the following section:-

*Section 34.* The division of medical assistance shall not implement any plan pursuant to section 9C of chapter 118E of the General Laws, inserted by section 10 of this act, before an appropriation is made available for the initial start-up and operation of said plan.

**SECTION 36.** Section 92 of chapter 88 of the acts of 1997 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said transfer is hereby deemed a temporary start-up loan to the uncompensated care pool; provided, however, that the loan authorized herein shall be repaid to the General Fund on or before June 30, 1998, or such other date the comptroller deems permissible to close the books on state fiscal year 1998.

**SECTION 37.** Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy, in collaboration with the division of insurance and division of medical assistance, is hereby authorized and directed to study the impact of changes in the Medicare Program contained in the Balanced Budget Act of 1997 as it affects Massachusetts health care providers and Medicare beneficiaries. The division shall file its report with the joint committee on health care and the house and senate committees on ways and means no later than May 1, 1998 on the following issues: (1) the impact on hospitals of reduced Medicare payments; (2) the impact on home health agencies and nursing homes of prospective payment systems; (3) the impact on beneficiaries of expanded coverage options; (4) the estimated impact on the Medicaid program of cost-shifting as a result of said changes.

**SECTION 38.** Notwithstanding the provisions of any of general or special law to the contrary, implementation of the program of health care assistance provided to children and adolescents with family incomes between 134 per cent and 200 per cent of the federal poverty level pursuant to the provisions of section 16C of chapter 118E of the General Laws



shall be contingent upon a finding of budget neutrality by the commissioner of the division of medical assistance. Thirty days prior to implementing said program of health care assistance, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a report certifying that revenues credited and other amounts transferred to the Children's and Seniors' Health Care Assistance Fund shall be sufficient by themselves to meet projected expenditures for expansion beneficiaries as defined in subsection 2 of section 9A of chapter 118E of the General Laws for the fiscal years 1998 through 2002 without requiring additional amounts to be appropriated or transferred from the General Fund or any other fiscal resource of the commonwealth. Said report shall be developed pursuant to the provisions of section 9B of chapter 118E of the General Laws.

**SECTION 39.** On or before April 1, 1998, the division of health care finance and policy shall file with the clerks of the house and senate the findings and conclusions of an independent study reviewing the available information on the efficacy of various approaches to increasing access to health insurance for the working uninsured below 200 per cent of the federal poverty level. The division shall convene an advisory board to consult on the preparation of said study. Said advisory body shall include, but not be limited to, Massachusetts Medical Society, Massachusetts Hospital Association, Health Care For All, Massachusetts Law Reform Institute, Massachusetts Association of Health Maintenance Organizations, Blue Cross and Blue Shield of Massachusetts and organizations representing chambers of commerce throughout the commonwealth. Said study shall compare and evaluate various alternative approaches for improving such access, including the program established by section 9C of chapter 118E of the General Laws, the MinnesotaCare program, and such other proposals as may be considered. Said evaluation shall estimate the cost and benefits of each approach, and estimate the participation rate among the currently insured and uninsured and impact of such a program on the rate of employer-provider health insurance.

**SECTION 40.** Notwithstanding the provisions of any of general or special law to the contrary, the division of medical assistance is hereby authorized and directed to file with the house and senate committees on ways and means and the secretary of administration and finance a detailed operating plan for implementation of the insurance reimbursement program established pursuant to section 9C of chapter 118E of the General Laws. Said operating plan shall include, but shall not be limited to, a description of the following: (i) responsibilities and functional duties of agencies charged with administering said program; (ii) processes for determining eligibility of employers and employees participating in said program; (iii) the frequency of and mechanisms for making subsidy payments to or on behalf of employers and employees; (iv) the timing and method for accessing funds in the uncompensated care pool for the payment of such subsidies; (v) methods for allocating expenditures from and crediting revenues to appropriate state funding sources; and (vi) methods for distinguishing individuals participating in said program from individuals participating in buy-in programs, so-called, authorized by section 9A or section 16C of chapter 118E of the

General Laws. Said operating plan shall be filed with the executive office of administration and finance and the house and senate committees on ways and means no later than February 1, 1998. No expenditures on benefits payable under said program shall be made until an appropriation has been made therefor and said secretary certifies viability of said implementation plan to said committees.

**SECTION 41.** Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance and the department of public health are hereby authorized and directed to develop a single application form for the purpose of determining eligibility for the child health programs established pursuant sections 9, 9A, and 16C of chapter 118E of the General Laws and section 24G of chapter 111 of the General Laws. Said single application form shall be used by said division, said department and vendors providing enrollment services no later than February 1, 1998.

**SECTION 42.** Notwithstanding the provisions of any of general or special law to the contrary, there is hereby established a special commission for the purpose of making an investigation and study of oral health status, effective community prevention programs, and access to dental care services for residents of the commonwealth. Said commission shall consist of the commissioner of public health or his designee, who shall serve as chairman, the commissioner of medical assistance or his designee, two members of the house of representatives to be named by the speaker, two members of the senate to be named by the president of the senate, and 16 members to be appointed by the governor, two of whom shall be representatives of the Massachusetts Dental Society, one of whom shall be a representative of the Massachusetts Dental Hygienist Association, one of whom shall be a representative of the Massachusetts Dental Assistants Association, one of whom shall be a representative of Health Care for All, one of whom shall be a representative of a community health center that provides dental health services, one of whom shall be a representative of the Boston Department of Public Health, one of whom shall be a representative of a company that provides dental insurance benefits, one of whom shall be a dean or faculty member of a school of dentistry, one of whom shall be a representative of the Massachusetts Public Health Association, one of whom shall be a representative of the Massachusetts Academy of Pediatric Dentistry, one of whom shall be a representative of a hospital that provides dental services to children, one of whom shall be a representative of the AIDS Action Committee, one of whom shall be a member of the Massachusetts Association of Orthodontists, one of whom shall be a member of the Massachusetts Association of Oral Surgeons and one of who shall be a dental practitioner with a substantial percentage of nursing home and geriatric patients.

Said commission shall investigate the current status of oral health and care for high risk populations and low income and other residents of the commonwealth and barriers to access for such residents. Said commission shall in particular review options for increasing the provision of dental services to children receiving medical assistance in light of the report by the federal Department of Health and Human Services Inspector General which found that only 34 per cent of eligible children in Massachusetts receive preventive dental services.

Said commission shall also examine oral health status and dental care access issues affecting cultural and linguistic minorities and other high risk populations, improving dental care provider enrollment in programs of medical assistance, public dental health prevention and promotion programs, and such other matters as the commission shall determine.

Said commission report the results of its investigation and study, together with its recommendations, if any, by filing the same with the house and senate committees on ways and means, the committee on health care, the clerk of the house of representatives, and the clerk of the senate on or before January 1, 1999.

**SECTION 43.** The division of medical assistance shall conduct a study and report to the general court on or before March 1, 1998 on its initiatives to ensure that the special medical and clinical needs of disabled or chronically ill children are met as such children are enrolled in the Medicaid managed care program under the demonstration waiver program. As part of such report, said division shall define this population, taking into consideration the federal definition in 19 USC 1932 (a) (2) (a), as created in the Balanced Budget Act of 1997. Such definition includes children who (i) meet the eligibility requirements of supplemental security income on account of disability under the provisions of title XVI of the Social Security Act; (ii) are eligible for early intervention and special needs programs under the Massachusetts Title V Maternal and Child Health Block Grant; or (iii) are eligible under the Kalleigh Mulligan program under the provisions of section 1902 (e) (3) of the Social Security Act. Said division shall also report on its efforts to develop standards for care, coordination of services and appropriate capitation rates and risks adjustment for children with special health care needs in addition to outlining its plans for monitoring services and collecting data on the utilization of services and diagnoses of such population of children.

**SECTION 44.** Notwithstanding the provisions of section 1 of this act or any provision of general or special law to the contrary, all provisions of section 24F of chapter 111 of the General Laws shall remain in effect until June 30, 1998.

**SECTION 45.** The provisions of sections 27, 29 and 35 shall take effect as of July 1, 1997.

**SECTION 46.** The provisions of sections 3, 4, 5, 6, 9, 10, and 11 shall take effect as of July 1, 1998.

Approved November 26, 1997.

**Chapter 171. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO RELEASE CERTAIN EASEMENTS IN THE TOWN OF READING.**

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

**SECTION 1.** Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of the division of capital planning and op-



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## Chap. 171

erations is hereby authorized to release to the town of Reading two easements in land located in said town, which easements were acquired by the department of public works under the provisions of chapter 458 of the acts of 1939 and which are currently under the care and control of the department of environmental management. Said easements are recorded in the Middlesex south district registry of deeds in Book 6548, Page 301.

**SECTION 2.** The town of Reading shall pay all expenses associated with the release of easements authorized in section 1, including the cost of appraisals, surveys, title work and other expenses of such release, and the commonwealth shall have no further responsibility or liability in connection with said easements.

Approved November 26, 1997.

## **Chapter 172. AN ACT AUTHORIZING THE TRANSFER OF TITLE AND OWNERSHIP OF THE MASHPEE WAMPANOAG INDIAN MUSEUM.**

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

**SECTION 1.** The town of Mashpee, acting by and through its board of selectmen, is hereby authorized to transfer title and ownership of a parcel of land described on Mashpee assessors map 35 as block 30, or a portion thereof, together with the Mashpee Wampanoag Indian Museum located thereon and the contents located therein or currently owned by said town, to the Mashpee Wampanoag Tribal Council, Inc. upon such terms and conditions as deemed appropriate by said board of selectmen; provided, however, that said property shall be used to provide educational, recreational, and cultural services to the general public.

**SECTION 2.** In the event said parcel, together with the Mashpee Wampanoag Indian Museum, ceases to be used at any time for the purposes contained herein, said parcel, together with the Mashpee Wampanoag Indian Museum, the ownership of said parcel shall revert to the town of Mashpee.

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

Approved November 26, 1997.

## **Chapter 173. AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO AUTHORIZE THE EXPENDITURE OF CERTAIN INTEREST OR OTHER INCOME FOR URBAN HERITAGE STATE PARKS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the expenditure of certain interest or other income for Urban Heritage State Parks, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.



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## Chap. 173

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

**SECTION 1.** Item 2120-9801 of section 2 of chapter 798 of the acts of 1979, as appearing in section 34 of chapter 723 of the acts of 1983, is hereby amended by adding the following words:- ; and provided further, that the department of environmental management may authorize expenditure of interest accumulated or income earned on funds transferred to and on deposit with said municipalities, redevelopment authorities or economic development and industrial corporations pursuant to said agreement.

**SECTION 2.** Section 2 of chapter 512 of the acts of 1980 is hereby amended by inserting after the word "funds", in line 8, the following words:- , including any interest accumulated or income earned thereon.

**SECTION 3.** Said section 2 of said chapter 512 is hereby further amended by striking out, in line 19, the word "shall" and inserting in place thereof the following words:- , including any interest accumulated or income earned thereon, shall.

**SECTION 4.** Said section 2 of said chapter 512 is hereby further amended by inserting after the word "purpose", in line 24, the following words:- , plus interest accumulated or income earned on funds transferred to a municipality, redevelopment authority, and economic development and industrial corporation.

Approved November 26, 1997.

## **Chapter 174. AN ACT RELATIVE TO INSURANCE PREMIUM FINANCE LICENSEES SUBJECT TO THE JURISDICTION OF THE DIVISION OF BANKS AND THE DIVISION OF INSURANCE.**

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

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by striking out section 162B, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 162B. Insurance agents and brokers may accept payment of insurance premiums in installments to be evidenced by notes or other appropriate instruments running from the insured to the agent or broker; provided, however, that payment of insurance premiums in installments to be evidenced by notes or other appropriate instruments running from the insured to the agent or broker on contracts of insurance, which contracts are primarily for personal, family or household purposes, shall be made under rates, charges and regulations established after public hearing, as equitable and nondiscriminatory, by a board consisting of the attorney general, the insurance commissioner and the commissioner of banks or their respective designees.

For purposes of financing insurance premiums and the subsequent sale or other negotiation of any such note or instrument to a third party, insurance agents and brokers shall be considered to be sellers of insurance.

**SECTION 2.** Section 1 of chapter 255C of the General Laws, as so appearing, is hereby amended by inserting after the word "order", in line 16, the following words:- and any property and casualty insurance agent or broker, who provides premium financing only to his own customers for purposes of financing the payment of premiums on contracts of insurance, which contracts of insurance are exclusively limited to commercial policies.

**SECTION 3.** Said chapter 255C is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. No person, except a credit union, a bank as defined in section 1 of chapter 167, a national banking association, or a federal savings and loan association, a federal savings bank, a sales finance company as defined in section 1 of chapter 255B, and a company licensed to carry on the business of making small loans, shall engage in the business of a premium finance agency unless licensed by the commissioner, as provided in section 3; provided, however, that no property and casualty insurance agent or broker, including an insurance agent or insurance broker conducting an insurance premium financing agency business under a subsidiary or different company name, who provides premium financing only to his own customers for purposes of financing payment of premiums on contracts of insurance, which contracts of insurance are exclusively limited to commercial insurance policies, shall be required to be licensed pursuant to this section or any other section of this chapter. Such license shall allow the holder to maintain only one office from which said business may be conducted, but more than one license may be issued to any person. Any change of location of an office of a licensee shall require the prior approval of the commissioner. Such request for relocation shall be in writing setting forth the reason or reasons for the request, and shall be accompanied by a relocation investigation fee of \$50. If an applicant has more than one office, he may obtain a license for each office from which he intends to conduct said business.

*Emergency Letter: December 5, 1997 @ 4:36 P.M.*

Approved November 26, 1997.

## **Chapter 175. AN ACT AUTHORIZING THE COMPETITIVE DISPOSITION OF CERTAIN LAND LOCATED IN THE TOWN OF WILBRAHAM.**

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

**SECTION 1.** Notwithstanding the provisions of sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the division of capital planning and operations, acting in the name and on behalf of the commonwealth, is hereby authorized and directed to convey by deed, for consideration in accordance with the procedure described in section 3, land used for open space with the buildings thereon located in the town of Wilbraham under the control of the division of fisheries and wildlife and commonly known as the Wilbraham Game Farm, hereinafter referred to as the property, for the use as a public park for recreation, conservation, education, agriculture including agricultural fairs, and wildlife management purposes, under such use restrictions and environmental protection requirements provided in this act.

Said land consists of three certain parcels in said town of Wilbraham, shown as Parcels 1, 2, 3, on a plan entitled "Plan of Land - Commonwealth of Massachusetts, Department of Fisheries, Wildlife and Environmental Law Enforcement, Division of Fisheries and Wildlife, Wilbraham Game Farm, Wilbraham, Mass.", prepared by Ecotec Environmental Associates, East Longmeadow, Massachusetts, to be recorded in the Hampden County Registry of Deeds.

**SECTION 2.** Parcel 1 is to be conveyed subject to the following additional restrictions: No new construction shall occur on Parcel 1 other than (i) routine repairs and maintenance or improvement of buildings existing as of the effective date of this act or (ii) temporary or permanent buildings or structures consistent with the uses set forth in section 1 and subject to all local zoning ordinances, rules and regulations.

**SECTION 3.** Parcel 2 is to be conveyed subject to the following additional restrictions:

(1) It shall be retained predominately in its natural state as open space and wildlife habitat.

(2) No new building, structure, or facility, or any part thereof, including but not limited to, a recreation facilities shall be erected or placed on said parcel.

(3) The existing structure, a long rectangular building as shown on the aforementioned plan, may remain on Parcel 2 and be replaced, modified or refurbished; provided, however, that the square footage of the ground floor does not increase and all plans for any such replacement, modification or refurbishment be approved in advance by the division of fisheries and wildlife for compliance with these restrictions.

**SECTION 4.** Parcel 3 is to be conveyed subject to the following additional restrictions:

(1) It shall be retained predominately in its natural state as open space and wildlife habitat and shall be managed exclusively for wildlife habitat and open space protection. Habitat management and improvement activities consistent with this use and as approved by the division of fisheries and wildlife shall be permitted.

(2) Limited passive public recreation use such as interpretive trails and conservation education activities compatible with Parcel 3 restrictions shall be allowed so long as said use has no significant adverse impact on the natural state and wildlife habitat value thereof. All such uses shall be approved by the division of fisheries and wildlife.

(3) Said parcel shall not be used for any purpose other than the purposes provided in this section.

(4) The existing road on said Parcel 3 shall be maintained as a gravel road approximately eight feet wide and may not be widened, paved or blacktopped, or otherwise improved beyond its current condition as an eight-foot wide gravel road. Motorized vehicle use on said Parcel 3 shall be limited to said gravel road and such use shall be for management and emergency purposes only.

**SECTION 5.** The commonwealth expressly reserves the right for the division of fisheries and wildlife and its authorized employees and agents at any time to enter and cross



Parcel 1 by vehicle or on foot and to enter and cross Parcels 2 and 3 to inspect said Parcels 2 and 3 for compliance with the restrictions and all approvals of said division of fisheries and wildlife required by this act.

The commonwealth further expressly reserves the right to take any lawful action that the division of fisheries and wildlife deems necessary or appropriate, including but not limited to, judicial proceedings at law or in equity against any person or organization violating or attempting to violate any of the restrictions set forth herein and to enforce compliance with said restrictions to restore the property to its natural state.

**SECTION 6.** Notwithstanding any other general or special law to the contrary, the property is to be disposed of in accordance with the following competitive sealed proposal procedure:

(1) Not later than 14 days after the effective date of this act, a board consisting of the commissioner of the division of capital planning and operations or his designee, the director of the division of fisheries and wildlife or his designee, and the designee of the town of Wilbraham board of selectmen shall commission an independent appraisal of the market value of the property taking into account all of the restrictions, easements and reversionary interests described herein, said appraisal to be completed within 14 days or as soon thereafter as is consistent with sound appraisal practice. Within 14 days of his receipt of said appraisal, the inspector general shall review and approve said appraisal, including a review of the methodology utilized by said appraisal, and shall prepare a report of such 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 the joint committee on state administration.

(2) Within 14 days of its receipt of the inspector general's approval of said appraisal, said board shall place an advertisement requesting the submission of sealed proposals in a newspaper with a circulation in the locality sufficient to inform the people of the affected locality. The board shall cause the advertisement to be published at least once a week for two consecutive weeks. The last publication shall occur at least eight days preceding the day for opening proposals. The advertisement shall describe the general terms and requirements of the proposed transaction, specify where the request for proposals may be obtained, and the time and place for the submission of proposals. The board shall make copies of the request for proposals available to all persons on an equal basis. Any person desiring to be notified of addenda, clarifications, or other pre-proposal official notifications shall sign a register to be made available by the board for such purpose.

(3) The request for proposals shall specify that (i) the minimum purchase price shall be the appraised value as determined in this section; (ii) eligible proposers shall be limited to persons, groups or entities that are formed, organized and registered as a public charitable trust or public charitable corporation at the time of transfer and whose purposes are consistent with the uses and purposes specified in section 1; (iii) proposals from entities or persons demonstrating experience in public park maintenance or management, volunteer development and coordination, fund-raising, friend-raising, and conservation shall be deemed to be highly advantageous; (iv) the property shall be managed and administered to



the extent applicable in accordance with the use guidelines adopted by said town of Wilbraham at its annual town meeting of May 1, 1995, including the provisions relating to the annual peach festival, and such use and environmental restrictions as are set forth in sections 1 and 2 of this act; and (v) any other specifications and evaluation criteria consistent with this act that the board may deem appropriate.

(4) The board 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 section 7 of chapter 4 of the General Laws, until the completion of the evaluations, or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the board shall prepare a register of proposals which shall include the name of each offeror. The register of proposals shall be open for public inspection. The board may open the price proposals at a later time, and shall open the price proposals so as to avoid disclosure to the individuals evaluating the proposals on the basis of criteria other than price.

(5) The board shall designate the one or more individuals responsible for the evaluation of the proposals on the basis of criteria other than price. Such evaluations shall be based solely on the criteria set forth in the request for proposals. The evaluations shall specify in writing: (i) for each evaluation criterion, a rating of each proposal as highly advantageous, advantageous, not advantageous, or unacceptable, and the reasons for the rating; and (ii) a composite rating for each proposal, and the reasons for the rating.

(6) A proposal may be corrected, modified, or withdrawn by written notice received in the office designated in the request for proposals prior to the time and date set for the proposal opening. After opening, an offeror may not change the price or and other provision of the proposal in a manner prejudicial to the interests of the commonwealth or fair competition. The board may waive minor informalities, as defined in section 2 of chapter 30B of the General Laws, or allow the offeror to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal, the board shall correct the mistake to reflect the intended proposal and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if the mistake is clearly evident on the face of the proposal but the intended correct proposal is not similarly evident.

(7) The board shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The board shall accept the proposal by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement.

(8) If the board awards the contract for the purchase and sale of the property to an offeror who did not submit the highest price, the board shall explain the reasons for the award in writing.

(9) The property shall be conveyed and the purchase price paid at any time by mutual agreement of the parties but not later than 45 days following the notice of award.

**SECTION 7.** Upon completion of the conveyance the owner is hereby authorized and directed to establish a public park in accordance with the vote of the town of Wilbraham annual town meeting of May 1, 1995, to the extent applicable, to be managed and administered in accordance with the use guidelines adopted by said annual town meeting of May 1, 1995, to the extent applicable, and such use and environmental restrictions as are set forth in sections 1 and 2; provided, however, that said use guidelines may be amended in substance not inconsistent with the provisions of this act and in the manner applicable to the amendment of zoning by-laws; provided further, that any revenues accruing to the owner derived from any use or activity on the property may be used solely to further the purposes and uses of the property set forth in section 1 and such revenues shall not inure to the private benefit of any other person or organization; provided further, that should the property be used or managed by the owner not in accordance with such uses and environmental restrictions as are set forth in said sections 1 and 2 and the owner not having cured any non-compliant uses within 30 days of receipt of written notice by ten taxable inhabitants of said town of Wilbraham, or should the owner determine that it is no longer capable or willing to perform its obligations under this act, title to said property shall pass to said town of Wilbraham to be used for open space in accordance with such uses and environmental restrictions as are set forth in said sections 1 and 2, but said town shall not be liable for any acts, omissions or occurrences arising prior to the passing of title; and provided further, that should the property following such transfer of title to said town be used or managed by said town not in accordance with such uses and environmental restrictions as are set forth in said sections 1 and 2 and the town not having cured any non-compliant uses within 30 days of receipt of written notice by ten taxable inhabitants of the town, title to said property shall revert to the care and control of the division of capital planning and operations and any further disposition of said property shall be subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws. The superior court shall have jurisdiction over any claims that the property is not used or managed in accordance with such uses and environmental restrictions as are set forth in said sections 1 and 2. Notwithstanding any general or special law to the contrary, the owner shall be deemed not to be a state or municipal agency by virtue of the duties, restrictions, or activities imposed or authorized by this section.

**SECTION 8.** All expenses associated with and the cost of any appraisals, surveys, advertisements and other expenses relating to the transfer of the property shall be paid by the town of Wilbraha, and any cost and liabilities and expenses of any nature and kind for its ownership, maintenance or operation shall be paid by the owner.

**SECTION 9.** The money received by the division of capital planning and operations as a result of the conveyance authorized by section 1 shall be deposited in the General Fund.

**SECTION 10.** Chapter 886 of the acts of 1973 is hereby repealed.

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

Approved November 26, 1997.

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## **Chapter 176. AN ACT RELATIVE TO CHARTER SCHOOLS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to effect forthwith the operation of 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:*

**SECTION 1.** Paragraph (ff) of section 89 of chapter 71 of the General Laws, as appearing in section 2 of chapter 46 of the acts of 1997, is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- During fiscal year 1998, any charter school operating pursuant to a charter granted on or before January 1, 1997, whose students are not transported by the district of residence, but who would be eligible for transportation to and from such charter school based on the same terms and conditions as students attending local district schools shall receive the entire average transportation cost per student amount, as calculated by the department of education, for each such student, regardless of any transportation costs at such charter school. Schools operating pursuant to a charter granted after January 1, 1997, and all charter schools during fiscal year 1999 and thereafter, shall not receive funds for transportation above the amount actually required by such charter school for the provision of transportation services to eligible students.

**SECTION 2.** This act shall take effect as of October 9, 1997.

Approved November 26, 1997.

## **Chapter 177. AN ACT ALLOWING FOR THE INCREASE OF RETIREMENT ALLOWANCES FOR MASSPORT EMPLOYEES.**

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

**SECTION 1.** Section 90A of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "town", in line 1, the following words:- or the Massachusetts Port Authority.

**SECTION 2.** Said section 90A of said chapter 32, as so appearing, is hereby further amended by inserting after the word "meeting", in line 4, the following words:- or, in the case of the Massachusetts Port Authority, by vote of a majority of its members.

**SECTION 3.** Section 90C of said chapter 32, as so appearing, is hereby amended by inserting after the word "district", in line 1, the following words:- or the Massachusetts Port Authority.

**SECTION 4.** Said section 90C of said chapter 32, as so appearing, is hereby further amended by inserting after the word "committee", in line 5, the following words:- or, in the case of the Massachusetts Port Authority, by vote of a majority of its members.

**SECTION 5.** Section 90D of said chapter 32, as so appearing, is hereby amended by inserting after the word "district", in line 1, the following words:- or the Massachusetts Port Authority.



**SECTION 6.** Said section 90D of said chapter 32, as so appearing, is hereby further amended by inserting after the word "committee", in line 6, the following words:- or, in the case of the Massachusetts Port Authority, by vote of a majority of its members.

**SECTION 7.** Section 90E of said chapter 32, as so appearing, is hereby amended by inserting after the word "district", in line 2, the following words:- or the Massachusetts Port Authority.

Approved November 26, 1997.

## **Chapter 178. AN ACT RELATIVE TO DISHONORED CHECK FEES.**

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

**SECTION 1.** Chapter 167D of the General Laws is hereby amended by striking out section 3, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 3. A bank may receive demand, time and other types of deposits without limitation; provided, however, that no bank shall assess any fee, charge or other assessment against any account, established for personal, family or household purposes, of a depositor who, as the payee of a check, draft or money order, of which the payee is not also the maker, deposits the same therein and payment on any such instrument is refused by the depository institution upon which it is drawn because of insufficient funds or because the maker thereof did not have an account at such depository institution; provided, further, that a bank may assess a reasonable fee, charge or assessment that represents its direct costs, as established annually by the commissioner of banks, incurred for processing such check, draft or money order.

**SECTION 2.** Chapter 171 of the General Laws is hereby amended by inserting after section 41 the following section:-

Section 41A. No credit union shall assess any fee, charge or other assessment against any account, established for personal, family or household purposes, of a depositor or shareholder who, as the payee of a check, draft or money order, of which the payee is not also the maker, deposits the same therein and payment on any such instrument is refused by the depository institution upon which it is drawn because of insufficient funds or because the maker thereof did not have an account at such depository institution; provided, however, that a credit union may assess a reasonable fee, charge or assessment that represents its direct costs, as established annually by the commissioner of banks, incurred for processing such check, draft or money order.

Approved November 26, 1997.



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## Chapter 179. AN ACT PROVIDING FOR IMPROVEMENTS TO THE METROPOLITAN WATER SUPPLY SYSTEM.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain land transfers and the granting of certain easements necessary for the improvement of the metropolitan water supply 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 1.** The parcel of vacant land specifically described in section 2 of this act, purchased by the town of Weston and currently used by said town for open space and public trails purposes, consisting of 22.3 acres of land, more or less, is hereby transferred to the Massachusetts Water Resources Authority, for the purpose of the development, construction and maintenance of facilities for the improvement of the metropolitan area water supply system. The parcel of land specifically described in section 3 is hereby transferred to the Massachusetts Water Resources Authority for the same purpose, such transfer to be effective upon recording with the Middlesex south registry of deeds of a deed to the town of Weston from the Weston Forest and Trail Association, Inc., conveying good, clear, record title to the town of Weston no later than 60 days following the enactment of this act, and said transfer to be void if said deed is not recorded within such time.

**SECTION 2.** The parcel of land owned by the town of Weston currently under the care, custody, control, and management of the town of Weston conservation commission and held and used for conservation, open space, and trails purposes, and identified in section 1 is herein more specifically described as comprising a triangular parcel of land containing 22.3 acres, more or less, situated off the east side of Wellesley Street, in the town of Weston, bounded and described as follows:

Northerly, by land of the Massachusetts Turnpike Authority, 1415.46 feet, and another line of 639.7 feet;

Easterly, by land now or formerly of the Weston Forest and Trail Association, Inc., 910.23 feet;

Southwesterly, by land of the commonwealth of Massachusetts (Pressure Aqueduct) by two lines respectively of 802.0 feet and 811.8 feet, together measuring 1613.8 feet;

Northwesterly, by land of said commonwealth of Massachusetts, 50.8 feet; and

Southwesterly, again by land of said commonwealth, 391.8 feet. Said parcel is shown as Parcel A on a plan dated December 19, 1975, prepared by Everett M. Brooks Company, C.E. Of Newtonville, Massachusetts, and recorded in Middlesex south registry of deeds.

The parcel is further described as Parcel A in a deed of Nancy W. Danforth to the Town of Weston dated June 30, 1976 and recorded in said Deeds Book 13005, Page 574.

**SECTION 3.** The parcel of land currently owned by the Weston Forest and Trail Association, Inc., containing 13.456 acres, more or less, situated off Wellesley Street, in the Town of Weston, shown as lot 2 on a plan entitled "Plan of Land in Weston, Massachusetts,

owned by Hilbert Van Nydeck Schenck," dated March 25, 1957, recorded in the Middlesex South Registry of Deeds, Book 8967, Page 280, bounded and described as follows: Northerly, by the Massachusetts Turnpike as shown on said plan in two courses, three hundred eighty-two and 42/100 (382.42) feet, and six hundred sixty-six and 30/100 (666.30) feet, respectively; Southeasterly by land of the commonwealth of Massachusetts as shown on said plan, one thousand five hundred fifty-three and 25/100 (1553.25) feet; Southerly by land of the commonwealth of Massachusetts, as shown on said plan, two hundred forty-seven and 20/100 (247.20) feet; Westerly by land of Nancy W. Danforth, as shown on said plan, nine hundred ten and 23/100 (910.23) feet. The parcel is further described in a deed of Dorothea B. Cugini to the Weston Forest and Trail Association, Inc., dated April 7, 1962, and recorded in the Middlesex South Registry of Deeds, Book 10015, Page 381 and said land is subject to the condition and right of reverter set out in said deed.

**SECTION 4.** As additional consideration for the transfer of the town of Weston conservation land to the Massachusetts Water Resources Authority, the Massachusetts Water Resources Authority is hereby authorized and directed to comply with all of the terms of the Memorandum of Agreement between the town of Weston and the Massachusetts Water Resources Authority approved by a vote of the board of directors of said authority on March 26, 1997, duplicate originals of which are filed with the town clerk of the town of Weston and the secretary of the board of directors of the Massachusetts Water Resources Authority, except the first paragraph and the first sentence of the second paragraph of introductory part, Section 5 (Outstanding Issues) and Part II, Section 5 (Conditions Precedent to the Parties' Obligations), and the compensation and other obligations set out in Part II, Section 3 of said Memorandum of Agreement, for which compensation the compensation provided by this act shall substitute.

**SECTION 5.** Upon the recording of the certificate described in section 6 of this act, the Massachusetts Water Resources Authority shall pay to the town of Weston the amount of \$3,000,000, which amount shall be held in trust by said town, and shall only be used by the town, acting through its conservation commission with the approval of its board of selectmen, without further appropriation, for the purchase of conservation land. In addition, notwithstanding any other provisions of law to the contrary, the 12 acres, more or less, of land described in figure 4 of the Memorandum of Agreement described in section 4, now held by the commonwealth for water supply purposes, is hereby transferred from the commonwealth to the town of Weston to be held as conservation land, and the Massachusetts Water Resources Authority is hereby authorized and directed to have prepared a plan of said land in form suitable for recording, which plan the Massachusetts Water Resources Authority shall record with the certificate described in section 6.

**SECTION 6.** Within 60 days of the effective date of this act, the Massachusetts Water Resources Authority shall record in the Middlesex south registry of deeds a certificate signed by said authority's executive director before a notary public, confirming that as of the date of enactment hereof, the authority is the owner of record of the parcel of land described in section 2. A copy of this act shall be recorded as an attachment to the certificate.

In the event that a deed of the parcel of land described in section 3 of this act is recorded within 60 days of the effective date of this act as set forth in section 1 said certificate shall also state that the authority is the owner of record of the parcel of land described in section 3 as of the date of recording of said deed.

**SECTION 7.** The land identified in sections 2 and 3 shall be used by the Massachusetts Water Resources Authority solely for the construction of the Norumbega reservoir covered water storage tank and associated piping, valves and appurtenances for connecting the water tank to the water system. In the event that the Massachusetts Water Resources Authority no longer uses the land described in sections 2 and 3 for the purposes described herein, the land shall revert to its prior status as conservation land. No portion of the land shall be used for the construction of a water disinfection facility, so-called. Nothing herein shall preclude the Massachusetts Water Resources Authority from using said land for wetlands replication.

**SECTION 8.** Notwithstanding the provisions of sections 38A½ to 38 O, inclusive, of chapter 7 of the General Laws, the provisions of sections 44A through 44M, inclusive, of chapter 149 of the General Laws, the provisions of section 39M of chapter 30 of the General Laws, or any other general or special law or regulation to the contrary providing for the planning, design, construction or improvements to real property, the Massachusetts Water Resources Authority is hereby authorized and directed to utilize such alternative means of procurement of design and construction for the development of a covered water storage tank system with a capacity of approximately 115 million gallons, together with appurtenances for its connection to the Hultman Aqueduct and the metrowest water supply tunnel, such storage tank construction collectively referred to as the Norumbega water storage project, as it determines to be reasonable and prudent in the circumstances; provided, however, that the authority shall either retain the services of an owner's representative, using the authority's existing procurement methods for professional services, or establish a staff position for an owner's representative, who shall advise the authority during the development of design and construction standards and provide other appropriate advice for the project. The design/construction contractor for the project shall be certified as paying prevailing wages that would be applicable as if the contract were to be awarded under the aforesaid provisions of the General Laws. No person shall be restrained from participating as a design/construction contractor who had participated in earlier study or initial design phases of the project.

**SECTION 9.** Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth, is hereby authorized and directed to transfer, for nominal consideration of \$1, five permanent subsurface water supply tunnel easements under certain parcels of land in the towns of Southborough and Wayland, which parcels were acquired by the commonwealth acting through a predecessor agency to the metropolitan district commission for watershed, park, open space and passive recreation purposes, to the Massachusetts Water



Resources Authority for the purposes of installing, maintaining and operating sections of a regional water supply tunnel, which when completed will provide water service to the metropolitan Boston area water supply system.

The first permanent subsurface tunnel easement is located in the town of Southborough, being bounded and described as follows:

Beginning at a point in the easterly side line of Framingham Road at land of the Commonwealth of Massachusetts by its Metropolitan District Commission ("M.D.C."). Said point of beginning being southeasterly a distance of five hundred two and nine-tenths (502.9) feet along the arc of a curve having a radius of one thousand eight hundred thirty and zero tenths (1,830.0) feet from the point of curvature of the said Framingham Road and running; thence,

Northwesterly along said Framingham Road and curving to the left along the arc of a curve having a radius of one thousand eight hundred thirty and zero tenths (1,830.0) feet, a length of fifty-five and one-tenth (55.1) feet to a point; thence,

S 84° - 32' - 53" E along land of said M.D.C., a distance of two thousand four hundred twenty and seven-tenths (2,420.7) feet to a point; thence,

S 84° - 17' - 01" W along the land of now or formerly Joseph and Margaret Sullivan, a distance of ninety-four and two-tenths (94.2) feet to a point; thence,

S 05° - 55' - 35" E along the land of now or formerly Joseph and Margaret Sullivan, a distance of thirty-two and four-tenths (32.4) feet to a point; thence,

N 84° - 32' - 53" W along land of said M.D.C., a distance of two thousand three hundred eleven and five-tenths (2,311.5) feet to the point of beginning.

The above described easement parcel contains an area of 114,645 square feet more or less and is more particularly shown as Parcel Number MW-58A on sheets MWT-19 through MWT-21 on a plan entitled "MASSACHUSETTS WATER RESOURCES AUTHORITY METROWEST WATER SUPPLY TUNNEL PERMANENT SUBSURFACE TUNNEL EASEMENT PLAN & PROFILE, SOUTHBOROUGH, WORCESTER COUNTY, date: January 17, 1996 revised: March 6, 1996 scale: 1" = 40' Sverdrup Corporation Eng.- Arch. Boston, MA, Judith Nitsch Engineering, Inc., Civil Engineers/Land Surveyors/Planners, One Appleton Street, Boston, MA 02116" (hereinafter, the "Worcester Plan"). The Worcester Plan has been recorded at the Worcester county registry of deeds as Plan No. 10 of 1996 in Plan Book 702.

The second permanent subsurface tunnel easement is located in the town of Southborough, being bounded and described as follows:

Beginning at a point in the easterly side line of Valley Road at land of the Commonwealth of Massachusetts by its M.D.C. and running; thence,

N 20° - 32' - 21" W along the easterly side line of said Valley Road, a distance of fifty-five and six-tenths (55.6) feet to a point; thence,

S 84° - 32' - 53" E along land of said M.D.C., a distance of three thousand fourteen and six-tenths (3014.6) feet to a point; thence,

N 71° - 19' - 15" E along land of said M.D.C., a distance of one thousand two hundred four and nine-tenths (1,204.9) feet to a point; thence,



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S 19° - 57' - 27" W along land of Patricia C. Lavin, a distance of sixty-four and zero tenths (64.0) feet to a point; thence,

S 71° - 19' - 15" W along land of said M.D.C., a distance of one thousand one hundred seventy-five and six-tenths (1,175.6) feet to a point; thence,

N 84° - 32' - 53" W along land of said M.D.C., a distance of three thousand and nine-tenths (3,000.9) feet to the point of beginning.

The above-described easement parcel contains an area of 209,897 square feet, more or less and is more particularly shown as Parcel Number MW-59B on sheets MWT-21 thru MWT-25 on the above-referenced Worcester Plan. For title reference, see deed dated January 4, 1896 recorded in Worcester County Registry of Deeds Book 1495, Page 245.

The third permanent subsurface tunnel easement is located in the westerly part of the town of Wayland, easterly of Sycamore road, beneath Dudley Pond, designated "Great Pond" of the commonwealth, being bounded and described as follows:

Beginning at a point in the division line between land of David and Lynn Paolella and land of the Commonwealth of Massachusetts (Dudley Pond). Said point of beginning being the northwest corner of the easement parcel to be described herein, and running; thence,

N 86° - 49' - 46" E along land of said Commonwealth of Massachusetts to land of John S. and Marilyn S. Darack, a distance of ninety-two (92±) feet plus or minus to a point; thence,

Southwesterly along land of said Commonwealth of Massachusetts and of land of said John S. And Marilyn S. Darack, a distance of seventy-two (72±) feet plus or minus to the point; thence,

Northwesterly along land of said Commonwealth of Massachusetts and land of said David and Lynn Paolella, a distance of forty-nine (49±) feet plus or minus to the point of beginning. The last two mentioned courses being by the shore line of Dudley Pond.

The above described easement parcel contains an area of 2,135 square feet more or less and is more particularly shown as Parcel Number MW-270 on Sheet MWT-32 on a plan entitled "MASSACHUSETTS WATER RESOURCES AUTHORITY METROWEST WATER SUPPLY TUNNEL PERMANENT SUBSURFACE TUNNEL EASEMENT PLAN & PROFILE, FRAMINGHAM, WAYLAND AND WESTON, MIDDLESEX COUNTY, date: January 17, 1996 scale: 1" = 40' Sverdrup Corporation Eng. - Arch. Boston, MA, Judith Nitsch Engineering, Inc., Civil Engineers/Land Surveyors/Planners, One Appleton Street, Boston, MA 02116" (hereinafter, the "Middlesex Plan"). The Middlesex Plan has been recorded in the Middlesex south district registry of deeds as Plan No. 186 of 1996. For title reference, see Order of Taking recorded January 1, 1898 in Middlesex south registry of deeds, Book 2635, Page 001.

The fourth permanent subsurface tunnel easement is located in the westerly part of the town of Wayland, beneath Dudley pond, designated the "Great Pond" of the commonwealth, being bounded and described as follows:

Beginning at the point in the division line between land of the town of Wayland and land of the Commonwealth of Massachusetts (Dudley Pond). Said point of beginning being the southwest corner of the easement parcel to be described herein and running; thence,

Northeasterly and Southeasterly by the shore line of said Dudley Pond and land of said Town of Wayland and land of John S. And Marilyn S. Darack, a distance of one hundred five (105±) feet plus or minus to a point; thence,

S 86° - 49' - 46" W along land of said Commonwealth of Massachusetts, a distance of eighty-four and zero tenths (84.0) feet to the point of beginning.

The above described easement parcel contains an area of 1,466 square feet more or less and is more particularly shown as Parcel Number MW-273 on Sheet MWT-32 on the above referenced Middlesex Plan. For title reference, see Order of Taking recorded January 1, 1898 in Middlesex south registry of deeds Book 2635, Page 001.

The fifth permanent subsurface tunnel easement is located in the westerly part of Wayland, beneath Dudley pond, a designated "Great Pond" of the commonwealth, being bounded and described as follows:

Beginning at a point in the division line between land of John S. And Marilyn S. Darack and the land of the Commonwealth of Massachusetts (Dudley Pond). Said point of beginning being the northwest corner of the easement parcel to be described herein, and running; thence,

N 86° - 49' - 46" E along land of said Commonwealth of Massachusetts, a distance of one thousand eight hundred twenty-seven (1,827±) feet plus or minus to a point;

Southwesterly along land of Joel Alvin Stein, and land of Daniel J. And Claudette Kerrigan, and land of Laurence J. Stybel and Maryanne Peabody, a distance of seventy-two (72±) feet plus or minus to a point; thence,

Said course being by the shore line of Dudley Road.

S 86° - 49' - 46" W along land of said Commonwealth of Massachusetts, a distance of one thousand seven hundred fifty-nine (1,759±) feet plus or minus to a point; thence,

Northwesterly along land of said John S. And Marilyn S. Darack a distance of fifty-four (54±) feet plus or minus to the point of beginning. Said course being by the shore line of Dudley Pond.

The above described easement parcel contains an area of 89,932 square feet more or less respectively, and are more particularly shown as Parcel Number MW-274 on sheets MWT-32 through MWT-34 on the above referenced Middlesex Plan. For title reference, see Order of Taking recorded January 1, 1898 in Middlesex south registry of deeds, Book 2635, page 001.

**SECTION 10.** Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws or of any other general or special law to the contrary, the commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth, is hereby authorized and directed to transfer, for nominal consideration of \$1, a permanent water supply easement in, under and through a certain parcel of land situated easterly of the Crane swamp in the towns of Marlborough, Northborough and South-

borough Massachusetts, which parcel was acquired by the commonwealth acting through a predecessor agency to the metropolitan district commission for watershed and open space purposes, to the Massachusetts Water Resources Authority for the purpose of constructing, installing, maintaining and operating a water filtration, disinfection and treatment system, together with all necessary pipes, basins, plants, facilities and tunnels, which when completed will provide water service to the Metropolitan Boston area water supply system.

The permanent water supply easement is bounded and described as follows:

A certain parcel of land situated in the city of Marlborough, and the towns of Southborough and Northborough, bounded and described as follows:

Beginning at the southwest corner of the parcel to be described herein. Said point being located at the end of a stone wall; thence,

N 11° 06' W by land now or formerly of the Metropolitan District Commission (MDC) a distance of three thousand four hundred fifty-five (3455) feet to a point; thence,

N 31° 11' - 29" W continuing along land of the MDC, a distance of three hundred and zero hundredths (300.00) feet to a point on a curve, and being non-tangent to said curve and to land now or formerly of the Consolidated Rail Corporation (ConRail); thence,

Northeasterly along land of said ConRail and curving to the right along the arc of a curve having a radius of two thousand eight hundred thirty-one and ninety-three hundredths (2,831.93) feet and an arc length of two hundred seventy-seven and twenty-five hundredths (277.25) feet to a point of tangency; thence,

N 89° 30' - 39" E along land of said ConRail, a distance of seven hundred twenty-eight and seventeen hundredths (728.17) feet to a corner of land now or formerly of MIP Realty Trust; thence,

S 41° 45' - 15" W along land of MIP Realty Trust and land now or formerly of ABC Realty Trust, a distance of one hundred eighty-seven and sixty-nine hundredths (187.69) feet to a point; thence,

S 51° 45' - 15" W a distance of one hundred thirty-seven (137.0) feet to a stone bound with drill hole; thence,

S 36° 11' - 00" W a distance of eighty-one and thirty hundredths (81.30) feet to a point; thence,

S 55° 58' - 49" E a distance of six hundred twenty-seven and seventy-seven hundredths (627.77) feet to a stone bound with drill hole; thence,

N 74° 14' - 00" E a distance of two hundred eleven and eighty-five hundredths (211.85) feet to a stone bound with drill hole; thence,

S 77° 09' - 13" E a distance of five hundred sixty-five and fourteen hundredths (565.14) feet to a stone bound with drill hole, the last six courses are all by land of said ABC Realty Trust; thence,

S 44° 17' - 41" E by land of said ABC Realty Trust, D'Angelo Drive and One Westec Realty Trust, a distance of eight hundred twenty-eight and eighty-three hundredths (828.83) feet to a point, thence,



S 51° 38' - 48" W along land now or formerly of Three Westec Realty Trust, a distance of one hundred twelve and sixty-four hundredths (112.64) feet to a stone bound with drill hole; thence,

S 52° 49' - 18" E a distance of two hundred eighty-nine and forty hundredths (289.40) feet to a point of curvature; thence,

Southeasterly curving to the left along the arc of a curve having a radius of one hundred and zero hundredths (100.00) feet and an arc length of fourteen and sixty-four hundredths (14.64) feet to a point of tangency; thence,

S 61° 12' - 25" E a distance of three hundred twenty-eight and five hundredths (328.05) feet to a point of curvature; thence,

Northeasterly curving to left along the arc of a curve having a radius of one hundred and zero hundredths (100.00) feet and an arc length of seventy-two and thirty hundredths (72.30) feet to a point of tangency; thence,

N 77° 22' - 15" E a distance of eight hundred forty-seven and forty hundredths (847.40) feet to a corner of land now or formerly of the MDC. The previous six courses were all by land of said Three Westec Realty Trust; thence,

S 35° - 36' W along land of the MDC, a distance of two thousand five hundred forty-three (2543) feet to the corner of a stone wall and land of Sudbury Valley Trustees, Inc.; thence,

N 57° - 55' W along the center of the stone wall, a distance of seven hundred ten (710) feet to an angle point in said stone wall; thence,

N 55° - 56' W along the center of said stone wall, a distance of three hundred forty-seven (347) feet to a corner of said stone wall; thence,

S 15° - 54' W continuing along the center of said stone wall, a distance of four hundred and seventy-nine (479) feet to a corner of said stone wall; thence,

S 80° - 32' W continuing along the center of said stone wall, a distance of five hundred and four (504) feet to an angle in said stone wall; thence,

S 78° - 17' W continuing along the center of said stone wall, a distance of four hundred thirteen (413) feet to the end of said stone wall and the point of beginning. The last five courses mentioned were all by land of said Sudbury Valley Trustees, Inc.

The above described parcel contains an area of 189.66 acres, more or less, and is more particularly shown as lot "A" on a plan entitled: "MASSACHUSETTS WATER RESOURCES AUTHORITY METROWEST WATER SUPPLY TUNNEL PROPERTY PLAN - SHAFT "D" MARLBOROUGH, SOUTHBOROUGH AND NORTHBOROUGH, MASSACHUSETTS date: March 7, 1996, Scale: 1" = 200', Sverdrup Corporation Eng. - Arch. Boston, MA Judith Nitsch Engineering, Inc., Civil Engineers/Land Surveyors/Planners, One Appleton Street, Boston, MA 02116."

For title reference, see Worcester Registry of Deeds Book 2673 Page 6, Book 1642 Page 423, Book 1522 Page 32, Book 1607 Page 53; and Middlesex South District Registry of Deeds Book 4055 Page 266, Book 2473 Page 281, Book 2879 Page 566 and Book 6272 Page 346.



**SECTION 11.** The board of selectmen of the town of Framingham, acting for and on behalf of the town of Framingham, is hereby authorized and directed, notwithstanding any general or special law, to grant one permanent subsurface water tunnel easement under a certain parcel of land in the town of Framingham, acquired by the town of Framingham for park and recreational purposes, to the Massachusetts Water Resources Authority for nominal consideration of \$1 for the purposes of installing, maintaining and operating sections of a metrowest regional water supply tunnel, which when completed will provide water service to meet the needs of the metropolitan Boston area.

The permanent subsurface tunnel easement is situated off the easterly end of Cornell Circle in the town of Framingham, bounded and described as follows:

Beginning at a point in the division line between land of the Commonwealth of Massachusetts by its M.D.C. and land of the town of Framingham. Said point of beginning being the northwest corner of the easement parcel to be described herein, and running; thence,

N 71° - 07' - 21" E along land of said M.D.C. a distance of three hundred thirty-six and six-tenths (336.6) feet to a point; thence,

S 37° - 41' - 22" E along other land of the Town of Framingham, a distance of fifty-two and eight-tenths (52.8) feet to a point; thence,

S 71° - 07' - 21" W along land of said Town of Framingham, a distance of four hundred seventy and eight-tenths (470.8) feet to a point; thence,

N 47° - 54' - 48" E along land of now or formerly of Joseph M. Clement, a distance of ninety-seven and eight-tenths (97.8) feet to the point; thence,

N 48° - 24' - 19" E along land of said Joseph M. Clement and said land of the M.D.C., a distance of twenty-nine and eight-tenths (29.8) feet to the point of beginning.

The above described easement parcel contains an area of 20,197 square feet, more or less, and is more particularly shown as Parcel Number MW-195 on Sheet MWT-17 on the above referenced Middlesex Plan. For title reference, see Land Court Certificate 108488 for the Town of Framingham, dated: July 25, 1962 and recorded in Middlesex County South Registry of Deeds, Book 672, Page 138.

**SECTION 12.** The board of selectmen of the town of Wayland, acting for and on behalf of the town of Wayland, is hereby authorized and directed, notwithstanding any general or special law, to grant one permanent subsurface water tunnel easement under a certain parcel of land in the town of Wayland, acquired by the town of Wayland for park and recreational purposes and now known as the Richardson Conservation Area to the Massachusetts Water Resources Authority for nominal consideration of \$1 for the purposes of installing, maintaining and operating sections of a metrowest regional water supply tunnel, which when completed will provide water service to meet the needs of the metropolitan Boston area.

The permanent subsurface tunnel easement is located in the town of Wayland, being bounded and described as follows:

A certain parcel of land off the westerly side of Old Connecticut Fahill the Town of Wayland, Massachusetts at land now or formerly of the Town of Wayland, bounded and described as follows:

Beginning at a point in the westerly line of land of Herbert D. and Bette L. Place and land of the Town of Wayland, said point of beginning being S 01° - 21' - 04" E, a distance of sixty-seven and eight-tenths (67.8) feet, from the northwesterly corner land of said Place and running; thence,

S 01° - 21' - 04" E along land now or formerly of said Herbert D. And Bette L. Place, a distance of fifty (50) feet to a point; thence,

S 86° - 49' - 46" W along land now or formerly of the Town of Wayland, a distance of one thousand one hundred twenty-six and zero tenths (1,126.0) feet to a point; thence,

N 34° - 03' - 02" W along the Framingham/Wayland town line, a distance of fifty-eight and three-tenths (58.3) feet to a point; thence,

N 86° - 49' - 46" E along land now or formerly of the Town of Wayland, a distance of one thousand one hundred fifty-seven and four-tenths feet to the point of the beginning.

The above described easement parcel contains an area of 57,123 square feet, more or less, and is more particularly shown as Parcel Number MW-247 on Sheet MWT-30 on the above referenced Middlesex Plan. For title reference, see deed of the Town of Wayland dated March 23, 1970, recorded in Middlesex county south registry of deeds, Book 11813, Page 549.

**SECTION 13.** The board of selectmen of the town of Weston, acting for and on behalf of the town of Weston, is hereby authorized and directed, notwithstanding any general or special law to grant four permanent subsurface water tunnel easements under certain parcels of land in the town of Weston, acquired by the town of Weston, for park and recreational purposes, to the Massachusetts Water Resources Authority for nominal consideration of \$1 for the purposes of installing, maintaining and operating sections of the metrowest regional water supply tunnel, which when completed will provide water service to meet the needs of the metropolitan Boston area.

The first permanent subsurface tunnel easement is located off the westerly side of Wellesley Street, in the town of Weston, and is used for town-owned conservation purposes, being bounded and described as follows:

A certain parcel of land off the westerly side of Wellesley Street in the Town of Weston at land now or formerly of Peter H. And Julie W. Hyde, and land of the Massachusetts Turnpike Authority, bounded and described as follows:

Beginning at a point in southerly line of land of the Massachusetts Turnpike Authority and land of said Peter H. And Julie W. Hyde, and running; thence,

S 02° - 40' - 42" E along land now or formerly of said Peter H. and Julie W. Hyde, a distance of forty-one and six-tenths (41.6) feet to a point; thence,

S 86° - 49' - 46" W along land now or formerly of the Town of Weston Conservation Commission, a distance of one thousand one hundred forty-two and seven-tenths (1,142.7) feet to a point; thence,

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N 15° - 47' - 43" E along land now or formerly of the Westgate Church, a distance of twenty-three and seven-tenths (23.7) feet to a point; thence,

Northeasterly along land of the Massachusetts Turnpike Authority and curving to the right along the arc of a nontangent curve having a radius of five thousand three hundred seventy-five and zero tenths (5,375.0) feet, a length of one hundred thirty-seven and six-tenths (137.6) feet to a point; thence,

N 87° - 01' - 02" E along land of the Massachusetts Turnpike Authority, a distance of nine hundred ninety-nine and six-tenths (999.6) feet to the point of beginning.

The above described easement parcel contains an area of 47,912 square feet, more or less, and is more particularly shown as Parcel Number MW-349 on Sheets MWT-46 through MWT-47 on the above-referenced Middlesex Plan. For title referenced, see deed of the Town of Wayland, dated: June 30, 1976 and recorded in the Middlesex registry of deeds, Book 13005, Page 574.

The second permanent subsurface tunnel easement is situated off the westerly side of Oak Street in the town of Weston, at land now or formerly of Weston Forest and Trail Association, Inc., being bounded and described as follows:

Beginning at a point in the division line between land of Weston Forest and Trail Association, Inc., and land of the Town of Weston. Said point of beginning being S 13° - 14' - 49" W and a distance of sixty-one and four-tenths (61.4) feet from the northeasterly corner of said land of the Town of Weston at the intersection with land of the Massachusetts Turnpike Authority and running; thence,

S 13° - 14' - 49" W along land now or formerly of Weston Forest and Trail Association, Inc., a distance of fifty-one and six-tenths (51.6) feet to a point; thence,

S 89° - 02' - 05" W along land now or formerly of the Town of Weston, a distance of nine hundred seventeen and three-tenths (917.3) feet to a point in the southerly line of land of the Massachusetts Turnpike Authority; thence,

Northeasterly along the right of way of the Massachusetts Turnpike Authority and curving to left along the arc of a nontangent curve having a radius of six thousand one hundred fifty and zero tenths (6,150.0) feet, a length of five hundred eighty-five and five-tenths (585.5) feet to a point; thence,

N 89° - 02' - 05" E along land now or formerly of the Town of Weston, a distance of three hundred forty-six and eight-tenths (346.8) feet to the point of beginning.

The above described easement parcel contains an area of 28,883 square feet, more or less, and is more particularly shown as Parcel Number MW-354 on Sheets MWT-49 through MWT-50 on the above referenced Middlesex Plan. For title reference, see Deed of the Town of Weston dated June 30, 1976 and recorded in Middlesex county south registry of deeds, Book 13005, Page 574.

The third permanent subsurface tunnel easement is situated off the westerly side of Oak street in the town of Weston, being bounded and described as follows:

Beginning at the northwesterly corner of Weston assessors Parcel 56-1-01. Said point of beginning being at the intersection of land of the Commonwealth of Massachusetts by its



M.D.C. and other land of the Commonwealth of Massachusetts (Massachusetts Water Resources Authority); and running; thence,

S 88° - 51' - 53" E along the right of way of said Massachusetts Turnpike Authority a distance of six hundred thirty and six-tenths (630.6) feet to a point; thence,

S 89° - 02' - 05" W along land of now or formerly of the Town of Weston, a distance of five hundred eighty-seven and nine-tenths (587.9) feet to a point in the easterly line of said land of the M.D.C.; thence,

N 62° - 17' - 01" W along land of the M.D.C., a distance of forty-eight and two-tenths (48.2) feet to the point of beginning.

The above described easement parcel contains an area of 6,744 square feet, more or less, and is more particularly shown as Parcel Number MW-353 on Sheets MWT-48 through MWT-49 on the above referenced Middlesex Plan. For title reference, see deed recorded in Middlesex county registry of deeds, Book 13005 Page 574.

The fourth permanent subsurface tunnel easement is situated on the easterly side of Ridgeway road in the town of Weston, being bounded and described as follows:

Beginning at a point at the intersection of easterly sideline of Ridgeway Road and land of the Commonwealth of Massachusetts (Massachusetts Turnpike Authority). Said point of beginning being the northwest corner of the easement parcel to be described herein; and running; thence,

N 73° - 50' - 56" E along land of said Massachusetts Turnpike Authority, a distance of five and three-tenths (5.3) feet to a point; thence,

N 70° - 00' - 08" E along land of the Town of Weston, a distance of eighty-four and eight-tenths (84.8) feet to a point; thence,

S 73° 50' - 56" W along land of said Town of Weston to the easterly sideline of Ridgeway Road, a distance of one hundred sixteen and two-tenths (116.2) feet to a point; thence,

N 24° - 09' - 43" E along land of said Town of Weston and the easterly sideline of Ridgeway Road, a distance of sixty-five and six-tenths (65.6) feet to the point of beginning.

The above described easement parcel contains an area of 3,039 square feet, more or less and is more particularly shown as Parcel Number MW-373 on Sheet MWT-55 on the above-referenced Middlesex Plan. For title reference, see Certificate of Title No. 142959 filed in Middlesex county registry district of the land court in Book 845, Page 9.

**SECTION 14.** For the purposes of sections 9 to 13, inclusive, the Massachusetts Water Resources Authority may, at any time and from time to time, take by eminent domain, pursuant to the provisions of chapter 79 of the General Laws, or acquire by purchase or otherwise, such additional lands, easements, and other property or interests in property, public or private, as it may deem necessary or desirable.

**SECTION 15.** Notwithstanding the provisions of any general or special law to the contrary, for the purposes of sections 9 to 13, inclusive, the commissioner of the division of capital planning and operations may grant such other easements and may relocate any property or improvements in any real estate of the commonwealth as he deems appropriate



to provide for construction, access, utilities, or drainage for the easements authorized by said sections 9 to 13, inclusive.

**SECTION 16.** Notwithstanding the provisions of any general or special law to the contrary, the city of Marlborough and the Massachusetts Water Resources Authority are hereby authorized and directed to enter into a mitigation agreement relative to the construction of the Wachusett reservoir treatment plant.

**SECTION 17.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Water Resources Authority shall develop a plan to address the well contamination and dewatering of wells issues arising in all of the towns affected by the construction projects which will be allowed to proceed as a result of the enactment of sections 9 to 13, inclusive. Said plan shall be submitted to the boards of selectmen in the towns affected by said sections 9 to 13, inclusive.

**SECTION 18.** Any agency, department, office or commission with regulatory jurisdiction shall, notwithstanding the provisions of any general or special law to the contrary, cooperate with the Massachusetts Water Resources Authority to assure the attainment of the objectives of this act and to assure that substantive and procedural regulatory requirements are exercised to achieve the purposes of this act.

Approved November 26, 1997.

**Chapter 180. AN ACT RELATIVE TO CERTAIN STATE LAND IN THE TOWN OF DANVERS.**

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

**SECTION 1.** Chapter 52 of the acts of 1993 is hereby amended by striking out section 7 and inserting in place thereof the following section:-

*Section 7.* The commissioner of capital planning and operations is hereby authorized, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to lease for a term of up to 30 years plus two extensions of 30 years each to an individual or entity, a parcel of land not exceeding 7.89 acres in size to be identified by said commissioner within the boundaries of the Danvers State Hospital.

Such lease shall be in accordance with such terms and conditions as the commissioner shall prescribe; provided, however, that the property shall be used primarily for the purpose of providing alcohol and drug detoxification programs and related public health programs for the department of public health; and provided further, that all interests in said property shall revert to the commonwealth in the event that said property ceases to be used for such purpose. The commissioner is hereby authorized to enter into negotiations with the lessee under said lease for the purchase by said lessee of such land, and to sell such land to said lessee upon such terms and conditions as the commissioner may prescribe.

**SECTION 2.** As used in this section and sections 3 to 16, inclusive, the following words shall, except as otherwise provided, have the following meanings unless the context clearly requires otherwise:-

"Commissioner", the commissioner of capital planning and operations.

"Committee", the Danvers State Hospital reuse task force committee or its successor organization.

"Danvers State Hospital disposition site", site and property, the approximately 150 acres of state owned land, including the buildings and other improvements thereon and more particularly described as Area A on the plan.

"Developer", a private person who acquires a leasehold or ownership interest in the Danvers State Hospital property pursuant to this act.

"Division", the division of capital planning and operations.

"Master plan", the plan described in section 3.

"Mental health clients", clients, patients and residents of the department of mental health as determined by the commissioner of mental health and department of mental health policy.

"Plans", the Danvers State Hospital reuse study, report of the Danvers State Hospital reuse task force dated March 25, 1993, and the report of the Danvers State Hospital reuse implementation committee dated July 27, 1994, which is on file with the division as such plan may be refined or revised from time to time by the commissioner in consultation with the committee.

**SECTION 3.** It shall be the policy of the commonwealth to provide, subject to appropriation, suitable residential units, support services, training and job opportunities to mental health clients at the Danvers State Hospital site and to create jobs and job training opportunities on the Danvers State Hospital site; to develop a framework for the economically and environmentally sound redevelopment of Danvers State Hospital, including the development of the following: research and development facilities, housing, the development of new economic and employment opportunities, including light industrial and manufacturing, offices, commercial and retail, medical, research and development, and educational uses, including the preservation of open space; to establish job creation and job training goals; to establish goals for the creation of low and moderate income housing; to encourage potential developers to conduct analyses of the various uses described herein and feasibility studies which shall include studies of proposed development programs and preliminary financial analyses of the development programs to assess the impact of the development programs on the surrounding community, including analysis of the economic benefit and the extent to which the employment and training opportunities match the skills and needs of residents of the surrounding neighborhood and to evaluate various private strategies for financing the development; to establish design criteria, including standards and design review and monitoring process, to determine appropriate land use, community benefits and development guidelines to maximize the economic potential and job creation opportunities of the site; and to encourage potential developers to complete a feasibility analysis which shall compare the costs and benefits of proposed land uses and their community benefits, which may include, but shall not be limited to, research facilities, office space, light manufacturing, housing, mental health facilities, open space, agricultural recreational uses, career development center, mental health care clinic, transitional housing

for the mentally ill, biomedical research and development, health - related manufacturing, health service - related industries, community social and recreational facilities, mixed income housing, commercial and retail space, environmental research facilities and related uses, depending on the uses proposed, and shall take into consideration the continuing operation of the programs of state agencies on contiguous parcels and specification of private finance options.

**SECTION 4.** The commissioner of capital planning and operations is hereby authorized and directed, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws and subject to the provisions of this act, to convey by deeds approved as to form by the attorney general or to enter into leases for a term not to exceed 99 years, including all renewal options, to developers selected in accordance with the provisions of this section, all or portions thereof of certain parcels of land with or without buildings thereon located in the town of Danvers and more particularly described as Area A on the plan in the report of the Danvers State Hospital reuse task force, dated March 25, 1993, which is on file with the division.

The parcel described herein shall remain under conservation restriction by the department of food and agriculture and shall be designated as the Horace A. Clark memorial. Beginning at an iron pipe, said pipe being 523 feet more or less from the westerly sideline of Dayton Street, thence turning and running westerly by courses of 106.01', 62.88', 200.27' and 311.00' more or less to the centerline of the Ipswich River, said centerline being the Town Boundary between the Towns of Danvers and Middleton. Thence turning and running northerly along the centerline of the Ipswich River 1490' more or less, thence turning easterly along the brook, the centerline being the Danvers/Middleton Town Line, and running 235' more or less northeasterly along the Danvers/Middleton Town Line. Thence turning and running southerly 1925' more or less to an iron pin, said pin being the beginning of said parcel description. Said conservation restriction is granted to the town of Danvers along with the right to pass and repass said area over the existing gravel roadway between Dayton street and Ipswich river. Said parcel lies within the Danvers State Hospital property, map seventeen, parcel one.

**SECTION 5.** Within 180 days of the effective date of this act, the commissioner shall issue the initial requests for proposals, hereinafter referred to as RFP, for the redevelopment of all or any portion of Danvers State Hospital for uses authorized in section 7 of chapter 52 of the acts of 1993 including, but not limited to, light industrial and manufacturing, offices, retail areas, housing, medical, research and development and education. Said requests for proposals shall include, without limitation, the following:

- (a) provisions for a diverse range of permanent and nonseasonal job opportunities;
- (b) a framework for the economically and environmentally sound redevelopment of Danvers State Hospital, which may include the development of research facilities and housing and the development of new economic and employment opportunities and the preservation of open space;
- (c) job creation and job training goals;



(d) goals for the creation of low and moderate income housing;

(e) requirements that development proposals shall provide for the developer's analysis of the proposed uses and feasibility studies which shall include: (i) studies of proposed development programs; (ii) preliminary estimate of costs and benefits of the development programs; (iii) preliminary financial analysis of the development programs; (iv) assessment of the impact of the development programs on the surrounding community, including analysis of the economic benefit and the extent to which the employment and training opportunities match the skills and needs of residents of surrounding neighborhoods; and (v) an evaluation of various private strategies for financing the development;

(f) design criteria, including standards, and a design review and monitoring process;

(g) determination of appropriate land use, community benefits and development guidelines to maximize the economic potential and job creation opportunities of the site; and

(h) requirements that development proposals shall provide for the developer's completion of feasibility analyses which shall compare the costs and benefits of the proposed land uses and their community benefits, including the impact of the operation of the program of state agencies on contiguous parcels and specifications of public or private finance options.

Such provisions shall not include any uses which are inconsistent with the provisions of this section or section 7 of chapter 52 of the acts of 1993, which use limitations are intended to ensure that no uses posing unreasonable environmental risks shall be conducted on said property or which interfere with the continuing operation of the programs of state agencies on contiguous parcels; provided, however, that uses expressly prohibited shall include, but not be limited to, the siting and operation of a dump or an incinerator or other means of permanent disposal of solid waste or hazardous waste.

In reviewing such proposals, the commissioner shall consider the report of the Danvers State Hospital reuse task force and the master plan of the Danvers State Hospital reuse subcommittee and shall work with the committee to issue said request for proposals for the reuse of the site and other uses compatible with the residential character of the area. Said master plan shall be advisory. The committee shall assist said commissioner in reviewing the proposals submitted in response to the RFP and in the selection of bids.

The proposals selected shall be compatible with the recommendations of the Danvers State Hospital reuse task force plans.

Said commissioner may require that such proposals and any subsequent leases or disposition agreements for housing use shall provide that not less than 10 per cent of any housing units created by the developer shall be made available for persons with mental illness who are in need of appropriate housing and shall include appropriate mental health support services.

Said commissioner may require that such proposals and any subsequent leases or disposition agreements for the development of Danvers State Hospital shall provide that not less than 10 per cent of employment and job training opportunities be targeted for qualified mental health clients.



**SECTION 6.** Within one year after the effective date of this act, the commissioner, after reviewing the recommendation of the citizens advisory committee, established in section 4 shall provisionally designate a developer to undertake a redevelopment project for all or a portion of the Danvers State Hospital site. Such designation shall be made based on the minimization of costs and expenses to be borne by the commonwealth, the proposal's conformity with the provisions of this act, the financial feasibility of the proposal, the developer's experience with particular weight being given to those proposals that are least dependent upon state financial assistance, loan guarantee or other direct or indirect contributions by the commonwealth. Said commissioner shall seek the advice and input of said citizens advisory committee which shall comment on said commissioner's selection in writing and forward its comments to the house and senate committees on ways and means. If said commissioner selects a developer who did not offer the highest price, said commissioner shall include a justification for such decision in the notification required by section 40H of chapter 7 of the General Laws. Said commissioner shall maintain a written record in reasonable detail of evaluations and negotiations undertaken pursuant to this act and shall retain such record with the proposals in accordance with said section 40H.

**SECTION 7.** Within 180 days after such designation as a developer, the designated developer shall prepare a master plan for all or a portion of the Danvers State Hospital site which the developer proposes to redevelop as a guide to such redevelopment. The developer shall consider the report of the Danvers State Hospital reuse task force, which is on file with the divisions, in the formulation of the master plan. Upon completion of the master plan, the developer shall submit a copy of said master plan to the joint committee on state administration, the joint committee on housing and urban development, the house and senate committees on ways and means and the inspector general. Said master plan shall include the following for the portion or all of the property proposed by the developer to be redeveloped:

(1) a description and site plans of the property, a narrative and graphic presentation of the characteristics of the existing conditions of the site, boundaries of legally protected wetlands and boundaries of open space for recreation as well as buffer zones between the abutting neighborhoods and the Danvers State Hospital site;

(2) a determination of the structural soundness of buildings on the site and recommendations for the demolition or securing of unsound or unsafe building, as appropriate;

(3) provisions for a management and maintenance plan that shall provide for the care of grounds, open space, buffer areas or other land areas critical to the operation and appearances of land uses on the redevelopment site;

(4) consideration of any areawide traffic impact on neighborhoods abutting the site; provided, however, that the primary purpose of such planning and related traffic changes shall be the improvement of pedestrian safety and automobile access to the site;

(5) evaluation of public transportation needs of the towns of Danvers and Middleton created by the proposed redevelopment;

(6) identification of all environmentally sensitive areas and agriculturally significant soils and, where appropriate, a description of a mechanism to protect conservation restrictions, easements and covenants and to provide protection and community access; provided, however, that early attention to state environmental review requirements shall be part of the planning process;

(7) a determination of appropriate land use, community benefits and developmental guidelines to maximize the economic potential of the site, job creation opportunities and the delivery of mental health services;

(8) a feasibility analysis that compares the costs and benefits of the proposed land uses and their community benefits, which takes into consideration the continuing operation of the programs of state agencies on contiguous parcels and specification of private finance options;

(9) job creation and job training goals; and

(10) an assessment of infrastructure needs as part of the land disposition process.

Final adoption of the master plan shall occur when certified in writing by the committee as a result of a simple majority vote. Written objection shall be submitted within 30 days of receipt of the master plan in writing by said committee. All communications required by this section shall be by certified mail.

All funds derived from the sale, lease, sublease, granting of easements or other conveyances related to parcels within the site shall be credited to the General Fund.

**SECTION 8.** Upon fulfillment of all terms of the provisional designation including, but not limited to, the design for a project or phase of a project, the obtaining of the required permits and approvals and the obtaining of the necessary commitments for financing to proceed with construction of a project or a phase of a project, the commissioner and the developer shall negotiate and execute a land disposition agreement that shall specify any and all conditions precedent to closing the property transaction and any post closing obligations of all parties.

Any such land disposition agreement may include, but shall not be limited to, the following:

(1) job training requirements and goals for the employment by the developer and any occupants of the property of mental health clients, as determined by the commissioner in consultation with the commissioner of the department of mental health;

(2) a goal that 10 per cent of any housing developed on the property shall be made available to individuals with mental illness before a binding agreement is entered into for its use with any other person; provided, however, that when affordable housing is any part of housing developed on the property, as much as possible of the 10 per cent set aside should be contained within the affordable housing allocation; and

(3) a requirement that the developer consult with the planning department of the town of Danvers during the planning, development, construction and management of said developments on a regularly scheduled basis.

Any private development and use of the property shall be consistent with the use, density and design guidelines set forth in the development recommendation portion of the plan and the town of Danvers zoning by-laws in effect from time to time and any variances or special permits issued thereunder.

The following provisions also shall govern any lease or other dispositions:

(a) The portion of the property which includes the property under the care, custody and control of the department of food and agriculture pursuant to chapter 686 of the acts of 1981 and any other portion of the property now used as agricultural land, as determined by said commissioner, shall remain under the care, custody and control of that department and may not be included in such transfer except:

(1) said commissioner may grant easements for access, egress, utilities and drainage determined by said commissioner to be necessary or appropriate to service any portion of the property being leased, conveyed or transferred; and

(2) said commissioner, after consultation with and approval of the commissioner of food and agriculture, may exchange portions of the property now used for agricultural use for other provisions of the property of similar size which could be devoted to agricultural use.

(b) The existing residential facilities, identified as cottages two, three and ten in the plan and two ICFMR units, so-called, also as identified in the plan shall continue to be used and maintained by the respective state agencies now operating said facilities, for so long as such agencies need such facilities for the agencies' public purposes; provided, however, that the commissioner, with the approval of the commissioner of mental retardation, shall have the authority to substitute other residential facilities for said facilities by creating or requiring a developer to create and pay for the construction of comparable accommodations on the property or elsewhere and to convey or lease the same to the commonwealth.

(c) Any recreational facilities created on the property shall be made available to the general public; provided, however, that individuals with mental illness shall receive priority access pursuant to agreements to be entered into between the developer or any entities developing, controlling or leasing said facilities and the commissioner of mental health.

(d) The two cemeteries on the property shall be properly memorialized, preserved and protected in a manner determined by the commissioner in consultation with the commissioner of the department of mental health.

(e) Goals shall be established for affirmative action to be achieved by the developer relative to equity participation and employment of minorities, women and for minority business set-asides, to the extent permitted by law.

(f) Restrictions prohibiting employment discrimination on the basis of race, color, sex, age, national origin, religion or handicap shall be adhered to.

(g) Provisions for education, job training, job placement, and child care to assist the needs of potential employees and job applicants, especially residents of surrounding neighborhoods and other residents of the towns of Danvers and Middleton shall be made in conjunction with the development of any commercial, industrial or institutional facilities in gaining access to future employment created by said development.



The commissioner shall, 45 days prior to the execution of the proposed deed or lease authorized by section 7 of chapter 52 of the acts of 1993, or any subsequent amendment thereof, submit a report to the inspector general for review and comment regarding compliance with the purposes of this act. The report shall describe the costs and benefits to the commonwealth of the proposed disposition or lease. Said inspector general shall issue any comment within 15 days of receipt of the report. Said commissioner shall submit the report and any subsequent amendments thereof, and the comment of said inspector general, if any, to the house and senate chairmen of the committees on state administration, housing and urban development and ways and means at least 20 days prior to the execution of the proposed deed or lease.

Said commissioner is hereby authorized notwithstanding the provisions of sections 40G and 40H of chapter 7 of the General Laws to negotiate and enter into one or more leases with developers of Danvers State Hospital to provide state office space or other space for state agencies on the site for a term of up to ten years with an option to extend the term for up to an additional 10-year period; provided, however, that the rental amount for such lease shall in no event exceed the rent for comparable leases in the town of Danvers as determined by said commissioner; provided further, that any such lease shall be based upon a review by said commissioner; and provided further, that any such lease shall be based upon a review by said commissioner of current and foreseeable agency space needs in the Danvers area, as well as upon an analysis of the cost and benefits to the state of such a lease arrangement. Said review shall be submitted to said inspector general for review and comment prior to the execution of a lease. Said inspector general shall issue any comment within 15 days of receipt of said review.

The amount of consideration for the sales lease, sublease, granting of easements or other conveyances authorized by the provisions of this act shall be equal to the fair market value as determined from three independent appraisers selected by the commissioner of capital planning and operations through the competitive bid process and with a methodology approved by said inspector general. The consideration for said parcels shall take into account the obligations placed on the developer required by this section and the benefits of the project to the surrounding communities.

The commissioner is hereby authorized to grant the developer rights-of-way or easements over those portions of the site not yet conveyed and over other property of the commonwealth contiguous to the parcels described in this act and the commonwealth may accept from the developer similar rights-of-way or easements in roadways or land on the parcels to be conveyed pursuant to this section for purposes of access, egress, drainage and utilities; provided, however, that there shall be no material interference with the purposes of this section.

**SECTION 9.** There shall be a Danvers State Hospital citizens advisory committee, hereinafter referred to as the CAC which shall consist of no more than 15 persons and shall consist of residents and the director of the town of Danvers planning staff, the names of whom shall be submitted by the town manager to the commissioner, a design and planning



professional, a representative of the Massachusetts historical commission, a representative of the AMI North region, residents of the town of Middleton, the names of whom shall be submitted by the town manager to the commissioner and other participants the commissioner and local elected officials deem appropriate. The state representative and senator representing said town of Danvers shall serve as ex-officio members.

Said committee may review, comment, hold public workshops and make recommendations concerning the developer's master plan and the designation of any developer in order to create economically and environmentally sound uses in the development of the Danvers State Hospital property and in order to promote economic development and job creation in the metropolitan area and nearby neighborhoods.

**SECTION 10.** Notwithstanding the provisions of chapter 7 of the General Laws, the commissioner is hereby authorized to convey by deed easements for access, egress, drainage and utilities in property owned by the commonwealth contiguous to the Danvers State Hospital disposition site; provided, however, that the use thereof shall not interfere in a material way, as determined by said commissioner, with the activities then being conducted on such contiguous property.

**SECTION 11.** The provisions of this act shall be deemed to provide an additional, alternative and complete method for accomplishing the purposes of this act and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the commissioner and others by law; provided, however, that insofar as the provisions of other laws are inconsistent with the provisions of this act, the provisions of this section shall be controlling.

**SECTION 12.** It shall be the responsibility of the executive office of administration and finance to determine any and all cost liability assigned to the commonwealth and its subdivisions as a result of the agreement apportioning costs of Phase II constructions, dated February 6, 1967, of the agreement apportioning costs of Phase III, Section I, construction of the Danvers interceptor, effective December 14, 1982 of the agreement apportioning costs of Phase III, Section II, III, IV, Danvers interceptor effective May 28, 1985 and SEDS apportionment agreement dated February 14, 1994.

**SECTION 13.** The commissioner of capital planning and operations is hereby authorized to amend any lease previously entered into by said division pursuant to section 7 of chapter 52 of the acts of 1993 to incorporate into such lease the amendments set forth in section 8 of this act.

**SECTION 14.** The commissioner is hereby authorized to expend not more than \$5,000,000 for surveys, studies, environmental and other investigations, preparation of plans and specifications, remediation, administrative expenses and other expenses deemed necessary by said commissioner to further the transfer disposition of interests in the Danvers State Hospital disposition site; provided, however, that the commissioner may expend whatever portion of such funds may be necessary to secure and maintain the site until such time as the site is conveyed or leased to another entity.

**SECTION 15.** To meet the expenditures necessary to carry out the provisions of this act, the state treasurer 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 \$5,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Danvers State Hospital Redevelopment Loan, Act of 1997, and shall be issued for such maximum term of years not exceeding 20 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 30, 2020. 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 of money in an amount not to exceed \$5,000,000 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 said treasurer. Such notes shall be issued and may be renewed one or more times for such term, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturity date of such notes, whether original or renewal, shall be not later than June 30, 2005. 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.

Approved November 26, 1997.

## **Chapter 181. AN ACT PUNISHING THE CRIME OF CHILD PORNOGRAPHY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to punish forthwith the possession of child pornography, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The general court hereby finds: (1) that the sexual exploitation of children constitutes a wrongful invasion of a child's right to privacy and results in social, developmental and emotional injury to such child and that to protect children from sexual exploitation it is necessary to prohibit the production of material which involves or is derived from such exploitation and to exclude all such material from the channels of trade and commerce; (2) that the mere possession or control of any sexually exploitative material results in continuing victimization of children as such material is a permanent record of an act or acts of sexual abuse or exploitation of a child and that each time such material is viewed the child is harmed; (3) that such material is used to break the will and resistance of

other children so as to encourage them to participate in similar acts; (4) that laws banning the production and distribution of such material are insufficient to halt this abuse and exploitation; (5) that to stop the sexual abuse and exploitation of children, it is necessary to ban the possession of any sexually exploitative materials; and (6) that the commonwealth has a compelling interest in outlawing the possession of any materials which sexually exploit children in order to protect the privacy, health and emotional welfare of children and society as a whole.

**SECTION 2.** Chapter 272 of the General Laws is hereby amended by inserting after section 29B the following section:-

Section 29C. Whoever knowingly purchases or possesses a negative, slide, book, magazine, film, videotape, photograph or other similar visual reproduction, or depiction by computer, of any child whom the person knows or reasonably should know to be under the age of 18 years of age and such child is:

(i) actually or by simulation engaged in any act of sexual intercourse with any person or animal;

(ii) actually or by simulation engaged in any act of sexual contact involving the sex organs of the child and the mouth, anus or sex organs of the child and the sex organs of another person or animal;

(iii) actually or by simulation engaged in any act of masturbation;

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal;

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context;

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed genitals, pubic area, buttocks or, if such person is female, a fully or partially developed breast of the child; with knowledge of the nature or content thereof shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than \$1,000 nor more than \$10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state prison or by a fine of not less than \$5,000 nor more than \$20,000, or by both such fine and imprisonment for the second offense, not less than 10 years in a state prison or by a fine of not less than \$10,000 nor more than \$30,000, or by both such fine and imprisonment for the third and subsequent offenses.

A prosecution commenced under this section shall not be continued without a finding nor placed on file.

The provisions of this section shall not apply to a law enforcement officer, licensed physician, licensed psychologist, attorney or officer of the court who is in possession of such materials in the lawful performance of his official duty. Nor shall the provisions of this section apply to an employee of a bona fide enterprise; the purpose of which enterprise is to



filter or otherwise restrict access to such materials, who possesses examples of computer depictions of such material for the purposes of furthering the legitimate goals of such enterprise.

Approved November 26, 1997.

**Chapter 182. AN ACT RELATIVE TO THE FINANCING OF A GOLF COURSE BY THE TOWN OF BREWSTER.**

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

**SECTION 1.** Notwithstanding the provisions of chapter 44 of the General Laws to the contrary, the maturities of bonds issued by the town of Brewster for design, development, construction and equipping of a municipal golf course, including a clubhouse and related structures, either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds shall be not later than one year from the estimated date of commencement of regular operation of the golf course, as determined by the town treasurer, and the last payment of principal shall be not later than 30 years from the date of the bonds. Project costs to be financed by the issue of the bonds may include interest incurred on the bonds and any bond anticipation notes for a period of up to two years after the date of the original borrowing or, if later, one year after the estimated date of commencement for regular operation of the golf course, as determined by the town treasurer. The town may create and maintain, from the bond proceeds or other sources of funds, such reserve, replacement, maintenance and improvement funds in connection with the golf course as it may deem necessary and prudent; provided, however, that the aggregate of such funds provided from bond proceeds for the project shall not exceed 10 per cent of the principal amount of the bonds issued for the project. Any net earnings derived from the investment of the proceeds of the bonds may be expended by the town treasurer to pay interest on the bonds but otherwise shall be used only for construction, equipping, operation or maintenance of the golf course. Except as otherwise provided in this act, indebtedness incurred by the town for the golf course project shall be subject to the applicable provisions of said chapter 44.

**SECTION 2.** The town of Brewster shall establish an enterprise fund for the golf course facility and its operation, which shall be subject to the provisions of section 53F½ of chapter 44 of the General Laws; provided, however, that any available surplus in said enterprise fund may be appropriated by the town for any capital project for which borrowing may be authorized under section 7 or 8 of said chapter 44.

**SECTION 3.** The vote of the town passed under Article No. 1 of the warrant for the special town meeting held on Monday, September 29, 1997 authorizing bonds for the golf



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course project is hereby ratified, validated and confirmed. Proceeds of the bonds issued in accordance with section 1 of this act may be used to refund any bond anticipation notes previously issued for the design, environmental permitting and other preliminary expenses relating to the golf course project.

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

Approved November 26, 1997.

**Chapter 183. AN ACT RELATIVE TO THE CITY OF QUINCY'S ENHANCED EMERGENCY TELEPHONE SYSTEM.**

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

**SECTION 1.** Notwithstanding the provisions of sections 18A to 18F, inclusive, of chapter 6A of the General Laws or any other general or special law to the contrary, the city of Quincy shall be permitted to modify, change or alter telephone company equipment utilized in said city's enhanced 911 telephone system. Said modifications, changes or alterations of equipment shall permit audio monitoring of emergency 911 telephone calls at the fire department headquarters of said city.

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

Approved November 26, 1997.

**Chapter 184. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF NATICK.**

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

**SECTION 1.** The commissioner of capital planning and operations is hereby authorized, notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to sell and convey by deed a parcel of state-owned land located in the town of Natick, formerly under the care and control of the Massachusetts Water Resources Authority and the metropolitan district commission, to Joseph Campanelli, Nicholas Campanelli, Alfred Campanelli and Robert DeMarco, as Trustees of Campanelli Framingham Trust under declaration of trust dated July 1, 1985, and recorded in the Middlesex South Registry of Deeds for the southern district of Middlesex County in Book 17006, Page 546, subject to the requirements of this act.

Said parcel is shown on a plan entitled "Plan of Land in Natick, Massachusetts, Owned by: The Commonwealth of Massachusetts, Dated: October 14, 1997, Prepared by: Bradford Saivetz + Associates, Inc., Zero Campanelli Drive, Braintree, Massachusetts 02184".

**SECTION 2.** Within 180 days after acquiring said parcel, the grantees shall demolish all existing structures on said parcel and during the first spring after acquisition, shall

loam and seed said parcel, in accordance with all applicable laws and regulations and in order to restore the parcel to its good and natural condition. The sale price paid by the grantees for said parcel shall be the full and fair market value of the property determined by the commissioner based on an independent appraisal, taking into account the restrictions on its use as described in section 3 and its assemblage value to the grantees named in section 1 for additional development on grantees' adjacent property. The reasonable cost incurred by the grantees to demolish existing structures and to loam and seed said parcel, as evidenced by a contract for such work to be executed simultaneously with the transfer of the parcel, shall be deducted from such purchase price. The grantees shall obtain at least three cost proposals for the demolition, loaming and seeding and shall submit the lowest cost proposals to the commissioner as the proposed contract price. The inspector general shall review and approve such appraisal and such review shall include an examination of the methodology utilized for such appraisal. Within 30 days after receipt of 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. One-half of the proceeds of the sale shall be deposited in The Conservation Trust sponsored by the department of environmental management to be designated for and applied to Lake Cochituate projects only and the other half of the proceeds of said sale shall be deposited in the Metropolitan Parks Trust Fund created pursuant to section 34 of chapter 92 of the General Laws.

**SECTION 3.** No deed conveying to the grantees on behalf of the commonwealth the parcel described in section 1 shall be valid unless such deed provides that said parcel shall be used only as open space with public access thereto and no structures shall be erected thereon, except as provided herein. Such deed shall permit the construction by or on behalf of the commonwealth thereon of parking and related facilities and access, egress, utilities and drainage facilities for the Lake Cochituate recreational area in the easement area shown on the above-referenced plan, including without limitation, a pedestrian bridge, tunnel or other means of access from the easement area to the Lake Cochituate recreational area and shall reserve to the commonwealth a perpetual easement for the installation, operation, maintenance, repair and replacement of such parking and other facilities in the easement area shown on the above-referenced plan. Such deed shall further provide that title to said parcel shall revert to the commonwealth following 90 days' prior written notice to the owner of record and opportunity for a hearing before the commissioner of the division of capital planning and operations or any successor thereto, in the event that said parcel ceases to be used solely for the purposes described herein due to the acts of the grantees or their successors in interest or of anyone other than the commonwealth, the town of Natick or their respective successors in interest. The commonwealth's responsibility and liability for the easement area shall be limited to the extent of the commonwealth's use.

**SECTION 4.** The grantees of said parcel shall be responsible for the costs of any appraisals, surveys and other expenses relating to the transfer of said parcel deemed necessary by the commissioner for the conveyance of said parcel.

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

Approved November 26, 1997.

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**Chapter 185. AN ACT RELATIVE TO THE BOSTON RENAISSANCE CHARTER SCHOOL.**

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

**SECTION 1.** The first paragraph of subsection (a) of section 304 of chapter 43 of the acts of 1997 is hereby amended by striking out the words "within 90 days of the effective date of this section" and inserting in place thereof the following words:- as soon as possible.

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

Approved November 26, 1997.

**Chapter 186. AN ACT RELATIVE TO AN EXTENSION OF TIME TO FILE INCOME TAX RETURNS FOR CERTAIN TAXPAYERS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for an extension of time to file income tax returns for certain taxpayers, 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, any taxpayer who obtained an automatic extension of time to file his 1996 Massachusetts income tax return, pursuant to section 19 of chapter 62C of the General Laws, and who shall be reporting gain or loss from the sale or exchange of capital assets pursuant to the provisions of chapter 62 of the General Laws, shall be allowed an automatic additional extension up to and including April 15, 1998 to file such return. For purposes of this section, the commissioner may require the taxpayer to file additional forms or to provide additional information as said commissioner deems to be reasonably necessary.

Approved November 26, 1997.

**Chapter 187. AN ACT RELATIVE TO THE APPOINTMENT OF THE TREASURER OF THE BARNSTABLE FIRE DISTRICT.**

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

Chapter 109 of the acts of 1926 is hereby amended by inserting after section 1 the following section:-

*Section 1A.* The district by vote or by-law may authorize its prudential committee to appoint in writing a district treasurer with all the powers and duties, requirements and penalties as provided by law.

Approved November 26, 1997.



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**Chapter 188. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND TO THE TOWNS OF NORFOLK AND WRENTHAM.**

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

**SECTION 1.** The commissioner of capital planning and operations is hereby authorized, notwithstanding the provisions of section 40H of chapter 7 of the General Laws, to convey by deed for the consideration described in section 2, a certain parcel of land located in the towns of Norfolk and Wrentham, presently under the care and control of the department of mental retardation, to said towns of Norfolk and Wrentham to be used for the construction of a police facility for the use of said towns. Said parcel is shown on a plan of land entitled "Plan of Land off Shears and Norfolk Streets, Wrentham and Norfolk, Mass." dated September 15, 1995, prepared by the division of capital planning and operations.

**SECTION 2.** The purchase price to be paid by the towns of Norfolk and Wrentham for the parcel described in section 1 shall be the full and fair market value of the property as determined by an independent appraisal for its use as described herein. The inspector general shall review and approve such appraisal and such review shall include a review of the methodology utilized for such appraisal. Said inspector general shall prepare a report of this review and file such report with the commissioner of capital planning and operations 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 section 6. Said towns of Norfolk and Wrentham shall pay the purchase price in accordance with the terms of this act.

**SECTION 3.** No deed conveying by or on behalf of the commonwealth the property described in section 1 shall be valid unless such deed provides that the parcel shall be used for a police facility.

**SECTION 4.** The towns of Norfolk and Wrentham shall pay all expenses associated with any appraisals, surveys and other expenses relating to the transfer of the land, and shall be responsible for all costs, liabilities and expenses of any nature and kind for its ownership, construction, maintenance and operation.

**SECTION 5.** In the event the parcel described in section 1 is not used for a police facility within five years of the effective date of this act or if the towns of Norfolk and Wrentham cease to use said parcel for a police facility at any time thereafter, said parcel shall revert to the commonwealth upon such terms and conditions as the commissioner of capital planning and operations may determine.

**SECTION 6.** The commissioner of capital planning and operations shall, 30 days before the execution of any agreement authorized by this act or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereto, 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 15 days prior to execution.



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**SECTION 7.** The purchase price paid pursuant to section 2 shall be deposited in the General Fund of the commonwealth.

**SECTION 8.** This act shall take effect upon its passage.

Approved November 26, 1997.

**Chapter 189. AN ACT AUTHORIZING THE TOWN OF DENNIS TO CONVEY CERTAIN CONSERVATION LAND TO RICHARD P. LaBELLE AND BONITA LaBELLE.**

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

**SECTION 1.** Notwithstanding the provisions of chapter 30B of the General Laws, the town of Dennis is hereby authorized to convey to Richard P. LaBelle and Bonita LaBelle, their successors or assigns a certain parcel of conservation land located in said town. Said parcel is shown as "Parcel A" on a plan entitled "Plan of Land in Dennisport, MA., owned by Richard P. and Bonita LaBelle", prepared by W.P. Oldham Assoc., Inc. Sandwich, Ma., dated March 6, 1997; provided, however, that said town of Dennis shall receive from said Richard P. LaBelle and Bonita LaBelle, their successors or assigns a perpetual easement and all appurtenances associated therewith, containing approximately 90 square feet as shown on said plan, for the purposes of access in, along, upon and across the property shown as "Foot Easement to the Town of Dennis" on said plan.

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

Approved November 26, 1997.

**Chapter 190. AN ACT AUTHORIZING THE TOWN OF STOUGHTON TO PAY CERTAIN UNPAID BILLS.**

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

The town treasurer of the town of Stoughton is hereby authorized to pay from available funds to Equipment Environmentalist the sum of \$1,104.60 for teachers' desks and to Vinco Corporation the sum of \$29,150.00 for students' desks and chairs supplied to the school department of said town, notwithstanding the failure of the town to comply with the appropriate provisions of law relative to competitive bidding.

Approved November 26, 1997.

**Chapter 191. AN ACT RELATIVE TO THE REMOVAL AND BURIAL OF BODIES.**

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

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**SECTION 1.** Chapter 114 of the General Laws is hereby amended by striking out section 2, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 2. (a) Such corporation: (1) shall be subject to chapter 155 and sections 1 to 13, inclusive, of chapter 179; (2) may take and hold only so much real and personal property as may be necessary for the objects of its organization; (3) may lay out such real property into lots; and (4) may grant and convey the exclusive right of burial in, and of erecting tombs or cenotaphs upon, any lot and of ornamenting the same, upon such terms and conditions and subject to such regulations as it shall prescribe.

(b) Upon the conveyance of a burial lot, such corporation: (1) shall assign a number to such lot; (2) shall cause a marker to be installed thereon which indicates such number; (3) shall give a written notification to the purchaser of such lot, or his agent, which notification specifies the location and number of such lot; and (4) may charge the purchaser of such lot a reasonable fee for the cost of such marker and its installation.

(c) Such corporation shall maintain records concerning the location and numbering of such lots, which records shall be open to the public. Section 34 of chapter 158 shall apply to such corporation.

**SECTION 2.** Section 15 of said chapter 114, as so appearing, is hereby amended by inserting after the third sentence the following two sentences:- Upon the conveyance of a burial lot, a town: (1) shall assign a number to such lot; (2) shall cause a marker to be installed thereon which indicates such number; (3) shall give a written notification to the purchaser of such lot, or his agent, which notification specifies the location and number of such lot; and (4) may charge the purchaser of such lot a reasonable fee for the cost of such marker and its installation. Towns shall maintain records concerning the location and numbering of such lots, which records shall be open to the public.

**SECTION 3.** Section 43M of said chapter 114, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- Each municipality or cemetery corporation shall maintain records which identify the name, if known, of the dead human body or remains in each burial lot, tomb or vault under its control.

**SECTION 4.** Section 45 of said chapter 114 is hereby amended by inserting after the word "nurse", in line 27, as so appearing, the following words:- or a registered physician assistant.

Approved November 26, 1997.

## Chapter 192. AN ACT RELATIVE TO THE BUDGET OF THE TOWN OF TRURO.

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, in the event the town of Truro prepares an annual budget which is divided into department expenses and expense categories and which is further divided into line item accounts, said town is hereby authorized, without further town meeting approval, to transfer

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funds among said line item accounts, provided, the following conditions are met:

- (a) the transfers remain within the same department or budget category;
- (b) the transfers are approved in advance by the town administrator, the finance committee and the budget manager for each department or expense category;
- (c) the transfer does not exceed \$2,500 for any single line item transfer; and
- (d) no capital purchases or new employees shall be so funded.

**SECTION 2.** This act shall take effect as of January 1, 1997.

Approved November 26, 1997.

## Chapter 193. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

The charter of the town of Provincetown, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 8-1-1 and inserting in place thereof the following section:-

Section 8-1-1. The director of the department of public works, the police chief, and the fire chief shall be residents of Provincetown or shall become residents within three months of assuming office.

Approved November 26, 1997.

## Chapter 194. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF CLINTON.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital planning and operations to convey a certain parcel of land in the town of Clinton, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The commissioner of the division of capital planning and operations, in consultation with the metropolitan district commission, is hereby authorized, notwithstanding the provisions of section 40H of chapter 7 of the General Laws, to convey for recreation, open space and education purposes by deed, a certain parcel of land located in the town of Clinton, as shown on a plan on file with the metropolitan district commission sheets 16 and 17 of a set of plans entitled "Commonwealth of Massachusetts, Metropolitan Water Works, Wachusett Reservoir-Land Surveys", which plans are Accession #s 3953 and

3954, to the town of Clinton subject to such terms and conditions as the commissioner may prescribe.

**SECTION 2.** The sale price to be paid by said town of Clinton for the parcel described in section 1 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. The inspector general shall prepare a report of his review and shall file said report with the commissioner for submission to the chairmen of the house and senate committees on ways and means and the joint committee on state administration in accordance with section 5.

**SECTION 3.** The town of Clinton, or its designee, shall be responsible for all costs for appraisals, surveys and other expenses relating to the transfer of said parcel, and for any costs and liabilities and expenses of any nature and kind for the ownership, development, maintenance and operation of said parcel. In the event said parcel of land ceases to be used at any time for the purposes contained herein, or is used for any purpose other than the purpose stated herein, said parcel of land, upon notice by the commissioner of the division of capital planning and operations, shall revert to the care and control of the commonwealth through the division of capital planning and operations and the metropolitan district commission and any further disposition of said parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

**SECTION 4.** The sale price paid pursuant to section 2 shall be deposited in the General Fund of the commonwealth.

**SECTION 5.** The commissioner shall, 30 days prior to the execution of any agreement authorized by this act or any subsequent amendment thereto, 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 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendment thereto, and the reports together with the comments, if any, of the inspector general, to the chairmen of the house and senate committees on ways and means and to the joint committee on state administration at least 15 days prior to the execution of said agreement.

Approved November 26, 1997.

## **Chapter 195. AN ACT RELATIVE TO CERTAIN WATER SUPPLY LAND IN THE TOWN OF NORWOOD.**

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

**SECTION 1.** The town of Norwood, acting by and through its board of selectmen, is hereby authorized to sell and convey a certain parcel of land acquired for water supply purposes. Said sale and conveyance shall be for consideration of not less than \$245,000. Said



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parcel is shown as "Parcel A" on a plan of land entitled "Compiled Plan of Portion of Town of Norwood Water Supply Land on University Avenue in Norwood, Mass." dated May 1, 1997 drawn by Norwood Engineering Co., Inc. which is on file in the office of the town clerk.

**SECTION 2.** The town of Norwood is hereby authorized to use a certain parcel of land acquired for water supply purposes for general municipal purposes. Said parcel is shown as "Parcel B" on the plan described in section 1.

Approved November 26, 1997.

## **Chapter 196. AN ACT RELATIVE TO SEWER BETTERMENT ASSESSMENTS IN THE TOWN OF SOUTHWICK.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Southwick is hereby authorized to assess interest on apportionments of sewer betterment assessments at a rate equal to the rate of interest chargeable to the town for the betterment project to which the assessments relate or at the rate set forth in section 13 of chapter 80 of the General Laws as chosen by the board of selectmen of said town.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the board of assessors of the town of Southwick shall, at the request of the board of selectmen of said town, apportion all assessments on unpaid balances of betterment assessments made pursuant to chapter 80 of the General Laws for sewer projects into such number of equal annual payments, not more than 40, and owners shall not be given a shorter period than that requested by said board of selectmen; provided, however, that owners may pay the total amount due at any time.

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

Approved November 26, 1997.

## **Chapter 197. AN ACT REQUIRING OPTOMETRISTS TO REPORT CERTAIN CASES OF CHILD ABUSE.**

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

Section 51A of chapter 119 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "podiatrist", in line 4, the following word:- , optometrist.

Approved November 26, 1997.

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**Chapter 198. AN ACT AUTHORIZING FRANCIS A. HEFFRON TO EXTEND HIS EMPLOYMENT WITH THE FIRE DEPARTMENT OF THE TOWN OF SHERBORN.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, Francis A. Heffron, chief of the fire department of the town of Sherborn is hereby authorized to continue in said position until and including December 31, 1998; provided, however, that said Francis A. Heffron is mentally and physically capable to perform the duties of his office. Said Francis A. Heffron shall be examined at his own expense by an impartial physician designated by said town to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provision of chapter 32 of the General Laws for service subsequent to December 31, 1996 and upon retirement said employee shall receive a superannuation allowance equal to that which he would have been entitled had he retired on said date.

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

Approved November 26, 1997.

**Chapter 199. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND IN THE TOWN OF HARWICH.**

*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 section 40H of chapter 7 of the General Laws, to convey title to a certain parcel of land and structures located thereon currently used by the department of environmental management for conservation and recreational purposes for the Cape Cod Rail Trail, so-called, in the town of Harwich, and as is more particularly described below, to Lawrence F. Carbonneau and Francine M. Carbonneau for purposes of supporting and maintaining the garage and driveway as currently existing, subject to the requirements of sections 2 and 3, and to such additional terms and conditions consistent with this act as the commissioner may prescribe in consultation with the department of environmental management.

Said parcel of land is shown on a plan of land entitled "Plan of Land in Harwich, MA.", prepared For Lawrence Carbonneau, 417 Pleasant Lake Ave., Harwich. on file with the department of environmental management.

Minor modifications to the property description set forth above may be made in order to conform with a completed professional land survey. The costs of any appraisals, surveys or other expenses deemed necessary by said commissioner shall be assumed by the grantees set forth in this section.

**SECTION 2.** No deed conveying, by or on behalf of the commonwealth, the parcel described in section 1 shall be valid unless such deed provides that said parcel shall be used for the purposes described in said section 1. The deed shall include a reversionary clause that stipulates that the property will revert back to the commonwealth if the property ceases to be utilized for the express purposes for which it was conveyed.

**SECTION 3.** The grantees of said title shall assume the cost of any appraisals, surveys, and other expenses deemed necessary by the commissioner of the division of capital planning and operations for the granting of the title.

**SECTION 4.** The grantees shall compensate the department of environmental management in an amount equal to the full and fair market value of the property, as 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 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 5.

**SECTION 5.** The commissioner of the division of capital planning and operations shall 30 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 general shall issue his review and comment within 15 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 15 days prior to the execution. The grantees of said parcel shall pay said purchase price in accordance with the terms of the agreement.

**SECTION 6.** The department of environmental management is hereby authorized to deposit said purchase price in the Second Century Fund established pursuant to section 160 of chapter 151 of the acts of 1996. In lieu of payment of such amount, the department of environmental management may require other land of equal value, as determined by one or more independent appraisals conducted by or for the division of capital planning and operations, to be conveyed to the commonwealth, through its department of environmental management; provided, however, that such exchange is determined by the department of environmental management to be in the best interests of the commonwealth.

Approved November 28, 1997.

**Chapter 200. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF SOUTHBRIDGE.**

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

**SECTION 1.** Section 4 of chapter 4 of the charter of the town of Southbridge, 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 subsection 4-4-5 and inserting in place thereof the following subsection:-

4-4-5. He shall keep the council fully informed in a timely manner regarding all departmental operations, fiscal affairs, problems and administrative actions.

**SECTION 2.** Section 8 of chapter 6 of said charter is hereby amended by adding the following subsection:-

6-8-4. All contracts for services negotiated by the town manager shall be ratified by a majority vote of town council.

**SECTION 3.** Section 3 of chapter 8 of said charter is hereby amended by striking out subsection 8-3-2 and inserting in place thereof the following subsection:-

8-3-2. The town manager shall have the power to appoint, subject to confirmation by the town council, the following town boards and commissions: constables, commissioners of trust funds and World War I memorial trustees.

**SECTION 4.** Section 4 of said chapter 8 is hereby amended by striking out subsection 8-4-1 and inserting in place thereof the following subsection:-

8-4-1. The town manager shall have the power to appoint, subject to confirmation by the town council, such other individual town officers and members of boards and commissions as are authorized by the General Laws, this charter or by-laws and for whom appointment is not otherwise provided.

**SECTION 5.** Section 5 of said chapter 8 is hereby amended by striking out subsection 8-5-1 and inserting in place thereof the following subsection:-

8-5-1. The town manager shall have the power to rescind, subject to confirmation by the town council, for cause, including excessive and unexcused absenteeism, any appointment made by him to any board, commission, committee or individual officer under the authority of this charter, provided that the appointee shall first have been served with a written notice of the town manager's intention specifying the reasons for the proposed removal and informing the appointee of his right to be heard at a public hearing, if requested.

Approved November 28, 1997.

## **Chapter 201. AN ACT AUTHORIZING THE TOWN OF CHATHAM TO GRANT AN EASEMENT IN CERTAIN CONSERVATION LAND.**

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

The town of Chatham, acting by and through its board of selectmen, is hereby authorized to grant an easement in five parcels of land located in said town, which were acquired for conservation purposes, to said town for the installation of a well, pumping station, water mains and appurtenances thereto. Said parcels are bounded and described in the order of taking recorded with the Barnstable county registry of deeds in Book 6492, Page



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283; Book 2620, Page 130, Book 6492, Page 114; Book 5287, Page 320, and Book 6636, Page 307.

Approved November 28, 1997.

**Chapter 202. AN ACT AUTHORIZING THE TOWN OF AUBURN TO USE A CERTAIN PARCEL OF PUBLIC PARK LAND FOR POLICE PURPOSES.**

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

**SECTION 1.** The town of Auburn is hereby authorized to use a certain parcel of land previously acquired and maintained as a public park for the purpose of constructing a police station thereon and for other police purposes. Said parcel is shown on a plan entitled "Article 19 Plan for New Police Station", which is on file in the office of the town clerk of said town of Auburn.

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

Approved November 28, 1997.

**Chapter 203. AN ACT TRANSFERRING CERTAIN EASEMENTS FOR THE EMERGENCY IMPROVEMENT OF THE METROPOLITAN AREA WASTEWATER TRANSMISSION SYSTEM IN THE TOWNS OF BRAINTREE AND WEYMOUTH.**

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

**SECTION 1.** The general court finds that it is the public policy of the commonwealth to ensure its citizens receive effective wastewater transmission service while maintaining high standards of health, public safety and environmental protection. The general court finds that in light of the commonwealth's needs, the expedited acquisition of the necessary easements for the construction of an emergency relief sewer siphon in the area of Mill Cove, Weymouth by the Massachusetts Water Resources Authority in accordance with this act is necessary in order to provide numerous of its citizens with improved performance of an existing hydraulic restriction to the Mill Cove Siphon, constructed in 1933, while maintaining high standards of environmental and public health protections.

**SECTION 2.** The town of Weymouth is hereby authorized and directed to convey to the Massachusetts Water Resources Authority, for nominal consideration of \$1 the permanent and temporary easements specifically described in section 3, on land which was purchased by said town of Weymouth and currently used by it for open space and park purposes, for the purpose of the development, construction and maintenance of an emergency relief sewer siphon and related facilities, structures and equipment to supplement the existing Mill Cove Siphon and to improve the metropolitan area wastewater transmission system.

**SECTION 3.** The easements now owned by the town of Weymouth are more particularly described as follows: two permanent easement parcels numbered E-P1 and E-P2 and three temporary easement parcels numbered TE-P1, TE-P2 and TE-P3, all situated on land owned by said town of Weymouth and designated and used as the Newell Playground. The easement parcels are shown on a plan titled: "EMERGENCY MILL COVE RELIEF SIPHON EASEMENT PLANS IN THE TOWN OF WEYMOUTH, MA, TO BE ACQUIRED BY THE MASSACHUSETTS WATER RESOURCES AUTHORITY, SCALE: AS SHOWN, DATE: AUGUST 6, 1997, PREPARED FOR METCALF & EDDY, PREPARED BY ASEC CORPORATION, QUINCY, MA".

**SECTION 4.** Any agency, department, office or commission with regulatory jurisdiction shall, notwithstanding any law to the contrary, cooperate with the Massachusetts Water Resources Authority to assure the attainment of the foregoing objectives and to assure that substantive and procedural regulatory requirements are exercised to achieve the purposes of this act.

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

Approved November 28, 1997.

#### **Chapter 204. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO GRANT CERTAIN EASEMENTS IN CERTAIN CONSERVATION LAND.**

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

The town of North Reading, acting by and through its board of selectmen, is hereby authorized to grant easements in certain parcels of conservation land located in said town to MediaOne of Massachusetts, Inc. or their successors to construct, upgrade, install, operate and maintain the necessary cables, wires, anchors, guys, supports and fixtures thereon for the transmission of cable communication services. Said parcels are shown as parcels 20, 23, and 33 on said town of North Reading Assessor's Map 72 and as parcel 2 on said Assessor's Map 73. Such easements being more particularly described as the exclusive right to attach or otherwise affix cables, wire or optical fibers comprising the cable communications systems to the existing poles or conduits on and along said easements; provided, however, that said MediaOne of Massachusetts, Inc., or its successor obtains the permission of the public utility companies to affix the cables and wires to their poles and conduit facilities, with the right to make service connections to subscribers, and the right to cut down or trim trees and bushes as the grantees may from time to time deem necessary, not to exceed a width of 30 feet.

Approved November 28, 1997.

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## Chapter 205. AN ACT RELATIVE TO THE OPERATION OF STEAM BOILERS.

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

**SECTION 1.** Section 46 of chapter 146 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- No person shall have charge of or operate a steam boiler or engine or its appurtenances, except boilers and engines upon locomotives, turbines on test stands being operated solely for the purpose of testing such turbines by qualified testing personnel approved by the turbine designer and manufacturer, motor vehicles, boilers and engines in private residences, boilers in apartment houses of less than five apartments, boilers and engines under the jurisdiction of the United States, boilers and engines used for agricultural, horticultural and floricultural purposes exclusively, boilers and engines of less than nine horsepower and boilers which are provided with a device approved by the commissioner limiting the pressure carried to 15 pounds to the square inch, unless he holds a license referred to in section 49. Boilers and engines, not exempt under this section, of nine to 250 horsepower, in the aggregate, shall require periodic attendance, boilers and engines of 251 horsepower to 500 horsepower, in the aggregate, shall require noncontinuous attendance and boilers of 501 horsepower or more, in the aggregate, shall require continuous attendance.

**SECTION 2.** Said section 46 of said chapter 146, as so appearing, is hereby further amended by adding the following paragraph:-

As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Continuous attendance", manned attendance by a licensed operator during all times of operation.

"Noncontinuous attendance", in addition to the requirements of periodic attendance, a remote monitoring station shall be in place that has the ability to shut down the boiler and the boiler shall be inspected by the operator between four and six times per shift.

"Periodic attendance", a licensed engineer shall perform daily maintenance as required by the department's maintenance log book, the engineer shall remain in the same building as the operating boiler, the boiler shall be equipped with automatic shut-down devices as required by law; provided, however, that the safe operation of the boiler shall be the primary duty of the operator and such operator shall retain full discretion to return to the boiler room for monitoring purposes and all such visits shall be required to be recorded in the department's log book.

**SECTION 3.** Section 48 of said chapter 146, as so appearing, is hereby amended by striking out the first, second and third paragraphs and inserting in place thereof the following two paragraphs:-

When liquid or gaseous fuel, electric or atomic energy or any other source of heat is used, the horsepower of a boiler shall be determined by either the manufacturer's factory tag affixed to the boiler or burner denoting horsepower, or calculated by one of the following formulae: the steam output capacity as listed on the manufacturer's tag divided by 34.5, the



Btu/Hr Input listed on the manufacturer's tag divided by 41,840 or the Btu/Hr Output listed on the manufacturer's tag divided by 33,475.

If a tag is missing, damaged or unclear, the licensed engineer in charge or on duty at the time shall notify the owner or user of the steam boiler. The owner or user shall obtain a notarized letter, signed by an officer of the manufacturer of the boiler or burner, listing the maximum capacity of the steam boiler in Btu/Hr. Such letter shall be an acceptable basis for calculating the horsepower of that particular steam boiler.

**SECTION 4.** Said chapter 146 is hereby further amended by striking out section 49, as so appearing, and inserting in place thereof the following section:-

Section 49. Licenses shall be granted according to the competence of the applicant and shall be classified as follows: Engineer's licenses: First class, to have charge of and operate any steam plant. Second class, to have charge of and operate a boiler or boilers, and to have charge of and operate engines, no one of which shall exceed 150 horsepower, or to operate a first class plant under the engineer in direct charge thereof. Third class, to have charge of and operate a boiler or boilers not exceeding, in the aggregate, 150 horsepower when solid fuel is burned or not exceeding, in the aggregate, 500 horsepower when steam is generated by the use of liquid or gaseous fuel, electric or atomic energy or any other source of heat and an engine or engines not exceeding 50 horsepower each or to operate a second class plant under the engineer in direct charge thereof. Firemen's licenses: First class, to have charge of and operate any boiler or boilers where the safety valve or valves are set to blow at a pressure not exceeding 25 pounds to the square inch or to operate high pressure boilers under the engineer or fireman in direct charge thereof. No engineer or fireman in charge of a steam plant shall be permitted to be in charge of any other steam plant, unless it is within one mile from the specific plant of which the engineer or fireman is designated to be in charge or unless a licensed second or third class engineer or fireman shall be in attendance at such plant and shall perform his duties under the supervision of such engineer or fireman. Second class, to operate any boiler or boilers under the engineer or fireman in direct charge thereof. A person holding a first class fireman's license may operate a third class plant under the engineer in direct charge thereof. Special licenses: A person who desires to have charge of or to operate a particular steam plant may, if he files with his application for such examination a written request signed by the owner or user of the plant, be examined as to his competence for such service and no other and, if found competent and trustworthy, shall be granted a license for such service, and no other; provided, however, that no special license shall be granted to give a person charge of or permission to operate an engine over 50 horsepower, or a boiler or boilers exceeding, in the aggregate, 250 horsepower, except that where the main power plant is run exclusively by waterpower, developed on the premises of such plant a major part of the year and has auxiliary steam power for use during the periods of low water, a special license may be granted to an applicant holding an engineer's license.

The department shall promulgate regulations which shall require the renewal of such licenses every five years. Commencing with the license renewal on January 1, 2000, all individuals licensed by the commonwealth to operate boilers shall demonstrate completion



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of 30 hours of continuing education at or through an institution or organization approved by the commissioner, in consultation with the chief inspector, during each five-year period preceding each license renewal.

**SECTION 5.** Said chapter 146 is hereby further amended by inserting after section 46 the following section:-

Section 46A. The commissioner shall develop a log book which shall include a checklist for the proper daily steam boiler maintenance that shall be required to be completed daily by the operator of a steam boiler exceeding nine horsepower. Such checklist shall include, but not be limited to, the following requirements: (1) give the boiler measured bottom blowdowns in accordance with instructions provided by the company supplying the feedwater treatment; (2) remove accumulations on water surfaces by using surface blow valves; (3) blowdown water column; (4) test low-water cutoff and feedwater regulator; (5) operate safety valves manually on start-up; (6) check lubrication on auxiliary equipment; (7) when starting boiler, make sure ignition operates properly; and (8) keep boiler room clean.

**SECTION 6.** Section 64 of said chapter 146, as so appearing, is hereby amended by inserting after the word "the", in line 5, the following words:- commissioner, in consultation with the.

**SECTION 7.** The first paragraph of said section 64 of said chapter 146, as so appearing, is hereby further amended by adding the following sentence:- An oral examination shall be recorded on tape and such tape shall remain on file with the department through the expiration of the time allowed for appeal.

Approved November 28, 1997.

## **Chapter 206. AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY IN THE CITY OF BOSTON.**

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

**SECTION 1.** Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 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 convey by deed to the city of Boston, for such consideration and upon such terms as described herein, a parcel of land with the buildings and improvements thereon. Said parcel of land described was conveyed by a deed from the United States of America to the Commonwealth of Massachusetts, dated September 11, 1967 and recorded with Suffolk county registry of deeds in Book 8149, Page 405.

**SECTION 2.** The property described in section 1 shall be conveyed to the city of Boston for use as elementary and secondary educational facilities, subject to acknowledgment and acceptance by said city of the use and other restrictions placed on the deed which conveyed title to said property from the United States of America to the Commonwealth of Massachusetts, and any other restrictions imposed by the United States of America. In connection therewith, the commissioner of the division of capital planning and operations

is hereby authorized to do such acts, enter into such agreements, and make such payments from the purchase price paid by the city as may be required or requested by the United States of America for the satisfaction or abrogation of any conditions and restrictions contained in said deed that may have been breached; provided, however, that the amount of any such payments, if any, shall be added to the fair market value required in section 4 and shall be paid by said city.

**SECTION 3.** Said conveyance of the property described in section 1 shall be further subject to the assumption, by the city of Boston, of the cost of any appraisals, surveys, and other expenses as deemed necessary by the commissioner of capital planning and operations. Said city shall be responsible for obtaining all approvals and releases, relating to the transfer to said city and to the use by said city of the parcels, required by the United States of America, included under the September 11, 1967 deed, and shall assume all costs related to obtaining such approvals and releases.

**SECTION 4.** Consideration for the property described in section 1 shall be the full and fair market value for highest and best use as determined by an independent appraisal taking into account the use restriction plus the additional payments that are added pursuant to section 2. The cost of any renovations, improvements, and environmental remediation, including, design, made to the parcel or the building thereon by the city of Boston prior to the conveyance, and the cost of any approvals and releases referred to in section 3 paid by said city prior to or at the conveyance, shall be deducted from said appraised value when determining the consideration to be paid. In addition, the cost of any improvements, including design, which shall be made by said city in order to make the parcel or the building thereon suitable for the purposes described in section 2, including without limitation, environmental remediation, structural and mechanical improvements, and the installation or improvement of life safety systems, shall be deducted from said appraised value when determining the consideration to be paid. The total allowable cost for said improvements made subsequent to property transfer shall be identified in the construction contract to be executed by said city prior to the conveyance.

**SECTION 5.** Prior to the conveyance, the inspector general shall review and approve the appraisal that determines fair market value, 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 of ways and means. Subsequent to said conveyance and upon completion of building improvements described in section 4, said inspector general shall verify that said city actually expended the amount identified in the construction contract described in said section 4.

**SECTION 6.** If any property authorized to be conveyed by section 1 is used for any purposes other than the uses specified in section 2, or ceases to be used for such purposes, then, upon notice by the commissioner of the division of capital planning and operations, and subject to any federal rights and rights of reverter during the term of the federal restrictions relating to the property, title shall revert to the commonwealth subject to such terms and con-

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ditions as said commissioner may specify. The deed of the property shall include the requirements of this section.

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

Approved November 28, 1997.

## **Chapter 207. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO CONVEY CERTAIN LAND.**

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

The town of Tewksbury, acting by and through its board of selectmen, is hereby authorized to sell and convey, at full market value, a certain parcel of land acquired for water supply purposes to be used for residential purposes. Full market value shall be determined by independent appraisal. The cost of said appraisal, surveys, recordings, and other expenses relating to the transfer of property shall be paid by the buyers. Said parcel is shown as Lot 79 on Map 48 on the Assessor's Map. The proceeds from the sale of said parcel minus the costs of said sale shall be deposited in an account for the payment of the expansion of the water treatment plant of said town.

Approved November 28, 1997.

## **Chapter 208. AN ACT RELATIVE TO THE PROSECUTION OF JUVENILE OFFENDERS.**

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

**SECTION 1.** The jurisdiction of the district court juvenile sessions effective on July 26, 1996 shall continue in effect, except as amended by chapter 200 of the acts of 1996, until such time as a division of the juvenile court department having territorial jurisdiction corresponding to that of such division of the district court department is established or January 1, 1999, whichever shall first occur, pursuant to section 203 of chapter 379 of the acts of 1992.

**SECTION 2.** Sections 1 to 13, inclusive, and sections 16 to 38, inclusive, of chapter 200 of the acts of 1996 shall apply to complaints filed and indictments returned for offenses allegedly committed on or after October 1, 1996.

**SECTION 3.** Sections 14 and 15 of chapter 200 of the acts of 1996 shall apply to murder cases in which the murder was allegedly committed on or after July 27, 1996.

**SECTION 4.** Defendants in delinquency actions pending on October 1, 1996 who have waived a first instance jury trial before such date shall be afforded an opportunity to withdraw such waiver and make an election according to the provisions of law established under chapter 200 of the acts of 1996.

**SECTION 4A.** Section 203 of chapter 379 of the acts of 1992 is hereby amended by striking out the word "ninety-eight", inserted by section 2 of chapter 452 of the acts of 1996,



and inserting in place thereof the following word:- ninety-nine.

**SECTION 5.** Sections 1 to 4, inclusive, of this act shall take effect as of July 27, 1996.

Approved November 28, 1997.

**Chapter 209. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF NORFOLK COUNTY TO CONVEY CERTAIN LAND.**

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

**SECTION 1.** Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the county commissioners of Norfolk county are hereby authorized to convey, without consideration, a certain parcel of conservation land to the town of Braintree.

Said parcel is shown as Parcel 1 on a certain plan entitled "Plan of Land in Braintree, Mass., August 26, 1976, Alvah D. Downs, County Engineer" which plan is recorded with Norfolk registry of deeds as Plan 1187 of 1978 (the "1978 Plan").

**SECTION 2.** Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the county commissioners of Norfolk county are hereby authorized to sell and convey, as one parcel, two parcels of land on the following terms and conditions: (i) said parcels shall be offered for sale to said town only upon a determination made by said county commissioners of said Norfolk county that both of said parcels are surplus and are available for sale; (ii) both of said parcels shall be offered at an aggregate purchase price of \$500,000; (iii) such offer shall be made to the town of Braintree in writing addressed to the selectmen of the town and shall be made not earlier than one year following the effective date of this act; (iv) the town of Braintree, acting through its selectmen, shall have 45 days from the date of receipt of such offer to notify the county commissioner of Norfolk county that the town has elected to purchase both, but only both, of said parcels at the price stated in the offer; and (v) the conveyance of the right, title and interest of said Norfolk county in said parcels shall be conveyed and the purchase price paid therefor not later than 120 days following the date of receipt of the offer described in this section. All of the rights of the town of Braintree under this section shall expire in the event either: (a) Norfolk county makes an offer to sell said parcels and the town of Braintree failed to elect to purchase the same within 45 days from the date of receipt of said offer; or (b) resulting from a delay caused by said county commissioners of said Norfolk county, the sale of said parcels fails to occur within the time period established by this section; provided, however, that in either such event, Norfolk county shall thereafter have no further obligation to offer to sell or to sell said parcels to the town of Braintree.

One parcel is shown on a plan entitled "Plan of Land in Braintree, Mass. Owner: County of Norfolk, dated October 2, 1997", prepared by County of Norfolk Engineering Dept., 649 High Street, Dedham, Mass. 02026 (the "Plan") as County of Norfolk Land Court Cert. No. 21516, Book 108, Page 116.



The second parcel is shown as Lot B on Land Court Plan No. 11151C filed in the Norfolk registry district with certificate of Title No. 16219, Vol. 82.

**SECTION 3.** Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the county commissioners of Norfolk county are hereby authorized to sell and convey a certain parcel of land to the town of Braintree on the following terms and conditions: (i) said parcel shall be offered for sale to said town only upon a determination made by and at the sole discretion of said county commissioners of said Norfolk county that said parcel is surplus and is available for sale; (ii) said parcel shall be offered at a purchase price of \$1,842,000; (iii) said offer shall be made to the town of Braintree in writing addressed to the selectmen of the town and shall be provided not earlier than one year following the effective date of this act; (iv) said town of Braintree, acting through its selectmen, shall have 45 days from the date of receipt of such offer to notify the county commissioners of Norfolk county that the town will purchase said parcel at the price stated in the offer; and (v) the conveyance of the right, title and interest of said Norfolk county in said parcel shall be conveyed and the purchase price paid therefor not later than 120 days following the date of receipt of the offer described in this section. All of the rights of said town of Braintree under this section shall expire in the event either: (a) Norfolk county makes an offer to sell said parcel and the town of Braintree fails to elect to purchase the same within 45 days from the date of receipt of such offer; or (b) unless resulting from a delay caused by said county commissioners of said Norfolk county, the sale of said parcel fails to occur within the time period established by this section; provided, however, that in either such event, Norfolk county shall thereafter have no further obligation to offer to sell or to sell said parcel to said town of Braintree.

Said parcel is shown as Lot C on Land Court Plan No. 11151C filed in the Norfolk registry of deeds with certificate of title 16219, Vol. 82.

**SECTION 4.** The county commissioners of Norfolk County and the board of selectmen of the town of Braintree shall, from time to time, grant easements running with the land for underground utilities and for drainage for the benefit of land owned by each of them upon reasonable request; provided, that such easements do not adversely interfere with the granting party's use and enjoyment of the property burdened thereby; and provided further, that any easement agreement shall contain customary terms addressing the installation, maintenance and responsibility for improvements in such easements.

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

Approved November 28, 1997.

## **Chapter 210. AN ACT RELATIVE TO THE COMMONWEALTH'S MOTOR VEHICLE INSPECTION PROGRAM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith an enhanced motor vehicle emissions inspection and maintenance program 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.** Chapter 10 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out section 60.

**SECTION 2.** Said chapter 10, as so appearing, is hereby further amended by striking out section 61 and inserting in place thereof the following section:-

Section 61. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Motor Vehicle Inspection Trust Fund. There shall be credited to said fund all monies received or collected, including interest earned thereon, from that portion of the fee owed to the commonwealth pursuant to the seventh paragraph of section 7A of chapter 90 for a motor vehicle inspection; provided, however, that the comptroller shall annually transfer from said fund not less than \$5,700,000 to the Highway Fund from the monies so credited. Amounts so credited shall be received and held in trust by the commonwealth and shall be expended, without further appropriation, solely for the purposes of administration and implementation of the motor vehicle inspection program established pursuant to said section 7A and sections 142J and 142M of chapter 111, including the direct personnel costs associated with said inspection program; provided, that an amount equal to the sum appropriated plus fringe costs in each fiscal year for the implementation and operation of the auto related component of the state implementation plan shall be transferred from said fund to the Clean Air Act Compliance Fund. The fund may incur a negative balance in anticipation of revenues to be received; provided, however, that the fund shall be in balance by June 30, 2005 and shall be in balance at the close of each fiscal year thereafter. All revenues credited to and all expenditures made from said fund shall be reported, by subsidiary, on the Massachusetts management accounting and reporting system and all personnel compensated from said fund shall be recorded on the human resources classification management system, so-called.

**SECTION 3.** Section 8G of chapter 26 of the General Laws, as so appearing, is hereby amended by striking out, in line 139, the words "one hundred and forty-two J" and inserting in place thereof the following figure:- 142M.

**SECTION 4.** Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 327, the words "safety or combined safety and emissions".

**SECTION 5.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 331, the words "emissions portion of the combined safety and emissions".

**SECTION 6.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out the definition of "Emissions analyzer".

**SECTION 7.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 349 and 350, the words "safety or combined safety and emissions".

**SECTION 8.** Said section 1 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 352 and 353, the words "safety or combined safety and emissions".

**SECTION 9.** Said chapter 90, as so appearing, is hereby further amended by striking out section 7A and inserting in place thereof the following section:-

Section 7A. The registrar shall establish rules and regulations providing for a periodic staggered inspection of all motor vehicles; provided, however, that the periodic inspection for motorcycles shall not be staggered and shall run from June 1 of each year until May 31 of the following year, inclusive.

The registrar shall establish and implement an ongoing quality assurance program to detect and prevent fraud, waste and abuse in the inspection program. The quality assurance program shall include, but not be limited to, overt and covert audits of inspection facilities and inspectors, audits of data from inspection equipment, evaluation of quality control records and procedures and audits of consumer complaints and responses to such complaints.

The standards and requirements for the emissions component of the inspection shall be established by the commissioner of environmental protection, in consultation and coordination with the registrar, pursuant to sections 142J and 142M of chapter 111 or the rules and regulations made pursuant thereto.

Said commissioner shall, in consultation with the registrar, establish rules and regulations which shall determine and identify the motor vehicles which shall be subject to the emissions component of the inspection and shall notify the registrar of such determination.

In addition to the emissions testing requirements, the rules and regulations for the periodic staggered inspection established hereunder shall include, but not be limited to, an annual maintenance inspection to determine the proper and safe condition of the following: brakes, stop lamps, lights, directional signals, horn, vehicle identification number, steering and suspension systems, glazing, windshield wipers and cleaner, number plates, tires, fenders, bumpers, external sheet metal, reflectors, splash guards, chock blocks, safety belts and exhaust system. The registrar may waive, by written document, certain inspection requirements if any such waiver furthers the public interest or is based on technological development and does not compromise the public safety; provided, however, that for motor vehicles one model year old or less, the registrar may require that the initial inspection mandated by this paragraph be performed at the end of the first full year of registration.

The registrar shall establish rules and regulations providing for the inspection of school buses or buses operated under a certificate, license or permit issued in accordance with the provisions of chapter 159A which are used for the transportation of school children to and from school and in connection with school activities, other than buses used simultaneously as public common carriers of passengers or designed primarily for mass transportation, within seven days of the date on which the vehicle is first registered to a new owner and during the fall, winter and spring. The first inspection shall be in the months of August and September, the second inspection shall be in the months of December and January and the third inspection shall be in the months of April and May. The semiannual safety inspection for those vehicles regulated by section 7D shall be inspected during the fall



and winter, the first inspection during the months of October and November and the second inspection during the months of February and March. Such inspections shall be in addition to the periodic staggered inspection as required by this section.

The secretary of administration and finance, pursuant to the provisions of section 3B of chapter 7 and based on a recommendation of the registrar and said commissioner, shall determine the amount to be charged for the periodic staggered inspection of all motor vehicles required hereunder; provided, however, that the fee charged for such inspections shall be sufficient to offset fully the costs of administration and implementation of said inspection program incurred by the department, the registry and the inspection stations licensed pursuant to section 7W, including the cost of any contract entered into pursuant to section 142M of chapter 111; and provided further, that such fee shall be an annual charge which shall remain constant for each year of the two-year inspection cycle. Each inspection facility shall remit to the registrar a portion of the collected inspection fee in an amount established by said secretary in consultation with said registrar and said commissioner, which shall be deposited in the Motor Vehicle Inspection Trust Fund established by section 61 of chapter 10. All amounts credited to said fund shall be expended at the direction of the registrar in consultation with said commissioner, without further appropriation; provided, however, that such amount expended shall be used solely for the purpose of implementation, administration, oversight and enforcement of the inspection program instituted by the registrar pursuant to this chapter. The registrar shall, by agreement with said commissioner, transfer such moneys from said fund as may be necessary for the department of environmental protection to carry out its responsibilities pursuant to sections 142J and 142M of chapter 111 and Clean Air Act programs that support said inspection program. Pursuant to section 5D of chapter 29, the comptroller shall transfer to the General Fund the fringe benefit costs, including group life, health insurance and retirement benefits and any incidental costs incurred by said program. On or before December 1 of each fiscal year, the registrar shall file an annual financial plan for the projected revenues and expenditures of the account for the current fiscal year and for the subsequent fiscal year with the secretaries of public safety, administration and finance and environmental affairs and the chairmen of the joint committee on public safety and the house and senate committees on ways and means. All revenues credited to and all expenditures made from said fund shall be reported, by subsidiary, on the Massachusetts management accounting and reporting system and all personnel compensated from said fund shall be recorded on the human resources classification management system.

Each applicant to become a licensee under the provisions of section 7W shall remit a fee established by said secretary pursuant to the provisions of section 3B of chapter 7, based upon a recommendation from the registrar, before a license may be issued pursuant to said section 3B. Such fee shall be deposited in the Highway Fund.

The rules and regulations promulgated by the registrar pursuant to this section shall provide that a motor vehicle which is not garaged or operated within the commonwealth during its assigned inspection period may be operated for 15 days after its return to the com-



monwealth if such motor vehicle bears satisfactory proof of adequate safety and emissions inspection from another jurisdiction. The owner or person in control of such motor vehicle shall obtain the required safety and emissions inspection within said 15 days.

**SECTION 10.** Section 7N of said chapter 90, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "safety or combined safety and emissions" and inserting in place thereof the following words:- periodic staggered.

**SECTION 11.** Said chapter 90, as so appearing, is hereby further amended by striking out section 7W and inserting in place thereof the following section:-

Section 7W. No person or facility shall conduct inspections of motor vehicles pursuant to section 7A of this chapter or section 142J or 142M of chapter 111 unless such person is licensed by the registrar.

The registrar, in consultation with the commissioner of environmental protection, shall establish rules and regulations for the licensing and operating requirements of all stations or facilities that conduct inspections pursuant to said section 7A or said section 142J or 142M.

The registrar, upon granting the opportunity for a hearing, may revoke or suspend any license or certification issued under this section or place conditions or limitations on such license for a violation of any rule or regulation promulgated hereunder.

A person who is convicted of a violation of any provision of this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 30 days or both such fine and imprisonment.

Notwithstanding the provision of section 30A, the registrar may allow access or inquiry into computer data files under the control of said registrar in order to facilitate the establishment of a computerized communication system between the registry, the department of environmental protection, inspection facilities and any other person or entity in order to enforce compliance with any inspection or enforcement requirements of this chapter or chapter 111 or any other law or rule or regulation related thereto.

**SECTION 12.** Section 20 of said chapter 90, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Any person who operates and any person who owns or permits to be operated a motor vehicle or trailer that fails to meet the safety standards established by the registrar pursuant to section 7A shall be punished by a fine of \$25. Any person who owns and fails to have inspected a motor vehicle owned by him, as required pursuant to section 7A or 7V of this chapter or sections 142J and 142M of chapter 111 or any person who operates or permits a motor vehicle owned by him to be operated without a certificate of inspection or a certificate of rejection displayed in accordance with the provisions of said section 7A or 7V or said sections 142J or 142M and the rules and regulations promulgated thereunder shall be punished by a fine of \$50. Any motor vehicle which is required to be inspected pursuant to the provisions of said section 7A and said section 142J or 142M and fails to meet the requirements of such inspection and has not been issued a certificate of waiver under the provisions of clause (b) of the first paragraph of said section 7V or said section 142M shall

be subject to suspension or revocation of the certificate of registration as may be prescribed by the registrar under section 22.

**SECTION 13.** Section 142J of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out the third and fourth paragraphs.

**SECTION 14.** Said chapter 111 is hereby further amended by striking out section 142M, as most recently amended by section 82 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

Section 142M. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Commissioner", the commissioner of environmental protection.

"Department", the department of environmental protection.

"Dynamometer", a device which applies a load to a vehicle's drive wheels while operating in a stationary, secure position to simulate actual driving conditions for an emissions inspection.

"Electronic network", or "network", a computerized communication system including, but not limited to, the computers, communications devices and software for such system which links emissions analyzers, the department's emissions database, and the registry of motor vehicles' registration database and which allows the department and the registry to store and analyze data on motor vehicle emissions inspections, motor vehicles and emissions inspectors.

"Emissions analyzer", a device which measures the volume of air pollutants and gases in motor vehicle exhaust.

"Emissions inspection", a component of the periodic staggered inspection of motor vehicles required by section 7A of chapter 90 including, but not limited to, the inspection of a motor vehicle's emissions control equipment, including its computer system relating to emissions, the measurement of air pollutant concentrations or mass in vehicle exhaust with an analyzer while the vehicle is operated on a dynamometer, the verification of vehicle fuel system integrity and the entry of a complete emissions inspection record in the registry's database for the vehicle being inspected, as prescribed by the department in regulations and performed by an emissions inspector.

"Emissions inspection certificate" or "inspection certificate", a printed statement, instrument or device in a form prescribed by the registrar, in consultation with the commissioner, which provides inspection information and facilitates effective enforcement of the emissions inspection and maintenance requirements of this section and chapter 90.

"Emissions inspection facility", a facility, licensed by the registrar under section 7W of chapter 90 for conducting motor vehicle emissions inspections and other related duties.

"Emissions inspector", a properly trained person, licensed by the registrar and certified by the department and meeting the department's requirements for performing motor vehicle emissions inspections.

"Emissions repair technician", a person registered with the department and meeting departmental training standards for diagnosing and repairing motor vehicles which fail an emissions inspection.

"Emissions inspection and maintenance program" or "I&M; program", a component of the periodic staggered motor vehicle inspection required by section 7A of chapter 90 which shall include motor vehicle emissions inspections, including accurate and effective testing of vehicles, using emission testing equipment, visual and functional tests of evaporative systems, rigorous compliance and enforcement activities and quality assurance and quality control procedures which promotes effective emissions repair and maintenance of the motor vehicle.

"Evaporative emissions test", a test administered to determine whether there are leaks in a vehicle's fuel or evaporative control system, such as purge functions of a vapor canister.

"Emissions waiver certificate", a written statement, instrument or device indicating that the requirement of compliance with the emissions standards and criteria for the emissions component of the motor vehicle inspection program has been waived for a particular motor vehicle.

"On-road test", a field test designed and conducted to assess the emissions of motor vehicles.

"Registrar", the registrar of motor vehicles.

"Registry", the registry of motor vehicles.

"Tampering", (i) the act of removing or rendering inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under section 203(a) of the federal Clean Air Act prior to its sale and delivery to the ultimate purchaser; or (ii) for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.

"Vehicle identification number" or "VIN", the unique number assigned to each vehicle by the vehicle manufacturer identifying specific vehicle characteristics, such as make, model, model year, pollution control devices and the particular vehicle itself.

(b) Pursuant to this section, the department shall develop the standards, requirements and rules and regulations for the emissions component of the periodic staggered inspection program established pursuant to section 7A of chapter 90. It shall be the responsibility of the department, under authority of this chapter, to provide the direct primary oversight of the operational and environmental aspects of the emissions component of the inspection program. Nothing in this section shall be construed to require the leasing or purchasing of a dynamometer, an emissions analyzer or any necessary computer hardware or software by an emissions inspection facility from the network contractor; provided, however, the network contractor shall provide access to the data acquisition and management network to any emissions inspection facility who purchases or leases a dynamometer, emissions analyzer or necessary computer hardware or software through sources other than the network contractor so long as such equipment complies with testing equipment specifications as established by the commissioner in consultation with the registrar. Any requests for proposals for contracting with a network contractor shall require that the commissioner, in consultation with the registrar, shall have oversight over the charge assessed by the network



contractor for access to the data acquisition and management network to emissions inspection facilities who purchased equipment through sources other than the network contractor; provided, however, that notwithstanding the provisions of this section, the commissioner and the registrar may require emissions inspection facilities to obtain, lease or purchase such equipment from the network contractor upon the determination that allowing emissions inspection facilities to lease or purchase such equipment through sources other than the network contractor would result in an increase in the inspection fee. Said determination shall be made by the commissioner and registrar, in consultation with the secretary of administration and finance, only upon a finding that no feasible option exists by which emissions inspection facilities may obtain such equipment through sources other than the network contractor without increasing the inspection fee. The amount of said fee for said inspection shall be uniform statewide. It shall be the responsibility of the registrar, under authority of chapter 90, to license inspection facilities and inspectors and to register vehicles complying with the inspection program requirements and to conduct audit and enforcement activities related thereto. The department, on behalf of the commonwealth, shall be responsible for submitting all appropriate and required program regulations on the motor vehicle emissions component of the inspection and maintenance program and applicable revisions to the state implementation plan to the United States Environmental Protection Agency, in accordance with the requirements of the federal Clean Air Act. The department, in conjunction with the registry, may develop and implement a demonstration or pilot of the motor vehicle emissions inspection program or elements of such program to evaluate the effectiveness of such program, or elements of such program, in successfully reducing air contaminants emitted by motor vehicles in the commonwealth as required by federal law.

The emissions component of the inspection program shall be required statewide, shall be conducted on a staggered basis throughout the year and shall be required of each subject motor vehicle at least every two years unless otherwise exempted or specified by the department. The commissioner shall establish rules and regulations specifying which motor vehicles shall be subject to the motor vehicles emissions component of the inspection program.

The commissioner shall establish rules and regulations establishing standards and criteria for motor vehicle emissions inspections, giving consideration to the United States Environmental Protection Agency's performance standards for the enhanced emissions inspection and maintenance program and the level of emission reductions necessary to achieve and maintain federal and state ambient air quality standards. Such standards and criteria shall include, but not be limited to, a requirement to test motor vehicle emissions for hydrocarbons, carbon monoxide and oxides of nitrogen. The standards and criteria may be different for different model years and types of vehicles.

The commissioner, in consultation with the registrar, shall establish rules and regulations relative to testing equipment specifications, including emissions analyzers, quality assurance and quality control procedures for testing equipment, calibration gases, failure rates, emission standards, testing procedures, data collection and data analysis, and program evaluation.



The registrar, in consultation with the commissioner, shall determine the number and location of inspection facilities necessary for the success of the emissions component of the inspection program while considering consumer convenience and cost and achieving an equitable distribution across the commonwealth. Said registrar shall report to the joint committee on public safety and the house and senate committees on ways and means the actual number and location of inspection facilities on or before July 1, 1998. The commissioner may establish criteria and a process to select qualified applicants who shall be authorized to participate in the emissions component of the inspection program. In no event shall the use of state-owned or municipal-owned property as a site for an inspection facility or a test center relieve the owner or operator of the inspection facility from paying to the municipality an amount equal to the local property taxes due if such property was not state-owned or municipal-owned.

The department and the registry, in implementing the requirements of this section, shall acquire personnel, purchase equipment and procure services necessary to achieve the objectives hereunder including, but not limited to, the following: (i) inspection of motor vehicles; (ii) data acquisition and data management; (iii) quality control and quality assurance; (iv) on-road testing; (v) program evaluation; (vi) public communications; (vii) research and development; and (viii) any other purposes related to the development and implementation of the motor vehicle emissions component of the inspection program.

The technical and performance specifications of any equipment determined by the department to be necessary and required in the implementation of the provisions of this section, shall be reevaluated periodically as to its useful life, flexibility and applicability as to changing technological conditions and continued effectiveness in the emissions inspection and maintenance program.

The department and the registry shall contract with a private entity demonstrating an ability to manage emissions programs, hereinafter referred to as the network contractor, to develop and manage the network and inspection facilities of said motor vehicle inspection program. The department and the registry shall, as a term and condition of such contract, require the network contractor to: (i) acquire and distribute inspection facility equipment; and (ii) acquire such equipment and the associated maintenance services from at least two separate suppliers at discount prices through volume purchasing. Such contract shall also include performance standards which shall pertain to the motor vehicle inspection program goals as set forth in the commonwealth's state implementation plan. Such contract shall also require the network contractor to establish at least five test centers to be evenly distributed across the commonwealth for research, training, repair assistance and for any other purposes related to the implementation and success of the emissions component of the inspection program. The network contractor shall be responsible for achieving such goals as set forth in regulations, policies and contract terms established by the department and registry. Such contract shall require an extensive public education and awareness program prior to the implementation of the motor vehicle inspection program. Such public education program shall include, but not be limited to, establishing and maintaining a comprehensive consumer

outreach campaign concerning air quality, sources of pollutants, relevant aspects of automobile maintenance and other topics related to the motor vehicle inspection requirements of chapter 90 and this chapter. Such consumer outreach campaign shall include a consumer hotline to receive motorists' complaints and to answer questions regarding the inspection procedures, repair information and other related inspection issues.

(c) The commissioner shall establish rules and regulations implementing the motor vehicle emissions component of the inspection program required by section 7A of chapter 90. Such rules and regulations may reflect a phased-in schedule for the motor vehicles subject to the emissions component of the inspection program; provided, however, that such phase-in shall not begin prior to July 1, 1998. The department may continue to implement the motor vehicle emissions inspection program established pursuant to section 142J of chapter 111 while phasing-in the new requirements of this section.

The department shall notify the registrar as to which motor vehicles shall be subject to the motor vehicle emissions component of the inspection program. Said registrar shall give reasonable notification in the form prescribed by said registrar, to the owners of motor vehicles subject to the emissions inspection indicating which emissions inspection procedures shall be required. The registrar shall not issue a registration or, if such registration has already been issued, shall suspend or not renew the registration of any motor vehicle which does not comply with the provisions of this section or any regulation promulgated hereunder.

The commissioner may establish regulations for exempting certain motor vehicles from some or all of the requirements of this section. The following motor vehicles may be exempt from the provisions of this section and may require alternative test procedures: (i) any motor vehicle the model year of which is 15 years before the year in which the inspection occurs; (ii) any motor vehicle or class of motor vehicle that is exempted by regulation or policy by the department because the vehicle or class presents a prohibitive inspection problem or is inappropriate for inspection; (iii) any motor vehicle operated exclusively by electric power; and (iv) for one inspection cycle only, any motor vehicle two model years old or less at the time the vehicle is due for inspection.

The commissioner and the registrar shall establish procedures under which fleet operators of fleets of 12 or more vehicles that are centrally fueled and maintained may be authorized under such program to conduct inspections and maintenance activities regarding such vehicles, subject to such audit, review and enforcement under this section as the commissioner and registrar deem appropriate.

The motorist presenting a motor vehicle for an emissions inspection shall pay a fee to the inspection facility pursuant to section 7A of chapter 90.

The registrar shall establish certification, training and continuing education requirements for the safety component of the inspection program. The commissioner shall establish certification, training and continuing education requirements for the emissions component of the inspection program. Such requirements shall be a precondition to the issuance of a license to conduct motor vehicle inspections issued by the registrar. Any person conducting an official motor vehicle inspection without having received such license

and certification shall be subject to the penalties set forth in subsection (f).

The commissioner shall take steps to ensure that the capability exists in the repair industry to repair motor vehicles which fail the emissions component of the inspections required herein. Such steps shall include, but not be limited to, training and continuing education for emissions repair technicians and the involvement of vocational or technical schools and various members and sectors of the automobile and automotive repair industry. The commissioner shall establish procedures to register emissions repair technicians and to conduct a performance monitoring program of repair technicians, emissions inspection facilities and emissions inspectors. Such performance monitoring may include, but not be limited to, collection and evaluation of data on repairs. The provision of this paragraph shall not prevent any person not so registered from performing emissions repairs.

The department and the registry may conduct on-road testing of motor vehicles, including trucks and buses, for research, development, inspection or enforcement purposes. On-road testing may include identification of motor vehicles which would pass the emissions inspection and motor vehicles which would fail the emissions inspection. The on-road testing program may include, but shall not be limited to: (i) the use of portable or remote sensing equipment to measure pollutants of a moving motor vehicle; (ii) evaluation of the use of such equipment, alone or with other analytical information, equipment or techniques, as a supplement or alternative to, replacement of or enforcement of the emissions inspection; and (iii) the establishment of test centers to research and evaluate the accuracy and effectiveness of various emissions testing and enforcement methods.

The department and the registry shall create or enter into contracts to create an electronic network linking the department, emissions inspection equipment, the registry and any contractor to the department. Such electronic network shall facilitate implementation, evaluation and enforcement of the emissions inspection and maintenance program by the department and the registry.

The registrar shall establish protocols for communication on the electronic network. At its discretion, the registrar may grant emissions inspection equipment, inspection facilities and inspectors access to the electronic network. The commissioner and the registrar shall require emissions inspection equipment to communicate with the commissioner through the electronic network. The registrar, in consultation with the commissioner shall establish procedures and requirements for connecting and disconnecting emissions inspection equipment and inspection facilities and for granting emissions inspectors access to the electronic network.

The commissioner, in consultation with the registrar, may adopt rules and regulations to implement an emissions inspection and maintenance program for diesel-fueled motor vehicles.

The commissioner, in consultation with the registrar, shall promulgate rules and regulations to establish a program for the issuance of emissions waiver certificates; provided, however, that such rules and regulations shall include eligibility standards and criteria, a procedure whereby motorists may petition for emissions waiver certificates and a notification process to inform motorists of the emissions waiver certificate program and the



emissions waiver certificate petition process. Such eligibility standards and criteria shall include, but not be limited to, provisions for the issuance of emissions waiver certificates to any owner of a motor vehicle who displays satisfactory proof that such motor vehicle has undergone emissions-related repairs at a cost that exceeds a maximum cost threshold to be determined by the commissioner and the registrar. The commissioner shall report on the emissions waiver certificate program to the joint committees on public safety and the house and senate committees on ways and means on or before July 1, 1998.

(d) The commissioner and the registrar shall establish programs for public information and consumer protection. The commissioner shall establish procedures and requirements for the network contractor to ensure maximum convenience to the motorist.

Each emissions inspection facility shall distribute information to inform the public about the requirements, benefits and other consumer-related matters of the emissions inspection and maintenance program and any other information useful to the better understanding and facilitation of the emissions inspection to the consumer as directed by the commissioner.

Each inspection facility, while performing the emissions inspection, shall be capable of providing consumer protection by generating data on warranty-related recalls in a form and manner prescribed by the commissioner and any other related information deemed necessary by the commissioner. In addition, the commissioner shall establish procedures to advise motorists whose vehicles are subject to either a voluntary emissions recall or remedial action plan, as defined in and pursuant to section 207 of the federal Clean Air Act, to obtain the appropriate repairs.

(e) The commissioner, in consultation with the registrar, shall develop, establish and implement a quality control program to ensure the accuracy and integrity of the emissions component of the inspection program. Such quality control program may include, but not be limited to, procedures for: (i) calibrating, operating and maintaining emissions inspection equipment; (ii) documenting the results from the performance of such calibration, operation and maintenance; and (iii) transmitting such documentation to the department.

The registrar, in consultation with the commissioner, shall develop, establish and implement an on-going quality assurance program to discover and prevent fraud, waste and abuse in the emissions component of the inspection program. The quality assurance program shall include, but not be limited to, overt and covert audits of emissions inspection facilities and emissions inspectors, audits of data from emissions inspection facilities, examination of emissions inspection equipment, evaluation of quality control records and procedures and audits of consumer complaints and responses to such complaints.

(f) The commissioner and the registrar or their designees shall have the authority to enforce any provision of this section and may establish rules and regulations pursuant to such authority. Such enforcement authority shall permit officers or agents of the department or the registry to enter the premises of any motor vehicle inspection facility or any contractor to protect the public health and the environment, implement the quality control and quality assurance requirements of this section and for any other reasonable purpose related to implementation and enforcement of the motor vehicle inspection and maintenance program



as determined by the commissioner and the registrar.

The registrar shall establish rules and regulations prohibiting any person from issuing an inspection certificate for a motor vehicle that has not been inspected in accordance with, or is not in compliance with, the standards and criteria for motor vehicle inspections as required in this section. The registrar also shall establish rules and regulations prohibiting any person from failing to issue a certificate for a motor vehicle that has been inspected in accordance with, and in compliance with, the standards and criteria for motor vehicle inspections required in this section if such motor vehicle meets the applicable standards and criteria. No person shall alter, falsify or counterfeit an emissions inspection certificate.

The registrar may deny access to the electronic network to any inspection facility or emissions inspector that said registrar has reason to believe is not performing inspections in compliance with the registry's rules and regulations adopted pursuant to this section or under the authority of chapter 90.

Tampering with any emissions control device or system is hereby prohibited. No person shall take any action that has the effect of causing a motor vehicle to no longer comply with federal law or with the applicable standards and criteria for the motor vehicle emissions inspection and maintenance program or with requirements for motor vehicle registration. Nothing in this section shall be construed to prevent the temporary alteration of equipment for motor vehicle repair or for the quality assurance program established pursuant to subsection (e).

The commissioner and the registrar shall have the authority to order any person, inspection facility or contractor to stop or abate a violation of any rule or regulation adopted pursuant to this section or chapter 90.

Any person who violates any of the provisions of the second or fourth paragraph of this subsection and any person or facility licensed or required to be licensed pursuant to section 7W of chapter 90 who violates any requirement or regulation adopted pursuant to this section or any certificate or order issued thereunder shall: (i) be punished for each violation by a fine of not more than \$25,000 or by imprisonment for not more than one year, or both such fine and imprisonment; or (ii) be subject to a civil penalty of not more than \$25,000 for each such violation. Each day or part thereof that such violation occurs or continues shall be deemed a separate violation. The civil penalty may be assessed in an action brought on behalf of the commonwealth in the superior court. The commonwealth also may bring an action for injunctive relief in the superior court for any such violation, and the superior court shall have jurisdiction to enjoin such violation and to grant such further relief as it may deem appropriate.

**SECTION 15.** Notwithstanding the provisions of section 6B of chapter 11 of the General Laws, any provision of section 142M of chapter 111 of the General Laws shall be a continuation of current, long-standing requirements to inspect motor vehicles for emissions and to effect emissions-related repairs if a vehicle fails such emissions inspection. Any such requirement that results in emissions inspection or associated repair costs to local or county governments shall not be construed as an additional requirement.

**SECTION 16.** Chapter 490 of the acts of 1993 is hereby amended by striking out section 9, as most recently amended by section 153 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

*Section 9.* Section 8 shall take effect on July 1, 1998.

**SECTION 17.** The secretary of administration and finance shall report to the joint committee on public safety and the house and senate committees on ways and means, at least 60 days prior to the implementation of the emissions component of the motor vehicle inspection program established under section 7A of chapter 90 of the General Laws, the fee to be charged for any such inspection pursuant to section 7A of chapter 90.

**SECTION 18.** The commissioner of environmental protection, in consultation with the registrar of motor vehicles, shall report to the joint committees on public safety and the house and senate committees on ways and means, at least 60 days prior to the implementation of the emissions component of the inspection program established pursuant to section 7A of chapter 90 of the General Laws, on the cost of administration and implementation of said motor vehicle inspection program; provided, however, that such report shall include the full annual cost of said inspection program to the department of environmental protection and the registry of motor vehicles, including the number and salaries of full-time equivalent state employees and contracted employees employed by said department and said registry, respectively, for the administration and oversight of said motor vehicle inspection program; and provided further, that such report shall detail the cost of all other components of said motor vehicle inspection program, including the cost of any contract entered into pursuant to the eighth paragraph of subsection (b) of section 142M of chapter 111.

**SECTION 19.** Any regulations promulgated pursuant to the requirements of this act shall be consistent with the public notice requirements of section 2 of chapter 30A of the General Laws.

**SECTION 20.** If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application.

Approved November 28, 1997.

**Chapter 211. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF  
LAWRENCE AS THE JOSEPH A. TORRISI MEMORIAL BRIDGE.**

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

The bridge on South Union street spanning the Massachusetts Bay Transportation Authority railroad tracks in the city of Lawrence shall be designated and known as the Joseph A. Torrisi Memorial Bridge, in memory of Joseph A. Torrisi and his many contributions to the city of Lawrence. The department of highways shall erect and maintain

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a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

Approved December 3, 1997.

**Chapter 212. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TREASURER OF THE TOWN OF NEW SALEM.**

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

Notwithstanding the provisions of any other general or special law to the contrary, the treasurer of the town of New Salem shall be appointed by the board of selectmen for a term not to exceed three years.

Approved December 3, 1997.

**Chapter 213. AN ACT AUTHORIZING THE GREATER LAWRENCE SANITARY DISTRICT TO ENTER INTO CONTRACTS FOR THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE AND MODIFICATION OF A BIOSOLIDS PROCESSING FACILITY.**

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

**SECTION 1.** The Greater Lawrence Sanitary District, hereinafter referred to as the district, established by chapter 750 of the acts of 1968, is hereby authorized, notwithstanding the provisions of any general or special law or rule or regulation to the contrary, to select and contract with a single general contractor or more than one general contractor to provide any combination of the following services, including design, build or operations services for the permitting, design, fabrication, supply, construction, installation, acceptance testing, performance guarantees, operation, repair and maintenance of an on site biosolids processing facility, at the district's wastewater treatment plant located in the town of North Andover, and the transportation, marketing, disposal and beneficial use of sludge related thereto, hereinafter collectively called the biosolids project, to ensure the ability of said district's wastewater treatment facilities to operate in an environmentally and economically sound manner and in full compliance with applicable requirements of federal, state and local law on an ongoing basis; provided, however, that any such contractor is selected by the district through a competitive process in conformance with the requirements of this act; and provided, further, that such design, build or operations services procured, or contracts entered into, shall not be subject to the requirements set forth in sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30 and sections 44A to 44M, inclusive, of chapter 149 of the General Laws; provided, further, that said contract shall be awarded pursuant to the provisions of chapter 30B of the General Laws except for section 3; paragraph (a), clause (3) of paragraph (b), paragraph (c), paragraph (d), paragraph (f), paragraph (g), and paragraph (h) of section 6 and sections 12, 13 and 19 of said chapter 30B.



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 district, including, but not limited to, all capital equipment and capital improvement costs, operating and maintenance costs, financing costs, and the financial impact on the district's ratepayers. If the district awards the contract to an offeror which did not submit the proposal offering the lowest overall cost, the district shall explain the reasons for the award in writing.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, a contract awarded pursuant to section 1 may provide for a term including any renewals, extensions, or options not exceeding 20 years. Any renewal or extension shall be at the sole discretion of the district in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the district. The district's payment obligations under any contract for the biosolids project activities shall be conditioned on the contractor's performance of said services in accordance with all terms of its contract with the district.

**SECTION 3.** The district shall procure design, build or operations services relating to the biosolids project utilizing competitive sealed proposals. The district shall solicit proposals through a request for proposals, including amendments or addenda thereto, hereinafter the request for proposals, which shall include: the time and date for receipt of proposals; the address of the office to which the proposals are to be delivered; the maximum time for proposal acceptance by the district; the scope of the design, build or operations project; the quality and performance criteria for the project; the evaluation criteria that will be utilized; proposed major 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 district.

Public notice of the 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, in a local newspaper circulated in the district, and in at least one trade journal of national distribution.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain such documents. The request for proposals shall provide for the separate submission of price, and shall indicate when and how offerors shall submit the price. The request for proposals shall also specify that bid security be in a form and amount satisfactory to the district. The district shall make copies of the request for proposals available to all offerors on an equal basis. The district may conduct one or more proposal conferences, which may be mandatory, with interested parties prior to receiving proposals; provided, however, that no contract for the biosolids project is awarded prior to the effective date of this act, the district's procurement process, including without limitation, the issuance of any requests for proposals for the design, build or operation of the biosolids project and any other action taken with respect to such procurement process conforming to the requirements of this act, whether carried out prior to or after the effective date of this act, is hereby authorized and ratified by this act.



**SECTION 4.** The district's chief procurement officer shall appoint a design, build, or operations evaluation committee, hereinafter the evaluation committee, which may be composed of design, construction, engineering, and other professionals, district staff, or representative from one or more of the district's voting member communities. The district shall not open the proposals publicly, but shall open them in the presence of the chief procurement officer and one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of section 7 of chapter 4 of the General Laws, until the time of the completion of the evaluations by the evaluation committee, or, at the election of the chief procurement officer, the earlier of the time of completion of negotiations of any contract pursuant to section 6 or the time of acceptance specified in the request for proposals, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of the proposals, the chief procurement officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications to such proposals, if any, received from each offeror. The register of proposals shall be open for public inspection. The chief procurement officer or his designee may open the price proposals at a later time and shall open the price proposals so as to avoid disclosure of the evaluation committee until the evaluation of the nonprice criteria is complete.

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 for the opening of proposals.

After the time of the opening of the proposals has passed, 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 district or fair competition, or unless this act differs materially, as determined by the district in its sole discretion, from the draft of the legislation provided as part of the request for proposals. The district may waive minor informalities or allow the offeror to correct them. If a mistake and intended offer are clearly evident on the face of the offeror's proposal, the chief procurement officer shall correct the mistake to reflect the intended correct proposal and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the offeror's proposal, but the intended correct proposal is similarly not evident.

Subject to a majority vote of the district's voting members, the chief procurement officer may delegate his powers and duties to one or more employees of the district. A delegation shall be in writing, be signed by the chief procurement officer, and state the activity or function authorized and the duration of the delegation. A delegation may be in specific or general terms and may be conditioned upon compliance with specified procedures. A delegation may be revoked or amended whenever the chief procurement officer determines that revocation or amendment is in the best interests of the district. A delegation of powers or duties by a chief procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same is filed with the office of inspector general.

**SECTION 5.** Evaluations of the proposals shall be conducted by the evaluation committee. The evaluation committee shall prepare its evaluations of the nonprice technical proposals based solely on the criteria set forth in the request for proposals. Such criteria may include, without limitation, technical feasibility, environmental effectiveness, effectiveness of sludge processing systems, relevant technical and management experience of the members of the offeror's proposed design, build or operations team, including subcontractors, and financial stability and resources of the offeror. The evaluation committee shall specify in writing for each nonprice evaluation criterion included within the request for proposals a rating of highly advantageous, advantageous, not advantageous, or unacceptable and the reasons for the rating, and shall specify in writing a composite rating for each proposal, and the reasons for such composite rating. The evaluation committee shall also specify in writing revisions, if any, to each proposed plan for providing the required supplies or services which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal. After completion of the preliminary evaluation of the nonprice proposals and the ratings set forth above, the price proposals shall be evaluated by the evaluation committee based solely on the price criteria set forth in the request for proposals. Such criteria may include an evaluation of: costs for design and construction activities; annual operation and maintenance costs; present worth of capital costs and operating costs; financial impact on district rate payers; and such other criteria which may be deemed reasonable by the district and included in the request for proposals.

**SECTION 6.** After the evaluation committee completes its evaluation of the proposals, the chief procurement officer shall make a preliminary determination in writing of the most advantageous proposal from a responsible and responsive offeror taking into consideration the price and all other evaluation criteria set forth in the request for proposals. Thereafter the chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If after negotiation with such offeror, the chief procurement officer determines that it is in the district's best interests, the chief procurement officer may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and all other evaluation criteria set forth in the request for proposals, and the chief procurement officer may negotiate all terms of the contract with such offeror.

After completion of such negotiations, the chief procurement officer shall recommend the award, and the district shall award the contract to the then most advantageous proposal from a responsible and responsive offeror taking into consideration price, the other evaluation criteria set forth in the request for proposals, and the terms of the contract negotiated by the chief procurement officer. Such award may be conditioned on successful negotiation of revisions to the plan of services identified by the evaluation committee during the proposal evaluation phase of the process and shall explain the reasons for omitting any such revision from a plan incorporated by reference in the contract. The district shall award the contract in conformance with the requirements of the district's enabling legislation, by written notice to the offeror selected by the district within the time

for acceptance specified in the request for proposals. Upon the district's determination that it is in the district's best interest to do so, the district and offeror may extend the time for acceptance by mutual agreement. Written notice of contract award shall be issued at least two weeks prior to the execution of the contract. The district also reserves the right to cancel a request for proposals, or other solicitation, or it may reject in whole or in part any and all the proposals if the district determines that cancellation or rejection serves the best interests of the district.

**SECTION 7.** If the district awards any design, build or operations contract to an offeror which did not submit the lowest price based upon the price evaluation method established in the request for proposals, the district shall explain the reasons for the award in writing, which shall be available for public inspection.

Prior to execution of a design, build or operations contract pursuant to this section, the selected offeror shall furnish to the district a performance bond and a payment bond in a form and amount specified in the request for proposals, and issued by a surety company qualified to issue bonds in the commonwealth and satisfactory to the district.

If the selected proposer either fails to execute a contract upon terms acceptable to the district or fails to furnish the necessary bonds within the time period specified in the request for proposals, as the same may be extended by written agreement of the district and offeror, the district may award the design, build or operations contract to the offeror of the next most advantageous proposal in accordance with the procedures set forth in section 6. The district shall return bid security to all offerors who are not selected unless any such offeror has defaulted pursuant to the terms of the request for proposals. The district shall keep all documentation prepared, created or received by it under the provisions of this act for at least six years from the date of final payment under the contract. Except as otherwise provided in section 4, such documentation shall be open to public inspection.

**SECTION 8.** A contract entered into pursuant to this act shall provide for such activities as may be deemed necessary or desirable for the biosolids project to carry out the purposes authorized herein, including, but not limited to, the specific performance tests and the terms of the performance guarantee that the contractor must meet before the district accepts the biosolids processing facility portion of the biosolids project. Any contract awarded pursuant to this act shall be subject to such terms and conditions as the district shall determine to be in the best interests of the district, and may include acceptance and processing of sludge other than sludge from the district's operations; provided, that such action shall have been authorized by an affirmative vote of two-thirds of the voting members of the district commission, which two-thirds vote shall include at least one affirmative vote from each of the four voting municipalities which comprise the district. Any such contract shall provide that prior to the initial construction of the biosolids processing facility, the installation or modification of structures, equipment or systems, the district shall cause a qualified wastewater engineer to independently review and approve plans and specifications for said construction, installation or modifications of structures, equipment or systems. Any such contract shall further provide that prior to the district's acceptance of the initial construction



of the biosolids processing facility, including its structures, equipment, or systems, or any additional capital improvements described in section 11 which are estimated to cost more than \$100,000, the district shall cause a qualified wastewater engineer to inspect said structures, equipment and systems and certify that the construction, installation or modification has been completed in accordance with the approved plans and specifications and have met the requirements of all performance tests. The district shall not enter into any contract unless funds are available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding years shall depend on the availability and appropriation of funds. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the procurement officer shall cancel the contract.

**SECTION 9.** The district may, in carrying out the purposes of this act, subject to the approval by the district commissioners in accordance with the district's enabling legislation incur debt to fund capital equipment or improvements; provided, however, that the repayment of such debt shall be amortized over a period that is no longer than the useful life of said capital equipment or improvements and the maturities of bonds issued shall be arranged so that for each issue the annual combined payments of principal and interest payable each year, commencing with the first year in which principal is required, shall be as nearly equal as practical in the opinion of the district treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds shall be not later than one year from the estimated date of commencement of regular operation of the capital improvements, as determined by the district treasurer and project costs to be financed by the issue of the bonds may include interest incurred on the bonds and any bond anticipation notes for a period of up to two years after the date of the original borrowing. Indebtedness incurred under this act for such capita equipment or improvements shall not be included in determining the limit of indebtedness of said district under section 10 of chapter 44 of the General Laws but, except as provided herein, shall otherwise be subject to the provisions of said chapter 44.

**SECTION 10.** All contracts or subcontracts for the initial construction of the on-site biosolids processing facility, and other renovation, modernization, or improvements related to the initial construction of that on-site biosolids processing facility 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 organization which includes an obligation for said labor organizations and its constituent members not to strike with respect to the work on said biosolids processing facility and which also establishes uniform work rules and schedules for the initial construction of the biosolids processing facility. 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



with regard to the initial construction of the on-site biosolids processing facility. The offeror which is awarded a contract by the district pursuant to section 6 herein 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 initial construction of the biosolids processing facility, including the development and implementation of labor relation policies for the initial construction of the on-site biosolids processing facility, and to instruct such general contractor, project manager, or other construction firm to negotiate a mutually agreeable project labor agreement covering the initial construction of the on-site biosolids processing facility.

**SECTION 11.** In the event that any construction of any new capital improvement or any renovation, repair, modernization, installation, maintenance or replacement work estimated to cost more than \$100,000, is required for the efficient operation of the biosolids project during the term of any contract or extension thereof carried out or authorized pursuant to this act, which was not specifically included in the initial contract for the operation and maintenance, design and construction of the biosolids project, then 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 the procurement of any such work, and, except as otherwise provided in this section, such work shall be procured on the basis of competitive bids as described in this section; provided, however, that such 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 district or other adjustment to the fees or costs paid by the district, including, but not limited to, any adjustment to sewer rates paid by the district's residents or businesses. The contractor may act as an agent of the district in the solicitation of bids for the construction of any such new capital improvement or for any renovation, modernization, installation or replacement work pursuant to this section; provided, that the district 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 district may approve, modify, or reject the contractor's proposed plans and specifications. Bids shall be based on such approved detailed plans and specifications and the contract shall be awarded to the lowest responsible and eligible bidder. Any contract awarded pursuant to this act shall provide that in the event that the district does not approve the contractor's proposed plans and specifications pursuant to this section, the district or the contractor may terminate said contracts under the terms and conditions of said contract.

**SECTION 12.** Notwithstanding the provision 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 design, construction or operations contract procured by the district under this act for wastewater treatment facility improvements, and such design, build or operations contract shall be eligible for assistance under the Water Pollution

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Abatement Trust established by chapter 29C of the General Laws and future state revolving loan fund programs established by the commonwealth or the department of environmental protection which may approve the project as eligible to receive a supplemental grant for the construction of pollution abatement facilities as authorized under 314 CMR 14.00.

**SECTION 13.** This act shall take effect upon its passage.

Approved December 4, 1997.

## Chapter 214. AN ACT AUTHORIZING THE TOWN OF WESTMINSTER TO ESTABLISH A PUBLIC WORKS COMMISSION.

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

**SECTION 1.** Chapter 186 of the acts of 1984 is hereby repealed.

**SECTION 2.** The town of Westminster is hereby authorized to establish by by-law a public works commission, hereinafter referred to as the commission, consisting of three members. The initial members of the commission shall be the duly elected members of the former water and sewer commission, whose terms as members of the commission shall be coterminous with their appointed terms as members of the former water and sewer commission. Thereafter, commission members shall be appointed by the board of selectmen for staggered terms of three years each, and shall serve until the expiration of their respective terms and thereafter until a new appointment shall be made by said board of selectmen. Said board of selectmen shall fill any vacancy on the commission by appointment for the balance of the vacated three year term.

**SECTION 3.** The commission shall have and may exercise the powers and duties of: (a) water commissioners and sewer commissioners pursuant to sections 65 and 66 of chapter 41 of the General Laws; (b) the board of selectmen as to all matters relating to public works and highways, and said board's authority as the road commissioners of the town; (c) surveyors of highways; and (d) superintendents of streets. Said commission shall have the powers and duties heretofore held by said water and sewer commission, and as to the matters relating to the powers and duties conferred hereby, by said board of selectmen, arising under any general or special law. A majority of the commissioners shall constitute a quorum for the transaction of commission business. In addition to the foregoing, said commission shall have the power to provide engineering services to maintain and repair public buildings and property.

**SECTION 4.** The commission shall appoint a director of public works who shall be responsible to the commissioners, and whose appointment shall be not less than three nor more than five years, subject to removal as may be otherwise provided in the charter and by-laws of the town. The authority and duties of the director shall be as established by the commission. The director shall appoint and hire all personnel under his direction and control subject to the approval of the commission.

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**SECTION 5.** The commission shall adopt regulations not inconsistent with this act to implement the powers and duties herein conferred.

Approved December 5, 1997.

## **Chapter 215. AN ACT RELATIVE TO STANDARDIZING MEMBERSHIP IN THE BOARD OF PHARMACY.**

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

**SECTION 1.** Section 22 of chapter 13 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- At the time of appointment to the board, at least one of such five members shall be an independent pharmacist employed in the independent pharmacy setting and at least one of such five members shall be a chain pharmacist employed in the chain pharmacy setting provided, however, that not more than two pharmacists in any one practice setting may serve on the board at any one time. For the purposes of this section "independent pharmacist" shall mean a pharmacist actively engaged in the business of retail pharmacy and employed in an organization of nine or fewer registered retail drugstores in the commonwealth under the provisions of section 39 of chapter 112 and employing not more than 20 full-time pharmacists, and "chain pharmacist" shall mean a pharmacist in the employ of a retail drug organization operating ten or more retail drug stores within the commonwealth under the provisions of said section 39; provided, however, that an independent pharmacist and a chain pharmacist shall represent two distinct practice settings.

**SECTION 2.** Said section 22 of said chapter 13, as so appearing, is hereby further amended by striking out, in line 13, the word "public,".

Approved December 5, 1997.

## **Chapter 216. AN ACT RELATIVE TO THE NASHOBA REGIONAL SCHOOL DISTRICT.**

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

Notwithstanding the provisions of any general or special law to the contrary, the towns comprising the Nashoba regional school district are hereby authorized to pay the present deficiency in funds due to said school district in three annual payments; provided, however, that said district is hereby authorized to apply funds it may receive from any source to the reduction of said deficiency.

Approved December 5, 1997.



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**Chapter 217. AN ACT RELATIVE TO ACCESS TO PAROLE BOARD HEARINGS  
FOR FAMILY MEMBERS OF DECEASED VICTIMS.**

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

**SECTION 1.** The second paragraph of section 133A of chapter 127 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the last sentence.

**SECTION 2.** Said chapter 127 is hereby further amended by inserting after section 133B the following section:-

Section 133C. The family members of a deceased victim may represent the victim at any parole hearing for a prisoner serving a sentence for a crime which resulted in the death of such victim or for a crime for which a prisoner is serving a sentence for life in a correctional institution of the commonwealth, except prisoners serving a life sentence for murder in the first degree and prisoners confined to the hospital at the Massachusetts Correctional Institution, Bridgewater. For the purposes of this section, family members shall include: parent, stepparent or guardian of the victim, spouse or person with whom the victim lived and in a relationship similar to marriage, child, stepchild, grandchild, grandparent, sibling, aunt, uncle, niece, nephew and guardian of the minor child or stepchild of the victim.

*Emergency Letter: December 12, 1997 @ 9:35 A.M.*

Approved December 11, 1997.

**Chapter 218. AN ACT DESIGNATING A CERTAIN ROTARY IN THE CITY OF  
HOLYOKE AS MEDAL OF HONOR WAY.**

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

The rotary surrounding Mitchell Field in the city of Holyoke shall be designated and known as Medal of Honor Way, in honor of the city of Holyoke's veterans and those persons who have been awarded the medal of honor. The department of highways is hereby directed to erect suitable markers bearing such designation in accordance with the standards of said department.

Approved December 11, 1997.

**Chapter 219. AN ACT RELATIVE TO COLUMBARIUMS.**

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

Section 43D of chapter 114 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "within", in line 5, the following words:- or adjacent to.

Approved December 12, 1997.



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## **Chapter 220. AN ACT RELATIVE TO SCHOOL NURSES.**

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

Chapter 71 of the acts of 1993 is hereby amended by striking out section 92, as amended by section 19A of chapter 126 of the acts of 1994, and inserting in place thereof the following section:-

Section 92. Section 41 of this act shall not apply to any person employed as a school nurse by a school committee on or before the effective date of this act; provided, however, that a school nurse employed by a school district on or before September 1, 1993 with five years experience as a registered nurse may apply for a standard certificate as a school nurse under the provisions of section 38G of chapter 71 of the General Laws; provided, further, that if such application is received prior to October 1, 1999, the applicant shall not be subject to entry level requirements for advanced school nurse, shall not be required to have completed a master's degree or equivalent degree or other program in nursing, education or a related field, and shall not be required to have maintained certification by a nationally recognized professional nursing association as a school nurse, community health nurse or a pediatric, family or school nurse practitioner; provided, further, that a registered nurse having a master's degree in education, counseling, or health related field, and having five years experience as a registered nurse may be employed as a school nurse and is exempt from the requirement of a bachelor of science in nursing degree in order to be certified as a school nurse.

Approved December 12, 1997.

## **Chapter 221. AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOARD OF TRUSTEES OF THE UNIVERSITY OF MASSACHUSETTS AND THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, UNION LOCAL 25.**

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

**SECTION 1.** To provide for certain collective bargaining costs, including the costs 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 Teamsters, Union Local 25, the sum set forth in section 2 is hereby appropriated from the Collective Bargaining Reserve Fund, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter 43 of the acts of 1997.

**SECTION 2.**  
**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
*Reserves.*

1599-3840 For a reserve to meet the fiscal years 1995 to 1998, inclusive, costs 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 Teamsters, Union Local 25; 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 1998 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 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 such transfers. .... \$170,000

**SECTION 3.** This act shall take effect upon its passage.  
Approved December 17, 1997.

**Chapter 222. AN ACT RELATIVE TO THE FORM OF GOVERNMENT IN THE TOWN OF DANVERS.**

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

**SECTION 1.** The regular town election in the town of Danvers for the purpose of electing selectmen and members of the school committee required to be elected under this act, the trustees of the Peabody Institute Library and the moderator and town meeting members required to be elected under the provisions of chapter 294 of the acts of 1930 shall be held annually on the first Tuesday in May and shall be part of the annual town meeting. All articles in the warrant to be decided otherwise than by ballot shall be considered at the annual town meeting to be held on the third Monday in May. Any vacancies on the board of trustees of said Peabody Institute Library caused by death, resignation, disqualification or otherwise shall be promptly filled by vote of the remaining members of said board of trustees until the next annual election.

**SECTION 2.** The board of selectmen shall consist of five members who shall be elected for staggered three year terms. At each town election, the voters shall elect one or more selectmen, as the case may be, for three year terms to replace those whose terms are about to expire. When a vacancy occurs among the selectmen by reason of death, resignation, change of residence from the town or other disability, the remaining selectmen shall have the power to fill the vacancy until the next annual town election, at which the voters shall elect a selectman for the remainder of the unexpired term. Before entering upon the duties of their office, the selectmen shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 3.** The board of selectmen shall appoint and may remove the town accountant, members of the board of appeals, election officers and registrars of voters, except the town clerk, and shall carry out all other powers conferred on them by law. Said board of selectmen shall appoint and may remove a town manager or temporary town manager in accordance with the provisions of sections 8, 9 and 11. Selectmen shall be ex-officio town meeting members.

**SECTION 4.** The school committee shall consist of five members, elected for staggered three year terms. At each town election, the voters shall elect one or more school committee members, as the case may be, for three year terms to replace those whose terms are about to expire. When a vacancy occurs among the members of the school committee by reason of death, resignation, change of residence from the town or other disability, the remaining members of the school committee shall have the power to fill the vacancy until the next annual election, at which the voters shall elect a member of the school committee for the remainder of the unexpired term. Before entering upon the duties of their office, the school committee members shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 5.** All of the powers, rights, duties and liabilities, except as hereinafter provided, now or hereafter conferred or imposed by law upon the school committee shall be exercised and performed by the school committee. Nothing in this act shall be construed to affect the powers and duties of the school committee as provided by law, except as specifically provided herein.

**SECTION 6.** No person shall hold more than one elected or appointed position in the town unless multiple office holding is in accordance with the provisions of section 20 of chapter 268A of the General Laws. The town manager, subject to any applicable provision of the General Laws relating thereto, may assume the duties of any office which said town manager is authorized to fill by appointment.

**SECTION 7.** For the purpose of making investigations or surveys, the board of selectmen may employ such experts, counsel and other assistants and incur such other expenses, not exceeding in any year the sum of \$10,000 or such larger sum as may be appropriated for the purpose by the town, as they may deem necessary, and the same shall be paid by the treasurer upon a warrant signed by the majority of said board of selectmen.



**SECTION 8.** The selectmen elected as provided herein shall appoint, as soon as practicable, for a term of five years a town manager who shall be a person especially fitted by education, training and experience to perform the duties of the office. Said town manager shall be appointed without regard to his political beliefs. Said town manager shall not be required to be a resident of the town or of the commonwealth when appointed but shall be a resident of the town during the term of office thereof. Said town manager may be appointed for successive terms of office. Before entering upon the duties of the office of town manager, said town manager shall be sworn to the faithful and impartial performance thereof by the chairman of the board of selectmen, the town clerk or a justice of the peace. Said town manager shall execute a bond in favor of the town for the faithful performance of the duties of said office in such sum and with such surety as might be fixed or approved by said board of selectmen.

**SECTION 9.** In the event the town manager position becomes vacant, the position shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town manager or the filling of any such vacancy, said board of selectmen may appoint a suitable person to perform the duties of the office. A person appointed to serve as temporary town manager may be appointed to an initial term as such temporary manager not to exceed six months and may be reappointed to one additional term not to exceed six months.

**SECTION 10.** The town manager may designate, by letter filed with the town clerk, a qualified officer of the town to perform the duties of the town manager during a temporary absence or disability. In the event of the failure of said town manager to make such designation, the board of selectmen may, by resolution, designate an officer of the town to perform the duties of the town manager until said town manager resumes full responsibilities of the office.

**SECTION 11.** The board of selectmen, by a majority vote of the full membership of the board, may remove the town manager. At least 30 days before such proposed removal shall become effective, said board of selectmen shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for such proposed removal and a copy of such resolution shall be delivered to the town manager. Said town manager may reply in writing to the resolution and may request a public hearing. If said town manager so requests, said board of selectmen shall hold a public hearing not earlier than 20 nor later than 30 days after the filing of such request. After such public hearing, if any, otherwise at the expiration of 30 days following the filing of the preliminary resolution and after full consideration, the selectmen by a majority 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 town manager from duty but shall, in any case, cause to be paid to him forthwith any unpaid balance of the salary due at the time of such suspension together with the salary thereof for the next three calendar months following the filing of the preliminary resolution.

**SECTION 12.** The town manager shall receive such compensation for services as town manager as the board of selectmen shall determine but such compensation shall not exceed the amount appropriated therefor by the town.



**SECTION 13.** In addition to the specific powers and duties provided in this act, the town manager shall have the general powers and duties set forth below:

(a) The town manager shall supervise and direct the administration of all departments, commissions, boards and offices, except the board of selectmen, the school committee, the town accountant, the board of appeals, the trustees of the Peabody Institute Library, election officers and the registrars of voters.

(b) Said town manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under the direction and supervision of said town manager, in whole or in part, and may establish such new departments, commissions, boards or offices as may be deemed necessary by said town manager and, in so doing, said town manager may transfer the duties, powers and appropriation of one department, commission, board or officer to another.

(c) Except as otherwise provided in this act, said town manager shall appoint upon merit and fitness alone and, subject to the provisions of chapter 31 of the General Laws where applicable, may remove all officers and employees of the town, except employees of the school department and the Peabody Institute Library; provided, however, that town officers and employees not subject to the provisions of said chapter 31 shall not be removed by said town manager except on five days' notice in writing setting forth cause for such removal.

(d) Notwithstanding the provisions of section 108 of chapter 41 of the General Laws but subject to all applicable provisions of chapter 31 of the General Laws, said town manager shall fix the compensation of all town officers and employees subject to removal by said town manager.

(e) Said town manager shall attend all regular meetings of the board of selectmen except meetings at which removal of the town manager is being considered.

(f) Said town manager shall keep full and complete records of the office of town manager 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.

(g) Said town manager shall keep the board of selectmen fully advised as to the needs of the town and shall recommend to said board of selectmen for adoption such measures requiring action by them or by the town as may be deemed necessary or expedient by said town manager.

(h) Said town manager shall have jurisdiction over the rental and use of all town property, except schools, and shall be responsible for: (i) the maintenance and repair of all town buildings, including school buildings; (ii) the preparation of plans for work on existing buildings and on new buildings, except schools; and (iii) the supervision of all work on existing buildings and new buildings, including work on schools done in accordance with plans and specifications prepared by the school committee.

(i) Said town manager shall purchase all supplies and materials and equipment, except books for schools, and shall award all contracts for all departments of the town and

for the Peabody Institute Library. Said town manager shall make purchases for departments not under the supervision of said town manager only upon requisition duly signed by the head of such department.

(j) Said town manager shall administer either directly or through persons appointed by him in accordance with this act all provisions of general and special laws applicable to said town, all by-laws and all regulations established by the board of selectmen.

(k) Said town manager shall have the authority to prosecute, defend and compromise all litigation to which the town is a party and to employ special counsel to assist the town counsel whenever, in the judgment of said town manager, it may be necessary.

(l) Said town manager shall perform such other duties, consistent with the office, as may be required by the by-laws or by vote of the town or by vote of said board of selectmen.

**SECTION 14.** The town manager may, without notice, cause the affairs of any division or department under his control or the conduct of any officer or employee thereof to be examined. Said town manager shall have access to all town books and papers for information necessary for the proper performance of his duties.

**SECTION 15.** The town manager shall appoint a planning board to consist of five members who shall serve for staggered three year terms. If for any reason a vacancy occurs in the membership of the planning board, the vacancy shall be filled forthwith by said town manager for the unexpired term. The members of the planning board appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and duties of planning boards established in accordance with section 81A of chapter 41 of the General Laws. Before entering upon the duties of their office, planning board members shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 16.** Pursuant to this act and chapter 111 of the General Laws, the town manager shall appoint a board of health to consist of three suitably qualified persons who shall serve for staggered three year terms. If for any reason a vacancy occurs in the membership of the board of health, such vacancy shall be filled forthwith by said town manager for the unexpired term. The members of the board of health appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and rights and shall be subject to all of the duties and liabilities conferred or imposed by law upon boards of health of towns but, in the performance of their duties, they shall be subject to the general supervision and direction of said town manager. Before entering upon the duties of their office, members of said board of health shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 17.** The town manager shall appoint a municipal light board to consist of three suitably qualified persons to serve for staggered three year terms. If for any reason a vacancy occurs in the membership of the municipal light board, the vacancy shall be filled forthwith by said town manager for the unexpired term. The members of the municipal light board appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and rights and shall be subject to all of the duties and liabilities conferred or imposed by law upon municipal light boards but, in the performance of their duties, they shall be subject to the general supervision and direction of said town manager.

Before entering upon the duties of their office, members of the municipal light board shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 18.** Pursuant to section 24 of chapter 41 of the General Laws, the town manager shall appoint a principal assessor and two other assessors who shall serve for staggered three year terms. The principal assessor shall devote full time and attention to the duties of the office of principal assessor and shall be the chairperson of the board of assessors. If for any reason a vacancy occurs in the membership of said board, such vacancy shall be filled forthwith by said town manager for the unexpired term. Said principal assessor and assessors appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and rights and shall be subject to all of the duties and liabilities conferred or imposed by law upon assessors of towns but, in the performance of their duties, they shall be subject to the general supervision and direction of the town manager. Before entering upon the duties of their office, assessors shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 19.** The town manager shall appoint a suitably qualified person to the office of town clerk. Said town clerk shall have the powers, perform all of the duties and be subject to all of the liabilities and penalties now or hereafter conferred or imposed by law upon town clerks. Said town clerk shall be subject to the general supervision and direction of said town manager in the performance of said duties. Said town clerk shall serve ex-officio as clerk of the board of selectmen. Before entering upon the duties of said office, said town clerk shall be sworn to the faithful performance thereof by the chairperson of said board of selectmen or a justice of the peace.

**SECTION 20.** The town manager shall appoint a suitably qualified person to the office of town treasurer. Said town treasurer shall have all of the powers, perform all of the duties and be subject to all of the liabilities and penalties now or hereafter conferred or imposed by law upon town treasurers; provided, however, that in the conduct of said office, said town treasurer shall be subject to the supervision and direction of said town manager. Whenever it shall be necessary to execute any deed conveying land or any other instrument required to carry into effect any vote of the town, the same shall be executed by said town treasurer on behalf of the town unless the town shall vote otherwise. Before entering upon the duties of said office, said town treasurer shall be sworn to the faithful performance thereof by said town clerk or a justice of the peace.

**SECTION 21.** The town manager shall appoint a suitably qualified person to the office of collector of taxes. Said collector of taxes shall have the powers, perform all of the duties and be subject to all of the liabilities and penalties now or hereafter conferred or imposed by law upon collectors of taxes; provided, however, that in the performance of such duties, said collector of taxes shall be subject to the general supervision and direction of said town manager. Before entering upon the duties of said office, said collector of taxes shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 22.** The town manager shall appoint a board of water and sewer commissioners to consist of three suitably qualified persons to serve for staggered three year



terms. If for any reason a vacancy occurs in the membership, such vacancy shall be filled forthwith by said town manager for the unexpired term. Said water and sewer commissioners appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and rights and be subject to all of the duties and liabilities conferred or imposed upon water and sewer commissioners by chapter 229 of the Special Acts of 1916, and chapter 191 of the acts of 1874 but, in the performance of their duties, the board of water and sewer commissioners shall be subject to the general supervision and direction of said town manager. Before entering upon the duties of their office, said board of water and sewer commissioners shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 23.** The town manager shall appoint a board of commissioners of trust funds to consist of three suitably qualified persons to serve for staggered three year terms. If for any reason a vacancy occurs in the membership of said board of commissioners of trust funds, such vacancy shall be filled forthwith by said town manager for the unexpired term. The members of said board of commissioners of trust funds appointed hereunder shall organize for the proper conduct of their duties and shall possess all of the powers and rights and be subject to all of the duties and liabilities conferred or imposed by section 45 of chapter 41 of the General Laws or any other applicable provisions imposed upon boards of commissioners of trust funds of towns but, in the performance of their duties, said board of commissioners of trust funds shall be subject to the general supervision and direction of said town manager. Before entering upon the duties of their office, said board of commissioners of trust funds shall be sworn to the faithful performance of their duties by the town clerk or a justice of the peace.

**SECTION 24.** The town manager shall appoint a suitably qualified person to the office of tree warden. Said tree warden shall have all of the powers, perform the duties and be subject to all of the liabilities and penalties now or hereafter conferred or imposed by law upon tree wardens but, in the conduct of said office, the tree warden shall be subject to the supervision and direction of said town manager. Before entering upon the duties of said office, said tree warden shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 25.** The town manager shall appoint an attorney or law firm to act as town counsel for a term not to exceed three years. Upon initial appointment and once in each subsequent three year period, said town manager's appointment of said town counsel shall be subject to ratification by the board of selectmen. Said town counsel shall perform such legal services, including written opinions, as may be required by law, by vote of the town meeting, by said town manager or by any board of town officers. Said town counsel shall at all times, upon request of said town manager, furnish legal advice, counsel and an opinion to any officer of the town who may require advice upon any subject concerning the duties of such officer. Said town counsel shall prosecute all suits and other legal proceedings ordered to be brought by the town or by said town manager and shall defend all actions or suits brought against the town or its officers in their official capacity and shall try and argue



any and all causes in which the town shall be a party before any court, board of referees or commission and shall appear at any and all hearings on behalf of the town whenever such services may be required. Before entering upon the duties of said office, said town counsel shall be sworn to the faithful performance thereof by the town clerk or a justice of the peace.

**SECTION 26.** The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provisions of section 56 of chapter 41 of the General Laws shall be submitted to said town manager. The approval of such warrant by said town manager shall be sufficient authority to authorize payment by the town treasurer but the board of selectmen shall approve all warrants in the event of the absence of said town manager or a vacancy in the office of town manager.

**SECTION 27.** Whenever any payroll, bill or other claim against the town is presented to the town manager, said town manager shall, if the same seems to be of doubtful validity, excessive in amount or otherwise contrary to the interests of the town, refer it to the board of selectmen who shall immediately investigate the facts and determine what, if any, payment shall be made. Pending such investigation and determination by said board of selectmen, payment shall be withheld.

**SECTION 28.** Every officer shall pay into the treasury of the town all amounts received on behalf of the town and shall make a true return thereof to the town accountant stating the accounts upon which such amounts were received.

**SECTION 29.** The aggregate annual compensation of each town employee appointed by the town manager shall be limited to the amount established in accordance with the provisions of this act and all fees received in accordance with the provisions of any general or special law shall be paid into the treasury of the town.

**SECTION 30.** All officers, board and committee members and employees, whether elected or appointed, shall comply with the provisions of chapter 268A of the General Laws.

**SECTION 31.** On or before March 1 of each year, the town manager shall submit to the board of selectmen a careful, detailed estimate in writing of the probable expenditures of the town government for the ensuing 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 be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the two preceding years and an estimate of the expenditures for the current year. Said town manager shall also submit a statement showing all revenues received by the town in the preceding fiscal year and an estimate of the amount of income from all sources of revenue exclusive of taxes on property in the ensuing year. Said town manager 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 such amount. For the purpose of enabling said town manager to make up the annual estimate of expenditures, all boards, officers and committees of the town shall, upon said town manager's written request, furnish all information in their possession and submit to said town manager a detailed written estimate

of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

**SECTION 32.** The board of selectmen shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. On or before April 1 of each year, said board of selectmen shall transmit a copy of the budget, together with the recommendations relative thereto, to each member of the finance committee.

**SECTION 33.** There shall be a finance committee to consist of nine persons who shall not be town meeting members, to be appointed by the moderator at the first annual town meeting held after the effective date of this act who shall hold office, three until the expiration of three years, three until the expiration of two years and three until the expiration of one year from said annual town meeting and thereafter at each annual town meeting three members of said committee shall be appointed by the moderator to serve for three year terms. Before entering upon the duties of the office, finance committee members shall be sworn to the faithful and impartial performance thereof by the town clerk or a justice of the peace.

All questions pertaining to the appropriation or expenditure of money, the creation of debt, the disposition of town property and all other questions affecting the town shall be referred to the finance committee for the purpose of making recommendations but nothing in this section shall be construed to prohibit the appointment of special committees to investigate matters pertaining to the town or to execute work authorized by it. Said finance committee shall have the power to consult with such departments, officers, employees and committees as may have information concerning any matter under consideration and it shall be the duty of all departments, officers, employees or committees to furnish such information as they possess that may be required by said finance committee. Said finance committee shall also have the power to examine, in connection with any subject under investigation or consideration, all books, vouchers, papers and other instruments in the custody or possession of any officer, employee or agent of the town.

Before making recommendations under each article of the warrant, the finance committee shall hold public hearings in relation thereto after first notifying the selectmen, town manager and town meeting members of the time and place of such hearing. The finance committee shall report in writing to the town meeting all of its recommendations under the various articles of the warrant. The recommendation reported by the finance committee under any article shall be treated in the town meeting as a motion under the article. The recommendation shall be subject to amendment by a majority of the town meeting members voting on the motion to amend. If there shall be a majority and a minority report of the finance committee, the minority report shall have precedence over all other motions to amend the report of the committee.

**SECTION 34.** Chapter 13 of the acts of 1949 is hereby repealed.

**SECTION 35.** This act shall take effect upon its passage.

Approved December 18, 1997.

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**Chapter 223. AN ACT RELATIVE TO THE SALARY OF THE MAYOR OF THE CITY OF MEDFORD.**

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

**SECTION 1.** The first sentence of section 4 of chapter 605 of the acts of 1986, as most recently amended by section 1 of chapter 49 of the acts of 1995, is hereby further amended by striking out the words "the same as that salary for the position of city manager as of January first, nineteen hundred and eighty-six, namely the sum of seventy-eight thousand six hundred and thirty-seven dollars and fifty cents" and inserting in place thereof the following figure:- \$85,320.

**SECTION 2.** This act shall take effect as of July 1, 1997.

Approved December 19, 1997.

**Chapter 224. AN ACT RELATIVE TO THE UNIFORM COMMERCIAL CODE PROVISIONS DEALING WITH LETTERS OF CREDIT.**

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

**SECTION 1.** Subsection (2) of section 1-105 of chapter 106 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following words:- Letters of Credit. Section 5-116.

**SECTION 2.** Clause (b) of subsection (1) of section 2-512 of said chapter 106, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "section 5-114" and inserting in place thereof the following words:- subsection (b) of section 5-109.

**SECTION 3.** Said chapter 106 is hereby further amended by striking out article 5, as so appearing, and inserting in place thereof the following article 5:-

**ARTICLE 5.**

**LETTERS OF CREDIT.**

Section 5-101. Short Title. This article may be cited as Uniform Commercial Code-Letters of Credit.

Section 5-102. Definitions.

(a) In this article:

(1) "Adviser", a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

(2) "Applicant", a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

(3) "Beneficiary", a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

(4) "Confirmer", a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.



(5) "Dishonor", failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by a letter of credit.

(6) "Document", a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion (i) which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in subsection (e) of section 5-108 and (ii) which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

(7) "Good faith", honesty in fact in the conduct or transaction concerned.

(8) "Honor", performance of the issuer's undertaking in a letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs:

(i) upon payment;

(ii) if the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment; or

(iii) if the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

(9) "Issuer", a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

(10) "Letter of credit", a definite undertaking that satisfies the requirements of section 5-104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

(11) "Nominated person", a person whom the issuer (i) designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit and (ii) undertakes by agreement or custom and practice to reimburse.

(12) "Presentation", delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

(13) "Presenter", a person making a presentation as or on behalf of a beneficiary or nominated person.

(14) "Record", information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) "Successor of a beneficiary", a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

(b) Definitions in other articles applying to this article and the articles in which they appear are:

"Accept" or "Acceptance" article 3.

"Value" articles 3 and 4.

(c) Article 1 contains certain additional general definitions and principles of construction and interpretation applicable throughout this article.

Section 5-103. Scope.



(a) This article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(b) The statement of a rule in this article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this article.

(c) With the exception of this subsection, subsections (a) and (d), paragraphs (9) and (10) of subsection (a) of section 5-102, paragraph (d) of section 5-106, and paragraph (d) of section 5-114, and except to the extent prohibited in paragraph (3) of section 1-102 and subsection (d) of section 5-117, the effect of this article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this article.

(d) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Section 5-104. Formal Requirements. A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the standard practice referred to in subsection (e) of section 5-108.

Section 5-105. Consideration. Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

Section 5-106. Issuance, Amendment, Cancellation, and Duration.

(a) A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

(b) After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

(c) If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one year after its stated date of issuance or, if none is stated, after the date on which it is issued.

(d) A letter of credit that states that it is perpetual expires five years after its stated date of issuance, or if none is stated, after the date on which it is issued.

Section 5-107. Confirmer, Nominated Person, and Adviser.

(a) A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

(b) A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

(c) A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

(d) A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection (c). The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

Section 5-108. Issuer's Rights and Obligations.

(a) Except as otherwise provided in section 5-109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection (e), appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in section 5-113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

(b) An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

(1) to honor;

(2) if the letter of credit provides for honor to be completed more than seven business days after presentation, to accept a draft or incur a deferred obligation; or

(3) to give notice to the presenter of discrepancies in the presentation.

(c) Except as otherwise provided in subsection (d), an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

(d) Failure to give the notice specified in subsection (b) or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor, fraud or forgery as described in subsection (a) of section 5-109 or expiration of the letter of credit before presentation.

(e) An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

(f) An issuer is not responsible for:

(1) the performance or nonperformance of the underlying contract, arrangement, or transaction;

(2) an act or omission of others; or

(3) observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection (e).

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(g) If an undertaking constituting a letter of credit under paragraph (10) of subsection (a) of section 5-102 contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

(h) An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

(i) An issuer that has honored a presentation as permitted or required by this article:

(1) is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

(2) takes the documents free of claims of the beneficiary or presenter;

(3) is precluded from asserting a right of recourse on a draft under sections 3-414 and 3-415;

(4) except as otherwise provided in sections 5-110 and 5-117, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

(5) is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

### Section 5-109. Fraud and Forgery.

(a) If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

(1) the issuer shall honor the presentation, if honor is demanded by (i) a nominated person who has given value in good faith and without notice of forgery or material fraud, (ii) a confirmer who has honored its confirmation in good faith, (iii) a holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person, or (iv) an assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

(2) the issuer, acting in good faith, may honor or dishonor the presentation in any other case.

(b) If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

(1) the relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

(2) a beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

(3) all of the conditions to entitle a person to the relief under the law of the commonwealth have been met; and



(4) on the basis of the information submitted to the court, the applicant is more likely than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under clause (1) of subsection (a).

Section 5-110. Warranties.

(a) If its presentation is honored, the beneficiary warrants:

(1) to the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in subsection (a) of section 5-109; and

(2) to the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

(b) The warranties in subsection (a) are in addition to warranties arising under articles 3, 4, 7 and 8 because of the presentation or transfer of documents covered by any of those articles.

Section 5-111. Remedies.

(a) If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

(b) If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

(c) If an adviser or nominated person other than a confirmer breaches an obligation under this article or an issuer breaches an obligation not covered in subsection (a) or (b), a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections (a) and (b).

(d) An issuer, nominated person, or adviser who is found liable under subsection (a), (b), or (c) shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

(e) Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this article.



(f) Damages that would otherwise be payable by a party for breach of an obligation under this article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

Section 5-112. Transfer of Letter of Credit.

(a) Except as otherwise provided in section 5-113, unless a letter of credit provides that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

(b) Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

(1) the transfer would violate applicable law; or

(2) the transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in subsection (e) of section 5-108 or is otherwise reasonable under the circumstances.

Section 5-113. Transfer by Operation of Law.

(a) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

(b) A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection (e), an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in subsection (e) of section 5-108 or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

(c) An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

(d) Honor of a purported successor's apparently complying presentation under subsection (a) or (b) has the consequences specified in subsection (i) of section 5-108 even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the beneficiary nor the successor of the beneficiary are forged documents for the purposes of section 5-109.

(e) An issuer whose rights of reimbursement are not covered by subsection (d) or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection (b).

(f) A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

Section 5-114. Assignment of Proceeds.

(a) In this section the term "proceeds of a letter of credit" shall mean the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(b) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(c) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(d) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(e) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(f) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by article 9 or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by said article 9 or other law.

Section 5-115. Statute of Limitations. An action to enforce a right or obligation arising under this article must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

Section 5-116. Choice of Law and Forum.

(a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in section 5-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at

the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(c) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this article would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b), (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in subsection (c) of section 5-103.

(d) If there is conflict between this article and article 3, 4, 4A or 9, this article governs.

(e) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a).

Section 5-117. Subrogation of Issuer, Applicant, and Nominated Person.

(a) An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

(b) An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection (a).

(c) A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

(1) the issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

(2) the beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

(3) the applicant to same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

(d) Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections (a) and (b) do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection (c) do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.







**SECTION 13.** Section 9-305 of said chapter 106, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- A security interest in goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit.

**SECTION 14.** This act shall apply to a letter of credit that is issued on or after the effective date of this act. This act shall not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of this act.

**SECTION 15.** A transaction arising out of or associated with a letter of credit that was issued before the effective date of this act and the rights, obligations, and interests flowing from such transaction shall be governed by any statute or other law amended or repealed by this act as if such repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under such statute or other law.

Approved December 19, 1997.

**Chapter 225. AN ACT AUTHORIZING THE DARTMOUTH POLICE RELIEF ASSOCIATION TO PAY A CERTAIN BENEFIT TO ITS MEMBERS UPON THEIR RETIREMENT.**

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

The Dartmouth Police Relief Association, a corporation duly organized under the laws of the commonwealth, is hereby authorized, upon the retirement from the police department of the town of Dartmouth of any member in good standing, to pay to such member, if he so elects, such sum, not exceeding the full death benefit paid upon the death of any such member in good standing, as may from time to time be determined by vote of said corporation. Any amount so paid shall reduce the death benefit otherwise payable upon the death of any such member. In order to exercise this benefit, the member must have been a member in good standing for at least ten years, as a full time officer.

Approved December 19, 1997.

**Chapter 226. AN ACT MAKING EMERGENCY APPROPRIATIONS TO PROVIDE FOR CONTINUED OPERATION OF CERTAIN STATE AGENCIES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make appropriations for the fiscal year ending June 30, 1998 and to make certain changes in 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 appropriation acts for fiscal year 1998 and for certain other activities and projects in said fiscal year, the sums set forth in section 2 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 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**SECTION 2.**

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Registry of Motor Vehicles.*

8400-0001 ..... \$931,069

*Department of Correction.*

8900-0001 ..... \$6,357,760

8900-0004 ..... \$2,154,358

**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 appropriation acts for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**SECRETARY OF STATE.**

*State Secretary.*

0521-0002 For loans to communities pursuant to the provisions of section 30  
of chapter 9 of the General Laws ..... \$2,145,000  
Voting Equipment Loan Fund ..... 100.0%

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Reserves.*

1599-0600 For financial assistance to local governmental units and other  
eligible borrowers in addition to amounts previously  
appropriated by, and consistent with the purposes of, item  
1599-3919 of section 2E of chapter 88 of the acts of 1997 ... \$2,000,000  
Local Aid Fund ..... 100.0%

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2000-1110 For one-time grants for the costs associated with emergency water

treatment projects necessary to protect the public health and safety; provided, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$400,000 shall be expended to reimburse the Grafton Water District for expenses incurred for contamination correction of the Follette street well site, so-called; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$500,000 shall be expended for a grant to the town of Hinsdale for the Lower Main street water main replacement project, so-called; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$500,000 shall be expended to alleviate the contamination of groundwater and wells, including the costs associated with the installation of a waterline to deliver potable drinking water, to the residents of Assonet village in the town of Freetown; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$279,000 shall be expended to alleviate the contamination of groundwater and wells, including the costs associated with the installation of a waterline, to deliver potable drinking water in the town of Mendon; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$55,000 shall be expended to reimburse the cities of Westfield and Holyoke and the town of Southampton for costs related to the restoration of water supplies to homes in said town of Southampton and said city of Westfield disconnected from the Manhan line, so-called; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$70,000 shall be expended to alleviate the contamination of groundwater and wells, including the partial costs associated with the installation of a waterline to deliver potable drinking water to certain homes in the town of Uxbridge; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, \$500,000 shall be expended for mitigation of lead and copper contamination in the South Sagamore Water District; provided further, that notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the secretary of environmental affairs is hereby authorized and directed to cause said grants to be distributed to said communities not later than January 31, 1998 . . . . . \$2,304,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Department of Transitional Assistance.*

4406-3002 For emergency overflow beds for homeless individuals; provided, that this item shall be construed as a one-time expenditure for the fiscal year ending June 30, 1998 ..... \$600,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of Correction.*

8900-0019 For the purpose of providing matching funds for the federal grant entitled Violent Offender Incarceration/Truth In Sentencing (VOITIS) for the construction of a segregation unit and support space at the Massachusetts Correctional Institution at Concord and for the renovation of the L building, so-called, at said correctional institution in order that said building may be used for secure dormitory housing .....\$1,000,000

**SECTION 3.** Chapter 9 of the General Laws is hereby amended by adding the following section:-

Section 30. There is hereby established the voting equipment loan program which shall be under the control of the state secretary. The sole purpose of said program shall be to provide, subject to appropriation, loans to municipalities to replace punch card voting systems, so-called, and data vote punch card voting systems, so-called. The state secretary is hereby authorized to promulgate regulations to implement said loan program; provided, however, that such regulations shall require that: (1) all loans shall be repaid to the commonwealth not later than ten years after any such loan is made; (2) such loans shall be repaid with a reasonable rate of interest, such rate to be determined by the secretary of administration and finance; (3) the method of repayment of such loans shall be through a deduction made on a recipient municipality's cherry sheet, so-called; and (4) loans may be made to communities which have replaced punch card voting systems, so-called, and data vote punch card voting systems, so-called, on or after January 1, 1995.

**SECTION 4.** Chapter 29 of the General Laws is hereby amended by inserting after section 2 OO, inserted by section 50 of chapter 43 of the acts of 1997, the following section:-

Section 2PP. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Voting Equipment Loan Fund. There shall be credited to said fund such amounts as may be appropriated or transferred by the general court to implement the voting equipment loan program established by section 30 of chapter 9. The state secretary is hereby authorized to make loans from said fund, subject to appropriation, solely for the purposes of said section 30 of said chapter 9. Repayment of all loans made from said fund shall be made by deductions from recipient municipalities' cherry sheets, so-called, and shall be credited to the Local Aid Fund.

**SECTION 5.** Section 2A of chapter 88 of the acts of 1997 is hereby amended by striking out the item number "7006-0070" and inserting in place thereof the following item number:- 7006-0066.



**SECTION 6.** Said section 2A of said chapter 88 is hereby further amended by striking out the item number "7027-0017" and inserting in place thereof the following item number:- 7027-0018.

**SECTION 7.** Section 2C.I of said chapter 88 is hereby amended by striking out the item number "7006-0070" and inserting in place thereof the following item number:- 7006-0066.

**SECTION 8.** Said section 2C.I of said chapter 88 is hereby further amended by striking out the item number "7027-0017" and inserting in place thereof the following item number:- 7027-0018.

**SECTION 9.** Section 2E of said chapter 88 is hereby amended by striking out the item number "1599-3912" and inserting in place thereof the following item number:- 1599-3914.

**SECTION 10.** Said section 2E of said chapter 88 is hereby further amended by striking out item 1599-3919 and inserting in place thereof the following item:-

1599-3919 For a reserve to be transferred to the water pollution abatement trust to fund financial assistance to local governmental units and other eligible borrowers to meet debt service obligations incurred by such local governmental units and other eligible borrowers after July 1, 1993, to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection and which have been completed, as determined by said department, on or prior to the promulgation date of said department's regulations related to the implementation of the safe drinking water revolving fund, so called, or as otherwise authorized by law; provided, that notwithstanding the provisions of any general law, special law, rule, or regulation to the contrary, not less than \$800,000 shall be expended for debt service payments by the city of North Adams; provided further, that notwithstanding the provisions of any general law, special law, rule, or regulation to the contrary, not less than \$1,200,000 shall be expended for debt service payments by the city of Attleboro; provided further, that funds shall be expended for a water filtration facility in the town of Rutland ..... \$6,000,000

**SECTION 11.** Said section 2E of said chapter 88 is hereby further amended by striking out the item number "2200-0001" and inserting in place thereof the following item number:- 2200-0002.

**SECTION 12.** Said section 2E of said chapter 88 is hereby further amended by striking out the item number "2420-1401" and inserting in place thereof the following item number:- 2420-1402.

**SECTION 13.** Said section 2E of said chapter 88 is hereby further amended by striking out the item number "7066-0115" and inserting in place thereof the following item number:- 7066-0116.

**SECTION 14.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, within 10 days after the effective date of this act, the sum of \$2,145,000 from the General Fund to the Voting Equipment Loan Fund established by section 2PP of the General Laws.

**SECTION 15.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer \$5,600,000 from item 4408-2002 of section 2 of chapter 43 of the acts of 1997 to item 4000-0175 of said section 2 of said chapter 43 for the purpose of increasing nutritional assistance benefit levels in fiscal year 1998, as authorized by and consistent with the provisions of said item 4000-0175. Said increase shall, to the extent feasible, replicate the equivalent benefit levels in the federal food stamp program in effect as of June 30, 1997; provided, however, that any such adjustment to said benefit levels made possible by the amount transferred pursuant to this section shall be prospective, shall not take effect before January 1, 1998 and shall not provide for any retroactive recovery of nutritional assistance benefits not paid before said January 1, 1998. The amount made available pursuant to this section shall not be construed, nor obligate the commonwealth, to make such amounts available for similar purposes in subsequent fiscal years.

**SECTION 16.** Sections 5 to 13, inclusive, shall take effect on June 30, 1997. The remainder of this act shall take effect upon its passage.

Approved December 19, 1997.

## **Chapter 227. AN ACT ESTABLISHING A PROMOTIONS FUND IN THE TOWN OF SANDWICH.**

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

**SECTION 1.** Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Sandwich is hereby authorized to establish in the town treasury a special account to be known as the Promotions Fund of the town of Sandwich, into which account shall be deposited certain receipts comprising a portion of the total local room occupancy tax received annually by the town under the provisions of section 3A of chapter 64G of the General Laws, as set forth in section 2, as well as any grants, gifts, or donations made to the town in furtherance of the purposes of this act.

**SECTION 2.** For the purposes of establishing the portion of the local room occupancy tax that may be deposited in said Fund, the town is hereby authorized to deposit, commencing during fiscal year 1999, 50 per cent of all local room occupancy tax revenue in excess of \$160,000 received during fiscal year 1997; and for each subsequent year, 50 per

cent of all local room occupancy tax revenue in excess of \$160,000 received during the fiscal year two years prior. All interest earned from said Fund shall be treated as general fund revenue of the town of Sandwich.

**SECTION 3.** There is hereby established in the town of Sandwich a visitor services board consisting of five members to be appointed by the board of selectmen, one of whom shall be nominated by the Cape Cod canal regional chamber of commerce, one of whom shall be nominated by the Sandwich economic development committee, one of whom shall represent the retail interests within the town, one of whom shall be a member of the advisory landscape council, and one of whom shall be involved with town beautification. If any of the organizations with nominating privileges hereunder cease to exist or operate, the board of selectmen may appoint in place of such nominees individuals qualified to serve on said visitor services board. The board of selectmen shall fill any vacancies in said visitor services board in like manner.

**SECTION 4.** The visitor services board shall recommend to the annual town meeting, commencing with the 1998 town meeting, an amount of money to be appropriated for programs and projects that enhance the beautification, recreational resources, public safety, promotional and marketing activities, events, services, and public improvements which are of clear mutual interest to the residents and visitors of the town of Sandwich, and which strengthen said town as an attractive center for tourism, conventions, and related purposes of the visitor industry. The cost of such programs shall not exceed the funds available in the Promotions Fund of the town of Sandwich, and shall be allocated as follows: beginning with expenditures appropriated for fiscal year 1999, and appropriations made each subsequent fiscal year, no less than 10 per cent and no more than 40 per cent of said Fund shall be used for public improvements including beautification, recreational resources, and public safety related to the mutual needs of visitors and residents with the balance available for promotional programs and projects.

**SECTION 5.** Upon appropriation by town meeting of the amount of money for such programs, services and other projects described pursuant to section 4, the town administrator, with the approval of the visitors services board, shall be authorized to expend from said Fund for said programs, services, and projects, and may, for the purposes of this section, designate funds to be expended under the direction of the department of public works of the town of Sandwich or other town agency as applicable; or obtain competitive proposals or bids for any services, programs or projects to be provided to the town by vendor contracts, all in accordance with the requirements of chapter 30B of the General Laws or any other applicable law governing public bidding and procurement as may apply to the program or project. Any and all contracts for services, programs and projects authorized hereunder shall be awarded and executed by the board of selectmen, or its designee, upon the recommendation of the visitor services board, subject to compliance with all applicable procurement laws of the commonwealth.

**SECTION 6.** This act shall take effect as of July 1, 1997.

Approved December 23, 1997.



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**Chapter 228. AN ACT FURTHER REGULATING THE POSITION OF TOWN ACCOUNTANTS.**

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

Section 55 of chapter 41 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:- The town accountant shall be sworn to the faithful performance of his duties, shall hold no other town office involving the receipt or disbursement of money, shall hold office for three years and until a successor is qualified; provided, however, that at the discretion of the appointing authority, a person may be appointed to the position of town accountant for a term of not more than five years and until a successor is qualified. The town clerk, if he holds no other office involving the receipt or disbursement of money, may be appointed to the position of town accountant.

Approved December 23, 1997.

**Chapter 229. AN ACT ABOLISHING THE BOARD OF TRUST COMMISSIONERS OF THE TOWN OF SWAMPSCOTT.**

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

**SECTION 1.** The board of commissioners of trust funds of the town of Swampscott, established under the provisions of section 45 of chapter 41 of the General Laws, is hereby abolished.

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

Approved December 23, 1997.

**Chapter 230. AN ACT EXEMPTING THE POSITION OF CIVILIAN DISPATCHER IN THE TOWN OF BILLERICA FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of civilian dispatcher in the town of Billerica shall be exempt from the provisions of chapter 31 of the General Laws.

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

Approved December 23, 1997.

**Chapter 231. AN ACT RELATIVE TO THE ASHFIELD WATER DISTRICT.**

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

**SECTION 1.** Notwithstanding the failure of the Ashfield Water District to comply seasonably with the provisions of sections 42G to 42K, inclusive, of chapter 40 and sections



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**Chap. 231**

1 and 2 of chapter 80 of the General Laws relating to the construction or extension of a water supply system in said Ashfield Water District, said district is hereby authorized and empowered to levy such betterment assessments arising from the construction of said water supply and distribution system, and the time for taking such votes, orders and acts to levy such betterments is hereby extended for a period of 12 months from the effective date of this act; provided, however, that nothing in this act shall be construed to impair or affect the rights of owners of such land as has been the subject of such betterment assessments.

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

Approved December 23, 1997.

**Chapter 232. AN ACT AUTHORIZING AND DIRECTING THE SUPER-INTENDENT OF STATE OFFICE BUILDINGS TO INSTALL AND MAINTAIN A PLAQUE IN HONOR OF THE BICENTENNIAL OF THE BULFINCH STATE HOUSE.**

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

The superintendent of state office buildings is hereby authorized and directed, subject to approval of the art commission as to size and content, to install and maintain a plaque in a suitable space in Doric Hall in the Bulfinch State House in honor of the bicentennial of the Bulfinch State House, January 11, 1998.

Approved December 23, 1997.

**Chapter 233. AN ACT RELATIVE TO THE SAFE TRANSPORTATION OF ANIMALS.**

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

Chapter 90 of the General Laws is hereby amended by inserting after section 22G the following section:-

Section 22H. No person shall transport an animal in the back of a motor vehicle in a space intended for a load on the vehicle on a public way unless such space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the animal is cross tethered to the vehicle, the animal is protected by a secured container or cage or the animal is otherwise protected in a manner which will prevent the animal from being thrown or from falling or jumping from the vehicle. Whoever violates the provisions of this section shall be punished by a fine of not less than \$50.

Approved December 24, 1997.

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**Chapter 234. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE OF THE TOWN OF ANDOVER FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of chief of the police department of the town of Andover shall not be subject to the provisions of chapter 31 of the General Laws.

**SECTION 2.** The provisions of section 1 shall not impair the civil service status of any person holding the office of the chief of the police department of the town of Andover on the effective date of this act.

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

Approved December 24, 1997.

**Chapter 235. AN ACT RELATIVE TO INSURANCE COVERAGE OF EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS.**

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

**SECTION 1.** Section 47C of chapter 175 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 71 to 73, inclusive, the words "three months after their third birthday or until September first of the year of the recipient's third birthday if the recipient was born after April first" and inserting in place thereof the following words:- their third birthday.

**SECTION 2.** Section 8B of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in lines 56 to 58, inclusive, the words "three months after their third birthday or until September first of the year of the recipient's third birthday if the recipient was born after April first" and inserting in place thereof the following words:- their third birthday.

**SECTION 3.** Said section 8B of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 60 to 62, inclusive, the words "two thousand four hundred dollars per year per child and an aggregate benefit of eight thousand dollars over the total enrollment period" and inserting in place thereof the following words:- \$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period.

**SECTION 4.** Section 4C of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out, in lines 57 to 59, inclusive, the words "three months after their third birthday or until September first of the year of the recipient's third birthday if the recipient was born after April first" and inserting in place thereof the following words:- their third birthday.

**SECTION 5.** Said section 4C of said chapter 176B, as so appearing, is hereby further amended by striking out, in lines 61 to 63, inclusive, the words "two thousand four hundred dollars per year per child and an aggregate benefit of eight thousand dollars over the total enrollment period" and inserting in place thereof the following words:- \$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period.

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## Chap. 235

**SECTION 6.** Section 4 of chapter 176G of the General Laws, as so appearing, is hereby amended by striking out, in lines 43 to 45, inclusive, the words "three months after their third birthday or until September first of the year of the recipient's third birthday if the recipient was born after April first" and inserting in place thereof the following words:- their third birthday.

**SECTION 7.** Said section 4 of said chapter 176G, as so appearing, is hereby further amended by striking out, in lines 47 to 49, inclusive, the words "two thousand four hundred dollars per year per child and an aggregate benefit of eight thousand dollars over the total enrollment period" and inserting in place thereof the following words:- \$3,200 per year per child and an aggregate benefit of \$9,600 over the total enrollment period.

Approved December 24, 1997.

## **Chapter 236. AN ACT RELATIVE TO THE FRANKLIN COUNTY REGIONAL HOUSING AND REDEVELOPMENT AUTHORITY.**

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

**SECTION 1.** The first paragraph of section 1 of chapter 956 of the acts of 1973 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There is hereby created in Franklin county, hereinafter referred to as county, a public body politic and corporate to be known as the Franklin County Regional Housing and Redevelopment Authority, hereinafter referred to as the authority.

**SECTION 2.** Section 2 of said chapter 956 is hereby amended by striking out the first paragraph, as amended by section 1 of chapter 73 of the acts of 1975, and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of section 3A of chapter 121B of the General Laws, and except as may otherwise be provided herein, and notwithstanding the existence of a local housing or redevelopment authority organized in any town, the authority shall be deemed to be, and within every town in the county, shall have the rights, powers and obligations of, a housing authority and a redevelopment authority organized under the provisions of said chapter 121B, except with respect to any project or activity heretofore undertaken on a particular site or location by a local housing or redevelopment authority organized in a town. Every town in the county shall have the same rights, powers, and obligations with respect to projects and activities of the authority in such town as are provided in said chapter 121B for a city or town in which a housing authority or a redevelopment authority has been created.

**SECTION 3.** The second paragraph of said section 2 of said chapter 956 is hereby amended by striking out the first sentence, as amended by section 2 of said chapter 73, and inserting in place thereof the following sentence:- In addition, any local housing or local redevelopment authority organized in a town within the county, whether organized prior to or subsequent to the creation of the authority by this act, shall have the rights, powers, and obligations of a housing or redevelopment authority respectively under said chapter 121B,



except with respect to any project or activity heretofore undertaken on a particular site by the said regional housing and redevelopment authority.

**SECTION 4.** The third paragraph of said section 2 of said chapter 956 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The relationship within any town between the authority and any local housing or local redevelopment authority regarding operating procedures and management of projects or programs shall be as specified in any resolution approved as provided in section 3 and on matters not covered by such resolution, shall be as mutually agreed upon by the two authorities, or in the absence of such agreement, as shall be determined by the department, not inconsistent with the department's regulations.

**SECTION 5.** Said section 2 of said chapter 956 is hereby further amended by striking out the fourth paragraph, as amended by section 1 of chapter 509 of the acts of 1979, and inserting in place thereof the following paragraph:-

The authority shall annually make a report of its activities, receipts, and expenditures to the commissioner, to the department, to the state auditor, and to the selectmen and housing or redevelopment authority, if any, of each of the towns in the county, in accordance with the provisions of section 29 of said chapter 121B. The Franklin County Regional Housing and Redevelopment Authority, in addition to the powers conferred upon it by said chapter 121B shall have the power to make grants or loans, including loans secured by real estate mortgages, to private property owners for rehabilitation or creation of housing units for low and moderate income persons.

**SECTION 6.** The first paragraph of section 3 of said chapter 956 is hereby amended by striking out the first four sentences and inserting in place thereof the following four sentences:- Prior to taking, purchasing, or otherwise acquiring the fee in any real property, the authority shall submit a resolution authorizing such acquisition to, in the case of property sought to be acquired for a housing project or activity, to the housing authority of the town in which the real property is located, or in the case of an urban renewal project or activity or other activity to be undertaken pursuant to its own powers as a redevelopment authority, to the redevelopment authority of the town in which the real property is located, or if no housing or redevelopment authority, as the case may be, has been organized in said town, to its board of selectmen. No such taking, purchase or acquisition shall be completed until 30 calendar days have elapsed following the approval of such resolution by the local housing or redevelopment authority, or selectmen, as the case may be, or unless approved by a vote of town meeting as provided below. Upon the expiration of 30 calendar days from the date of submittal without either approval or disapproval by the housing authority or redevelopment authority, or selectmen, as the case may be, the resolution shall be deemed approved. The local housing authority, redevelopment authority or selectmen shall include in their consideration of each such resolution the housing or redevelopment needs, the consistency of the proposed action with local plans, and the health, safety, welfare and convenience of all the persons residing in the town.

**SECTION 7.** The second paragraph of said section 3 of said chapter 956 is hereby amended by inserting after the word "authority", in line 3, the following words:- , local rede-



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**Chap. 236.**

velopment authority.

**SECTION 8.** This act shall take effect upon its passage.

Approved December 24, 1997.

**Chapter 237. AN ACT RELATIVE TO QUARTERLY TAXES IN CITIES AND TOWNS.**

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

**SECTION 1.** Section 57C of chapter 59 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the eighth paragraph the following two paragraphs:-

Notwithstanding the provisions of the preceding paragraph, whenever such actual tax bills cannot be mailed by December 31, an additional notice of preliminary tax may be issued and payment of a third quarter preliminary installment may be required; provided, however, that no such additional notice of preliminary tax may issue unless first approved by the commissioner of revenue; and 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 23, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year. The assessors shall establish the tax rate for the fiscal year no later than April 1. In no event shall the net amount of revenue to be raised by taxation, as submitted to the commissioner pursuant to any such requirements for approval under this section, be exceeded, except to the extent that additional new growth, as certified by the commissioner pursuant to paragraph (f) of section 21C, exceeds the prior approved amount and a referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of said section 21C has been approved.

In the event an additional notice of preliminary tax requiring a third quarter preliminary installment payment is issued by a city or town, such notice shall be mailed on or before December 31, or such later date as may be authorized by the commissioner, and such entire notice shall be due and payable on February 1, or 30 days after the date of mailing such notice, whichever is later, after which date if unpaid, it shall become delinquent. The amount of any third quarter preliminary installment payment shall not exceed the amount of the first quarter installment payment for the fiscal year as provided in this section. The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, shall be due and payable on May 1, or 30 days after the date of mailing such bill, whichever is later, after which date if unpaid, it shall become delinquent. Such bill shall represent the full balance owed after credit is given for the preliminary tax payments previously made. All provisions of this section regarding procedures for issuing, mailing and collecting the notice of preliminary tax requiring first and second quarter preliminary installment payments shall be applicable to any additional notice of preliminary tax, including payment of interest.

**SECTION 2.** This act shall apply to tax bills issued for any fiscal year that begins on or after July 1, 1997.

*Emergency Letter: December 26, 1997 @ 12:04 P.M.*      Approved December 24, 1997.

**Chapter 238. AN ACT RELATIVE TO THE CRIME OF STALKING.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to clarify forthwith the crime of stalking, 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 43 of chapter 265 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- Such conduct, acts or threats described in this paragraph shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device including, but not limited to, electronic mail, internet communications and facsimile communications.

**SECTION 2.** Said section 43 of said chapter 265, as so appearing, is hereby further amended by striking out subsection (d).

Approved December 24, 1997.

**Chapter 239. AN ACT RELATIVE TO GROUP MARKETING PLANS FOR AUTOMOBILE AND HOMEOWNERS INSURANCE.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to waive forthwith the participation requirement for group marketing plans for calendar year 1998, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** A group marketing plan approved and in effect, pursuant to section 193R of chapter 175 of the General Laws, during calendar year 1997 may be approved upon renewal, notwithstanding that less than 35 per cent of its members are insured during calendar year 1998.

**SECTION 2.** The commissioner of insurance shall conduct an investigation and study relative to the safe driver insurance plan, specifically, and the high auto insurance rates in the commonwealth in general.

The investigation and study shall examine, and the commissioner shall submit, legis-

lative recommendations based on, but not limited to, the following four principles:

(1) restructuring the safe driver insurance plan step-rating system so that credit step drivers are not penalized with high and lengthy premiums as a result of a minor accident or infraction;

(2) restructuring the safe driver insurance plan system to decrease the incidence of consumers purposefully increasing deductibles, avoiding filing damage claims and failing to repair a damaged and potentially dangerous vehicle;

(3) focusing the overall restructuring in a manner so as to provide fair and reasonable rates to consumers in the commonwealth and to lower Massachusetts' auto insurance premiums to the national average; and

(4) the existence of high inherent costs within the commonwealth's auto insurance industry.

Said commissioner shall report its legislative recommendations to the general court on or before July 1, 1998.

Approved December 31, 1997.

#### **Chapter 240. AN ACT RELATIVE TO THE IMPLEMENTATION OF EARLY INTERVENTION PROGRAMS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to delay forthwith early intervention programs now scheduled to be implemented beginning January 1, 1998, 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 14 of chapter 427 of the acts of 1996, as appearing in section 4 of chapter 37 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said early intervention program shall be effective and shall be implemented on July 1, 1998.

Approved December 31, 1997.

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SUMMARY OF THE 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

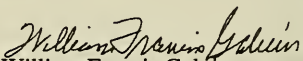
During the first session of the General Court held in 1997 240 Acts were enacted of which 235 received the Governor's approval.

Chapters 21, 101 and 102 were not approved by the Governor within the ten days prescribed by the Constitution. They were not returned to either branch during the ten days with the Governor's 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.

Two Acts were returned by the Governor to the branch in which each Act had originated, with his objections in writing thereto. Chapter 144 was passed by the Senate on November 4, 1997 and by the House on November 12, 1997. Chapter 152 was passed by the House and Senate on November 17, 1997. The Governor's objections notwithstanding these chapters have the force of law and have been so certified.

This summary does not include those line item vetoes by the Governor on Appropriations Acts nor any subsequent legislative action on those vetoes. In addition, it does not include those sections of Chapter 48 that were vetoed by the Governor nor any subsequent legislative action on those vetoes.

Six Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution. These are Chapters 22, 23, 129, 174, 217, and 237.

  
William Francis Galvin  
Secretary of the Commonwealth

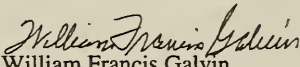


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OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS    October 9, 1998

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

AGGREGATE VOTE ON A PROPOSED LAW SUBMITTED TO THE PEOPLE AT THE  
NOVEMBER 5, 1996 ELECTION

Statement of the Secretary in Compliance with M.G.L. c. 5, § 2(6)

Question	Yes	No	Blank
Prohibiting Use of Certain Animal Traps and Certain Methods of Hunting, and Eliminating Some Restrictions on Membership of the Fisheries and Wildlife Board	1,422,106	790,435	387,881

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## TABLE OF CHANGES

### SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 1996 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 1997.

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**CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.**

**CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.**

§ 42 added, 1997, 42.

§ 43 added, 1997, 162.

**CHAPTER 3 - The General Court.**

**CHAPTER 4 - Statutes.**

**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.**

§15XXX added, 1997, 79.

§ 91 amended, 1997, 164 § 2.

§178P added, 1997, 106 § 3.

§ 203, second paragraph, clause 10 added, 1997, 43 § 9. (See 1997, 43 § 311.)

§ 205 stricken out, 1997, 19 § 1.

§ 206 stricken out, 1997, 19 § 1.

§ 207 stricken out, 1997, 19 § 1.

§ 208 stricken out, 1997, 19 § 1.

§ 209 stricken out, 1997, 19 § 1.

§ 213 added, 1997, 19 § 1.

**CHAPTER 6A - Executive Offices.**

§ 18D amended, 1997, 164 § 3.

§ 18E amended, 1997, 164 § 4.

§ 18F amended, 1997, 164 § 5, 6.

**CHAPTER 6B - ACUTE HOSPITAL FINANCE.**

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## TABLE OF CHANGES

### **CHAPTER 7 - Executive Office for Administration and Finance. (Former title, Commission on Administration and Finance.)**

- § 4A, paragraph (b), first sentence revised, 1997, 19 § 3; last sentence revised, 1997, 43 § 11.  
(See 1997, 43 § 311.)
- § 23 amended, 1997, 19 § 4.
- § 39A amended, 1997, 11 § 16.
- § 49, subsection (a), sentence inserted after sixth sentence, 1997, 88 § 3. (See 1997, 88 § 114.)
- § 50, introductory paragraph revised, 1997, 19 § 5; first paragraph, clauses (k) and (l) stricken out, 1997, 43 § 12. (See 1997, 43 § 311.)

### **CHAPTER 7A - OFFICE OF THE COMPTROLLER.**

- § 12 revised, 1997, 88 § 4. (See 1997, 88 § 114.)

### **CHAPTER 7B - ASSET MANAGEMENT BOARD.**

### **CHAPTER 8 - State Superintendent of Buildings, and State House.**

- § 30 added, 1997, 226 § 1. (See 1997, 226 § 16.)

### **CHAPTER 9 - Department of the State Secretary**

### **CHAPTER 10 - Department of the State Treasurer.**

- § 35R, inserted, 1997, 88 § 5. (See 1997, 88 § 114.)
- § 60 stricken out, 1997, 210 § 1.
- § 61 revised, 1997, 210 § 2.
- § 62 added, 1997, 164 § 7.

### **CHAPTER 11 - Department of the State Auditor.**

### **CHAPTER 12 - Department of the Attorney General, and the District Attorneys.**

- § 11E amended, 1997, 164 § 8.

### **CHAPTER 12A - OFFICE OF THE INSPECTOR GENERAL.**

- § 5 amended, 1997, 43 § 13. (See 1997, 43 § 311.)

### **CHAPTER 12B - STATE GAMBLING AND ADVISORY COMMISSION.**



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## TABLE OF CHANGES

### **CHAPTER 13 - Department of Civil Service and Registration.**

§ 22, third sentence stricken out and two sentences inserted, 1997, 215 § 1; section amended, 1997, 215 § 2.

### **CHAPTER 14 - Department of Revenue.**

### **CHAPTER 15 - Department of Education.**

§ 18A amended, 1997, 66 § 2.

### **CHAPTER 15A - PUBLIC EDUCATION.**

§ 2 amended, 1997, 66 §§ 3,4.

§ 4, first paragraph, first three sentences stricken out and one sentence inserted, 1997, 66 § 5; seventh paragraph revised, 1997, 66 § 6.

§ 5 amended, 1997, 78 § 1.

§ 9 amended, 1997, 66 § 7.

§ 9B amended, 1997, 66 § 8.

§ 21 amended, 1997, 66 § 9.

§ 40 amended, 1997, 66 § 10.

§ 62D amended, 1997, 66 § 11.

### **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.**

(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 § 7.)

### **CHAPTER 18A - Department of Youth Services.**

### **CHAPTER 18B - Department of Social Services.**

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## TABLE OF CHANGES

### **CHAPTER 19 - DEPARTMENT OF MENTAL HEALTH.**

§ 8A added, 1997, 43 § 14. (See 1997, 43 § 311.)

### **CHAPTER 19A - Department of Elder Affairs.**

§ 37 stricken out, 1997, 19 § 6.

§ 38 added, 1997, 19 § 6.

### **CHAPTER 19B - Department of Mental Retardation.**

### **CHAPTER 19C - DISABLED PERSONS PROTECTION COMMISSION.**

§ 3, first paragraph amended, 1997, 43 § 16; clause (I) added, 1997, 43 § 17. (See 1997, 43 § 311.)

§ 4, clause (b), last sentence stricken out and two sentences inserted, 1997, 43 § 18; paragraph added, 1997, 43 § 19. (See 1997, 43 § 311.)

§ 5, paragraph (5) added, 1997, 43 § 20. (See 1997, 43 § 311.)

§ 7, paragraph (d) added, 1997, 43 § 20. (See 1997, 43 § 311.)

### **CHAPTER 19D - ASSISTED LIVING.**

(New Chapter inserted, 1994, 354 § 3.)

### **CHAPTER 20 - DEPARTMENT OF FOOD AND AGRICULTURE.**

### **CHAPTER 21 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

§ 7, second sentence revised, 1997, 19 § 7. (See 1997, 19 § 127.)

### **CHAPTER 21A - Executive Office of Environmental Affairs.**

§ 18A amended, 1997, 164 §§ 9, 10, 11, 12, 13.

### **CHAPTER 21B - MINING REGULATION AND RECLAMATION.**

### **CHAPTER 21C - Massachusetts Hazardous Waste Management Act.**

§ 7 amended, 1997, 164 §§ 14, 15.

§ 8 amended, 1997, 164 § 16.

### **CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.**

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## TABLE OF CHANGES

### **CHAPTER 21E - MASSACHUSETTS OIL AND HAZARDOUS MATERIAL RELEASE PREVENTION AND RESPONSE ACT.**

§ 5 amended, 1997, 164 § 17.

### **CHAPTER 21F - Coastal Facilities Improvement.**

### **CHAPTER 21G - MASSACHUSETTS WATER MANAGEMENT ACT.**

§ 19 amended, 1997, 164 §§ 18, 19, 20.

### **CHAPTER 21H - SOLID WASTE FACILITIES.**

(New chapter inserted, 1987, 584 § 3.)

### **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, 1997, 43 § 22. (See 1997, 43 § 311.)

§ 2 amended, 1997, 43 § 24. (See 1997, 43 § 311.)

§ 4, paragraph (b), clause (1), subclause (A), subparagraphs (I), (ii) and (iii) revised, 1997, 43 § 28; clause (2) stricken out, 1997, 43 § 29; paragraph (b) amended, 1997, 43 § 30. (See 1997, 43 § 311.)

§ 8, first paragraph, fourth to sixth sentences, inclusive, stricken out and two sentences inserted, 1997, 43 § 33. (See 1997, 43 § 311.)

§ 10 amended, 1997, 43 § 35. (See 1997, 43 § 311.)

### **CHAPTER 22- Department of Public Safety.**

### **CHAPTER 22A- CENTRAL REGISTER FOR MISSING CHILDREN.**

§ 1, definition of "Person" inserted, 1997, 106 § 4.

§ 5 amended. 1997, 106 § 5

§ 6 amended. 1997, 106 § 6

### **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.)

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## TABLE OF CHANGES

**CHAPTER 22D - DEPARTMENT OF FIRE SERVICES.**  
(New chapter inserted, 1996, 151 § 109.) (See 1996, 151 § 690.)

**CHAPTER 22E - STATE DNA DATABASE.**  
(New chapter inserted, 1997, 106 § 7.)

**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, subsection (a), first sentence revised, 1997, 43 § 38. (See 1997, 43 § 311.)

**CHAPTER 23A - DEPARTMENT OF ECONOMIC DEVELOPMENT.**  
(New title inserted, Former title, Department of Commerce and Development.)

§ 1, subsection (a), first sentence revised, 1997, 43 § 39. (See 1997, 43 § 311.)

§ 3D amended, 1997, 164 § 21; clause (G) revised, clause (H) added, 1997, 164 § 22.

§ 3E amended, 1997, 164 § 23.

§ 32 amended, 1997, 164 § 24.

**CHAPTER 23B - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**  
(Title changed, 1996, 204 § 15, former title, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT.)

§ 1 revised, 1997, 43 § 40. (See 1997, 43 § 311.)

§ 2 revised, 1997, 43 § 40. (See 1997, 43 § 311.)

§ 24B amended, 1997, 43 § 41; clauses (a) and (b) revised, 1997, 43 § 42. (See 1997, 43 § 311.)

**CHAPTER 23C- BOARD OF CONCILIATION AND ARBITRATION.**

**CHAPTER 23D - MASSACHUSETTS INDUSTRIAL SERVICE PROGRAM.**

**CHAPTER 23E - DEPARTMENT OF INDUSTRIAL ACCIDENTS.**

**CHAPTER 23F - THE ECONOMIC DIVERSIFICATION PROGRAM.**  
(New chapter inserted, 1990, 525.)

**CHAPTER 24 - Department of Industrial Accidents.**  
(Chapter repealed, 1953, 314 § 14.)



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## TABLE OF CHANGES

### **CHAPTER 24A - OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.** (New chapter inserted, 1996, 151 § 148.) (See 1996, 151 § 690.)

§ 1, subsection (a), first sentence revised, 1997, 43 §439; **section amended**, 1997, 164 §§ 25, 26, 27. (See 1997, 43 § 311.)

### **CHAPTER 25 - Department of Public Utilities.**

§ 1 amended, 1997, 164 § 28.  
§ 2 revised, 1997, 164 § 29.  
§ 3 revised, 1997, 164 § 30.  
§ 4 amended, 1997, 164 §§ 31, 32.  
§ 12E½ added, 1997, 164 § 33.  
§ 12M **repealed**, 1997, 164 § 34.  
§ 17 **repealed**, 1997, 164 § 35.  
§ 17A **repealed**, 1997, 164 § 36.  
§ 18 revised, 1997, 164 § 37.  
§ 19 added, 1997, 164 § 37.  
§ 20 added, 1997, 164 § 37.

### **CHAPTER 25A - DIVISION OF ENERGY RESOURCES.** (Formerly, Executive Office of Energy Resources.)

§ 1 amended, 1997, 164 §§ 38, 39, 40.  
§ 3 amended, 1997, 164 § 41.  
§ 5 amended, 1997, 164 § 42.  
§ 6 amended, 1997, 164 §§ 43,44, 45.

### **CHAPTER 25A - continued**

§ 7 amended, 1997, 164 §§ 46, 47; paragraph inserted after second paragraph, 1997, 164 § 48;  
**section amended**, 1997, 164 § 49.  
§ 11D added, 1997, 164 § 50.  
§ 11E added, 1997, 164 § 50.  
§ 11F added, 1997, 164 § 50.  
§ 11G added, 1997, 164 § 50.

### **CHAPTER 25B - MASSACHUSETTS APPLIANCE EFFICIENCY STANDARDS ACT.**

### **CHAPTER 26 - Department of Banking and Insurance.**

§ 8G amended, 1997, 210 § 3.

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## TABLE OF CHANGES

### CHAPTER 27 - Department of Correction.

### CHAPTER 28 - Metropolitan District Commission.

### CHAPTER 28A - Office For Children.

§ 2 amended, 1997, 43 § 44. (See 1997, 43 § 311.)

§ 3 amended, 1997, 43 § 45. (See 1997, 43 § 311.)

§ 4 amended, 1997, 43 § 46. (See 1997, 43 § 311.)

§ 9 amended, 1997, 43 § 47. (See 1997, 43 § 311.)

### CHAPTER 29 - State Finance.

§ 1, definition of "Budgeted revenues and other financial resources pertaining to the budgeted funds" added, 1997, 10 § 3.

§ 2H, second paragraph revised, 1997, 10 § 4.

§ 2U, first paragraph revised, 1997, 43 § 48. (See 1997, 43 § 311.)

§ 2DD revised, 1997, 11 § 17.

§ 2FF, first sentence revised, 1997, 88 § 6; second sentence, clause (b) revised, clauses (c) and (d) inserted, 1997, 47 § 1; clause (c) and (d) revised, clause (3) and (f) inserted, 1997, 170 § 1; third sentence revised, 1997, 170 § 2. (See 1997, 47 § 1; 88 § 114.)

§ 2GG stricken out, 1997, 19 § 8.

§ 2JJ added, 1997, 19 § 8.

§ 2II revised, 1997, 43 § 49. (See 1997, 43 § 311.)

§ 2KK added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2LL added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2MM added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2NN added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2OO added, 1997, 43 § 50. (See 1997, 43 § 311.)

§ 2PP added, 1997, 226 § 4. (See 1997, 226 § 4.)

§ 5, subsection (1), paragraph (h) revised, 1997, 10 § 5; **section repealed**, 1997, 88 § 7. (See 1997, 88 § 114.)

§ 5B amended, 1997, 43 §§ 51, 52. (See 1997, 43 § 311.)

§ 5C revised, 1997, 43 § 50; first sentence revised, 1997, 88 § 8; clause (a) revised, 1997, 88 § 9; last paragraph stricken out, 1997, 88 § 10. (See 1997, 43 § 311; 88 § 114.)

§ 13, first paragraph revised, 1997, 43 § 53. (See 1997, 43 § 311.)

§ 49B, last paragraph revised, 1997, 11 § 18.

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§ 39B amended, 1997, 164 §§ 51, 52, 53, 54.

§ 39C amended, 1997, 164 § 55.

§ 39E amended, 1997, 164 § 56.

§ 46I added, 1997, 43 § 56. (See 1997, 43 § 311.)

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(New chapter inserted, 1989, 687 § 3.)

§ 1 amended, 1997, 164 § 57; subsection (b), clause (31) revised, clauses (32) and (33) added, 1997, 164 § 58.

§ 6, subsection (k) added, 1997, 164 § 59.

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§ 48 amended, 1997, 164 § 60.

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§ 20, subdivision (4 2 ), paragraph (b), second sentence revised, 1997, 3 §§ 1, 4; paragraph (c), second sentence revised, 1997, 3 § 2; paragraphs (e) and (f), second sentence revised, 1997, 3 § 3; subdivision (47½), paragraph (b), second sentence revised, 1997, 3 § 5; 11 § 20.

§ 21, subdivision (3), paragraph (f) inserted, 1997, 17 § 1.

§ 22, subdivision (7), paragraph (a), two sentences inserted, 1997, 43 § 57. (See 1997, 43 § 311.)

§ 22C amended, 1997, 43 §§ 58, 59. (See 1997, 43 § 311.)

§ 22D, first paragraph, subdivision (1), third, fourth and fifth sentences revised, 1997, 17 § 2.

§ 23, subdivision (2) amended, 1997, 119 § 1; paragraph (h) added, 1997, 119 § 2; subdivision (2A), paragraph (h), two sentences inserted after first sentence, 1997, 119 § 3, 1997, 119 § 3.

§ 90A amended, 1997, 177 §§ 1, 2.

§ 90C amended, 1997, 177 §§ 3, 4.

§ 90D amended, 1997, 177 §§ 5, 6.

§ 90E amended, 1997, 177 § 7.

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§ 100A revised, 1997, 19 § 9.

§ 102, paragraph (a) revised, 1997, 17 § 3; paragraph (b) amended, 1997, 17 § 4; paragraph (c) revised, 1997, 17 § 5; paragraph (d) amended, 1997, 17 § 6; paragraph (e) amended, 1997, 17 § 7.

§ 103 added, 1997, 17 § 8.

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§ 15, paragraph (f), sentence added, 1997, 43 § 60. (See 1997, 43 § 311.)

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§ 8 amended, 1997, 164 § 61.

§ 9 amended, 1997, 164 § 62.

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§ 22D amended, 1997, 164 § 63.

§ 39C amended, 1997, 164 § 64.



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§ 3, second paragraph, first sentence stricken out, two sentences inserted, 1997, 164 § 67.  
§ 4E added, 1997, 164 § 68.

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§ 9 amended, 1997, 51 § 1.

§ 10 amended, 1997, 51 § 2.

§ 13, seventh sentence revised, 1997, 51 § 3.

§ 15 amended, 1997, 51 § 4.

§ 19 amended, 1997, 51 § 5.

§ 20 revised, 1997, 51 § 6.

§ 21 revised, 1997, 51 § 7.

§ 22 amended, 1997, 51 § 8.

§ 24, third sentence stricken out, 1997, 51 § 9.

§ 26 amended, 1997, 51 § 10.

§ 28C revised, 1997, 51 § 11.

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- § 32 **repealed**, 1997, 51 § 12.
- § 33 **repealed**, 1997, 51 § 12.
- § 34 **repealed**, 1997, 51 § 12.
- § 35 **repealed**, 1997, 51 § 12.
- § 38 **repealed**, 1997, 51 § 13.
- § 40 amended, 1997, 51 § 14.
- § 47, first sentence revised, 1997, 51 § 15.
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§ 6, subsections (h) and (I) added, 1997, 43 § 63. (See 1997, 43 § 307.)

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§ 1, definition of "Claimant agency" revised, 1997, 47 § 3; definition of "Debt" revised, 1997, 47 § 4; definition of "Debtor" revised, 1997, 47 § 5. (See 1997, 47 § 37.)

§ 13, clause (v) revised, 1997, 66 § 12.

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§ 3A amended, 1997, 152 § 22.

§ 12 added, 1997, 43 § 64. (See 1997, 43 § 308.)

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§ 1 amended, 1997, 88 § 23. (See 1997, 88 § 114.)

§ 6 amended, 1997, 164 §§ 72, 73.

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1M added, 1997, 46 § 1.

30 amended, 1997, 66 § 14.

30A amended, 1997, 66 §§ 15, 16.

31 amended, 1997, 66 § 17.

31A amended, 1997, 66 § 18.

31B amended, 1997, 66 § 19.

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§ 8 amended, 1997, 88 § 24. (See 1997, 88 § 114.)

§ 11 added, 1997 43 § 68. (See 1997, 43 § 311.)

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§ 89 revised, 1997, 46 § 2; paragraph (ff), third sentence stricken out and two sentences inserted, 1997, 176 § 1. (See 1997, 176 § 2.)

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§ 3, fifth paragraph amended, 1997, 43 § 69; section amended, 1997, 43 § 70. (See 1997, 43 § 311.)

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§ 1A amended, 1997, 66 § 20; 1997, 88 § 25. (See 1997, 88 § 114.)

§ 2 amended, 1997, 66 § 21.

§ 44 added, 1997, 163 § 2.

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§ 19C, introductory paragraph revised, 1997, 43 § 75; clause (3) revised, 1997, 43 § 76. (See 1997, 43 § 311.)

19D added, 1997, 43 § 77. (See 1997, 43 § 311.)

19M added, 1997, 43 § 78. (See 1997, 43 § 311.)

19N added, 1997, 43 § 78. (See 1997, 43 § 311.)

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3, definition of "Metropolitan highway system" revised, 1997, 11 § 21; definition of "Turnpike" revised, 1997, 11 § 22.  
4, clauses (I) and (j) revised, 1997, 11 § 23; clause (o) revised, 1997, 11 § 24.  
5, subsection (b), clause (ii) revised, 1997, 11 § 25.  
13, third paragraph, second sentence revised, 1997, 164 § 77.  
28, subsection (a), first sentence revised. 1997, 11 § 26.

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40 amended, 1997, 164 § 78.

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4 amended, 1997, 164 § 80.

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§ 1 amended, 1997, 210 § 4, 5; definition of "Emissions analyzer" stricken out, 1997, 210 § 6;  
section amended, 1997, 210 §§ 7, 8.

§ 1A amended, 1997, 164 § 82.

§ 7A revised, 1997, 210 § 9.

§ 7B amended, 1997, 164 §§ 83, 84, 85, 86.

§ 7N amended, 1997, 210 § 10.

§ 7W revised, 1997, 210 § 11.

§ 8A amended, 1997, 164 §§ 87, 88, 89, 90.

§ 8A ½ amended, 1997, 164 § 91.

§ 9 amended, 1997, 164 § 92.

§ 20, last paragraph revised, 1997, 210 § 12.

§ 22H added, 1997, 233.

§ 24, subdivision (1), paragraph (a), subparagraph (1), second paragraph revised, 1997, 43 § 79;  
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§ 33 amended, 1997, 164 § 93.

§ 40H amended, 1997, 164 § 94.

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§ 43 amended, 1997, 164 § 96.  
§ 44 amended, 1997, 164 § 97.  
§ 50 amended, 1997, 164 § 98.  
§ 51 amended, 1997, 164 § 99.  
§ 67 amended, 1997, 164 § 100.  
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§ 2-512, subsection (1), clause (b) amended, 1997, 224 § 2.

**Article 5 revised**, 1997, 224 § 3.

§ 9-103, subsection (1) amended, 1997, 224 § 4; paragraph (a) amended, 1997, 224 § 4; subsection (6) sentence added in paragraph (f); 1997, 224 § 6.

§ 9-104 amended, 1997, 224 § 7.

§ 9-105, subsection (3), definition of "Note" stricken out and definitions of "Letter of credit", "Note", and "Proceeds of a letter of credit" inserted, 1997 224 § 8.

§ 9-106 amended, 1997, 224 § 9.

§ 9-109, clause (3) revised, 1997, 224 § 10.

§ 9-304, heading stricken out and new heading inserted, 1997, 224 § 11; sentence inserted after first sentence, 1997, 224 § 12.

§ 9-305, first sentence stricken out and two sentences inserted, 1997, 224 § 13.

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§ 4K amended, 1997, 19 § 14.

§ 5J amended, 1997, 19 § 15.

§ 5K, subsection (E) added, 1997, 164 § 104.

§ 24F **repealed**, 1997, 170 § 4. (See 199, 170 § 46.)

§ 24G amended, 1997, 170 §§ 5, 6; second paragraph, clause (1) revised, 1997, 170 § 7; clauses (4) and (5) stricken out, five clauses inserted, 1997, 170 § 8; **section amended**, 1997, 170 §§ 9, 10. (See 1997, 170 § 46.)

§ 24H added, 1997, 170 § 11. (See 1997, 170 § 46.)

§ 24I added, 1997, 170 § 11. (See 1997, 170 § 46.)

§ 24J added, 1997, 170 § 11. (See 1997, 170 § 46.)

§ 25C amended, 1997, 19 § 16.

§ 25D amended, 1997, 19 § 17.

§ 27B amended, 1997, 19 § 18.

§ 31C amended, 1997, 19 § 19.

§ 142J, third and fourth paragraphs stricken out, 1997, 210 § 13.

§ 142M, first paragraph revised, 1997, 43 § 82; **section revised**, 1997, 210 § 14. (See 1997, 43 § 311.)

§ 142N added, 1997, 164 § 105.

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- § 150A½ amended, 1997, 19 § 21.
- § 170 amended, 1997, 19 § 22.
- § 189A amended, 1997, 19 § 23.
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- § 197 amended, 1997, 19 § 25.
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- § 43A, definition of "Dental hygienist" revised, 1997, 19 § 40.
- § 53 amended, 1997, 19 § 41.
- § 60N amended, 1997, 19 § 42.
- § 66 revised, 1997, 55 § 4.
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- § 81P amended, 1997, 19 § 44.
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- § 87EE amended, 1997, 19 § 48.
- § 87QQ amended, 1997, 19 § 49.
- § 87GGG amended, 1997, 19 § 50.

### CHAPTER 113 - Promotion of Anatomical Science.

### CHAPTER 114 - Cemeteries and Burials.

- § 2 revised, 1997, 191 § 1.
- § 15, two sentences inserted after third sentence, 1997, 191 § 2.
- § 43D amended, 1997, 219.
- § 43M, sentence inserted after third sentence, 1997, 191 § 3.
- § 45 amended, 1997, 19 § 51; **section amended**, 1997, 191 § 4.

### CHAPTER 115 - Veterans' Benefits.

(Former title, State and Military Aid, Soldiers' Relief, etc.)

- § 6A amended, 1997, 43 § 84. (See 1997, 43 § 311.)
- § 6B amended, 1997, 43 §§ 85, 86; paragraph added, 1997, 43 § 87. (See 1997, 43 § 311.)

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- (CHAPTER 118 - Aid to Families with Dependent Children.**  
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**(Chapter revised, 1993, 161 § 17.)**
- § 8, definition of "Title XXI" added, 1997, 170 § 12.
- § 9 amended, 1997, 88 § 26. (See 1997, 88 § 114.)
- § 9A, subsection (2), clause (b) revised, 1997, 170 § 13; clauses (c) and (d) revised, 1997, 43 § 88; 170 § 14; clause (e) revised, 1997, 88 § 27; clause (h) revised, 1997, 43 § 89; subsection (4) revised, 1997, 43 § 90; paragraph (8), first sentence revised, 1997, 43 § 91; **section amended**, 1997, 170 §§ 15, 16. (See 1997, 43 § 311; 88 § 114.)
- § 9B, subsection (8), first sentence revised, 1997, 43 § 92. (See 1997, 43 § 311.)
- § 10 amended, 1997, 170 § 17.
- § 16 amended, 1997, 88 § 28. (See 1997, 88 § 114.)
- § 16A amended, 1997, 88 § 29. (See 1997, 88 § 114.)
- § 16B, fifth paragraph stricken out, two paragraphs inserted, 1997, 1 § 3; **section amended**, 1997, 170 §§ 18, 19; definition of "Pharmacy assistance" revised, 1997, 170 § 20; fifth paragraph stricken out and two paragraphs inserted, 1997, 170 § 21; ninth paragraph, second sentence revised, 1997, 170 § 22; fifth sentence revised, 1997, 170 § 23; **section amended**, 1997, 170 §§ 24, 25. (See 1997, 1 § 7.)
- § 16C added, 1997, 170 § 26.
- § 30, paragraph (a), second sentence revised, 1997, 43 § 93. (See 1997, 43 § 311.)
- § 31, subsection (d) added, 1997, 43 § 94. (See 1997, 43 § 311.)
- § 32, subsections (b) to (e), inclusive, stricken out and subsection (b) to (j) inclusive, inserted, 1997, 43 § 95. (See 1997, 43 § 311.)
- § 33 revised, 1997, 43 § 96. (See 1997, 43 § 311.)

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(Chapter repealed, 1996, 151 § 274.) (See 1996, 151 § 690.)

### **CHAPTER 118G - HEALTH CARE FINANCE AND POLICY.**

(New chapter added, 1996, 151 § 275.) (See 1996, 151 § 690).

§ 2, second paragraph, clause (b), last sentence revised, 1997, 43 § 97. (See 1997, 43 § 311.)

§ 18, subsection (c ) added, 1997, 170 § 27. (See 1997, 170 § 45.)

### **CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.**

§ 23, first paragraph, paragraph A, two paragraphs added, 1997, 43 § 98. (See 1997, 43 § 311.)

§ 26, after second paragraph, four paragraphs inserted, 1997, 43 § 99. (See 1997, 43 § 311.)

§ 28, subsection (b) amended, 1997, 19 § 52.

§ 33B revised, 1997, 43 § 100. (See 1997, 43 § 311.)

§ 35, sentence added, 1997, 77 § 1.

§ 51A amended, 1997, 197.

### **CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.**

§ 2 amended, 1997, 19 § 53.

§ 4 amended, 1997, 19 § 54.

§ 5 amended, 1997, 19 § 55.

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§ 34B amended, 1997, 19 § 56.

§ 40, subsection (e), sentence inserted after second sentence, 1997, 170 § 28.

§ 57 amended, 1997, 43 § 101. (See 1997, 43 § 311.)

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§ 2 amended, 1997, 19 § 57.

§ 23, first two paragraphs stricken out, five paragraphs inserted, 1997, 166 § 1; section amended, 1997 166 § 2 .

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§ 2 amended, 1997, 19 § 57.

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§ 133A, last sentence stricken out, 1997, 217 § 1.

§ 133C added, 1997, 217 § 2.

### **CHAPTER 128 - Agriculture.**

§ 38B added, 1997, 11 § 27.

### **CHAPTER 128A - Horse and Dog Racing Meetings.**

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§ 2, fifth paragraph, fourth sentence revised, 1997, 19 § 58.

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§ 44 amended, 1997, 140 § 1.

**CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.**  
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§ 4, clause (16) added, 1997, 43 § 102. (See 1997, 43 § 311.)

§ 21, first sentence revised, 1997, 19 § 59. (See 1997, 19 § 127.)

§ 21A revised, 1997, 19 § 60. (See 1997, 19 § 127.)

§ 80A revised, 1997, 19 § 61. (See 1997, 19 § 127.)

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(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

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§ 34A amended, 1997, 164 §§ 107, 108, 109, 110.

**CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.**  
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§ 16 amended, 1997, 164 § 111.

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**CHAPTER 141 - Supervision of Electricians.**

§ 7 amended, 1997, 164 § 112.

**CHAPTER 142 - Supervision of Plumbing.**

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(New chapter inserted, 1991, 453.)

§ 14 amended, 1997, 164 § 113.

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§ 46, first sentence stricken out and two sentences inserted, 1997, 205 § 1; paragraph added, 1997, 205 § 2.

§ 46A added, 1997, 205 § 5.

§ 48, first, second and third paragraphs stricken out and two paragraphs inserted, 1997, 205 § 3.

§ 49 revised, 1997, 205 § 4.

§ 64 amended, 1997, 205 § 6; sentence added, 1997, 205 § 7.

### **CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.**

§ 21A amended, 1997, 19 § 63.

§ 57 amended, 1997, 164 § 115.

### **CHAPTER 148 - Fire Prevention.**

§ 26E amended, 1997, 164 § 116.

### **CHAPTER 149 - Labor and Industries.**

§ 8 amended, 1997, 19 § 64.

§ 20C amended, 1997, 19 §§ 65, 66.

§ 27H, fourth and fifth sentences revised, 1997, 137.

§ 29A amended, 1997, 19 § 67.

§ 34B amended, 1997, 19 § 68.

§ 44A amended, 1997, 19 § 69.

§ 44E amended, 1997, 19 § 70.

§ 44F amended, 1997, 19 § 71.

§ 44J amended, 1997, 19 § 72.

§ 50A amended, 1997, 19 § 73.

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§ 56 amended, 1997, 19 § 75.

§ 60 amended, 1997, 19 § 76.

§ 72 amended, 1997, 19 § 77.

§ 76 amended, 1997, 19 § 78.

§ 79 amended, 1997, 19 § 79.

§ 87 amended, 1997, 19 §§ 80, 81.

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- § 90 amended, 1997, 19 § 82.
- § 132 amended, 1997, 19 § 83.
- § 142F amended, 1997, 19 § 84.
- § 145 amended, 1997, 19 § 85.
- § 148 amended, 1997, 164 § 117.
- § 162 amended, 1997, 19 § 86.
- § 184 amended, 1997, 19 §§ 87, 88, 89.
- § 185 amended, 1997, 19 § 90.

### CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

- § 3 amended, 1997, 19 § 91.

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- § 1 amended, 1997, 19 § 92.

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- § 16 amended, 1997, 19 § 93.

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- § 1 amended, 1997, 66 § 22.
- § 3 amended, 1997, 19 § 94.
- § 7 amended, 1997, 66 § 23.

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- § 17 amended, 1997, 19 § 95.

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§ 14A amended, 1997, 19 § 98.

§ 29D amended, 1997, 19 § 99.

§ 29F added, 1997, 88 § 30. (See 1997, 88 § 114.)

§ 41 amended, 1997, 19 § 100.

§ 46, paragraph (f), sentence added, 1997, 43 § 104; **section amended**, 1997, 88 § 31. (See 1997, 43 § 311; 1997, 88 § 114.)

§ 58 amended, 1997, 19 §§ 101, 102.

§ 62A added, 1997, 88 § 32. (See 1997, 32 § 114.)

§ 66 amended, 1997, 19 § 103.

§ 71C amended, 1997, 19 § 104.

§ 71F amended, 1997, 164 § 118.

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### **CHAPTER 151B - Unlawful Discrimination Because Of Race, Color, Religious Creed, National Origin, Ancestry Or Sex.**

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§ 4, subsection 1A, first paragraph, sentence added, 1997, 2 § 2; **section amended**, 1997, 19 §§ 105, 106. (See 1997, 2 § 4.)

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§ 13 amended, 1997, 19 § 109.

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§ 5 amended, 1997, 164 § 121.

§ 5A amended, 1997, 164 § 122.

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§ 66 revised, 1997, 19, § 110.

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§ 16 amended, 1997, 164 § 123.

§ 39 amended, 1997, 164 § 124.

§ 40 amended, 1997, 164 § 125.

### **(CHAPTER 159 - Common Carriers.**

§ 10 amended, 1997, 164 § 126.

§ 59 amended, 1997, 164 §§ 127, 128, 129, 130.

§ 65 amended, 1997, 164 §§ 131, 132, 133, 134, 135, 136.

§ 70 amended, 1997, 164 §§ 137, 138, 139, 140.

§ 73 amended, 1997, 164 § 141.

§ 74 amended, 1997, 164 §§ 142, 143, 144, 145.

§ 78 amended, 1997, 164 § 146.

§ 79 amended, 1997, 164 § 147.

§ 80 amended, 1997, 164 §§ 148, 149, 150, 151.

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§ 1 amended, 1997, 164 § 152.

§ 2 amended, 1997, 164 § 153.

§ 3 amended, 1997, 164 § 154.

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§ 2 amended, 1997, 164 §§ 155, 156, 157.

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### **CHAPTER 160 - Railroads.**

§ 1 amended, 1997, 164 § 159.

§ 104 amended, 1997, 164 §§ 160, 161.

§ 127A amended, 1997, 164 § 162.

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### **CHAPTER 161 - Street Railways.**

§ 1 amended, 1997, 164 § 167.

§ 82 amended, 1997, 164 § 168.

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§ 5, subsection (F4), sentence inserted after first sentence, 1997, 43 § 109; **section amended**, 1997, 164 § 174. (See 1997, 43 § 311.)

§ 11A amended, 1997, 164 § 175.

§ 22 amended, 1997, 164 §§ 176, 177.

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§ 6 amended, 1997, 164 § 178.

§ 8 amended, 1997, 164 § 179.

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§ 1 amended, 1997, 164 § 182.

#### CHAPTER 164 - Manufacture and Sale of Gas and Electricity.

§ 1, definition of "Aggregator" inserted, 1997, 164 § 183; definition of "Ancillary services" inserted, 1997, 164 § 184; definition of "Contract termination fee" inserted, 1997, 164 § 185; **section amended**, 1997, 164 § 186; definitions of "Default Service", "Distributed generation", "Distribution", "Distribution company", "Distribution facility" and "Distribution service" inserted, 1997, 164 § 187; definition of "Electric company" stricken out and definitions of "Electric company", "Electric service", "Energy efficiency" and "FERC" inserted, 1997, 164 § 188; definition of "Gas company" stricken out and definitions of "Gas company", "Generation", "Generation company", "Generation facility", "Generation service", "Horizontal market power" and "Mitigation" inserted, 1997, 164 § 189; definitions of "Renewable energy" or "renewables", "Residual value", "Retail access", "Retail customer", "Securitization" and "Service territory" inserted, 1997, 164 § 190; definition of "Supplier" inserted, 1997, 164 § 191; definitions of "Transition charge", "Transition costs", "Transmission", "Transmission company", "Transmission facility", "Transmission service", "Unbundled rates", "Vertical market power" and "Wholesale generation company" inserted, 1997, 164 § 192.

§ 1A added, 1997, 164 § 193.

§ 1B added, 1997, 164 § 193.

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§ 1D added, 1997, 164 § 193.

§ 1E added, 1997, 164 § 193.

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§ 2 amended, 1997, 164 §§ 194, 195.

§ 34A added, 1997, 164 § 196.

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- § 56D amended, 1997, 164 § 198.
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- § 69H, first paragraph revised, 1997, 164 § 204; fifth paragraph amended, 1997, 164 § 205. (See 1997, 164 § 342.)
- § 69H½ amended, 1997, 164 § 206.
- § 69I, fourth paragraph revised, 1997, 164 § 207; two paragraphs added, 1997, 164 § 208.
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§ 28 amended, 1997, 164 § 251.

### CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

§ 4 amended, 1997, 164 § 252.

§ 7 amended, 1997, 164 § 253.

§ 8 amended, 1997, 164 § 254.

§ 11 amended, 1997, 164 § 255.

§ 15E amended, 1997, 164 §§ 256, 257, 258, 259, 260, 261, 262.

§ 22A amended, 1997, 164 § 263.

§ 22L amended, 1997, 164 § 264.

§ 25A amended, 1997, 164 § 265; last paragraph stricken out and two paragraphs inserted, 1997, 164 § 266.

§ 27 amended, 1997, 164 § 267.

§ 44 amended, 1997, 164 §§ 268, 269.

### CHAPTER 166A - Community Antenna Television Systems.

§ 1 revised, 1997, 43 § 110; definition of "Division" inserted, 1997, 88 § 33; definitions of "Community antenna television system" or "CATV system" stricken out and definitions of "Commission" and "Community antenna television system" or "CATV system" inserted, 1997, 164 § 270; definition of "Director" stricken out and definition of "Department" inserted, 1997, 164 § 271; definition of "Licensee" revised, 1997, 164 § 272. (See 1997, 43 § 311; 88 § 114.)

§ 2, first paragraph revised, 1997, 43 § 111; **section amended**, 1997, 43 §§ 112, 113; first paragraph, sentence added, 1997, 88 § 34; second paragraph amended, 1997, 88 § 35; **section amended**, 1997, 164 § 273. (See 1997, 43 § 311; 88 § 114; 164 § 344.)

§ 2A amended, 1997, 43 §§ 114, 115, 116. (See 1997, 43 § 311.)

§ 3 amended, 1997, 43 § 117. (See 1997, 43 § 311.)

§ 4 amended, 1997, 43 § 118. (See 1997, 43 § 311.)

§ 5 amended, 1997, 43 § 119. (See 1997, 43 § 311.)

§ 7 amended, 1997, 43 § 120. (See 1997, 43 § 311.)

§ 8 amended, 1997, 43 § 121. (See 1997, 43 § 311.)

§ 10 amended, 1997, 43 § 122; **section amended**, 1997, 164 § 274. (See 1997, 43 § 311.)

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§ 12 amended, 1997, 43 § 124; **section amended**, 1997, 164 § 275. (See 1997, 43 § 311.)

§ 13 amended, 1997, 43 § 125. (See 1997, 43 § 311.)

§ 14 amended, 1997, 43 § 126. (See 1997, 43 § 311.)

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§ 20 amended, 1997, 164 § 277.

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§ 113B, paragraph added, 1997, 43 § 130. (See 1997, 43 § 311.)

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§ 1, definition of "Health plan", second sentence revised, 1997, 19 § 115.

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