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# ACTS AND RESOLVES

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

# 2000

VOLUME II

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





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**Chapter 161. AN ACT AUTHORIZING THE TOWN OF WAYLAND TO GRANT REAL ESTATE TAX REBATES TO CERTAIN PROPERTY OWNERS.**

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

The town of Wayland may appropriate monies for and grant property tax rebates in an amount not to exceed \$750 annually to persons who qualify for a credit on their Massachusetts income tax under the provisions of subsection (k) of section 6 of chapter 62 of the General Laws.

Approved July 31, 2000.

**Chapter 162. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF CERTAIN TOWN MEETINGS IN THE TOWN OF GROVELAND.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or by-law to the contrary, the acts and proceedings taken by the town of Groveland at its 1995 and 1999 annual town meetings, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed notwithstanding any defect or omission in posting the warrants for said annual town meetings.

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

Approved August 1, 2000.

**Chapter 163. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE 2000 ANNUAL TOWN MEETING OF THE TOWN OF RANDOLPH.**

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

**SECTION 1.** Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, the acts and proceedings taken by the town of Randolph at its annual town meeting commenced on April 24, 2000, are hereby ratified, validated and confirmed to the same extent as if notice of such meeting had been posted and published in full compliance with law.

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

Approved August 1, 2000.

**Chapter 164. AN ACT RELATIVE TO THE CRIME OF CRIMINAL HARASSMENT.**

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

Chapter 265 of the General Laws is hereby amended by inserting after section 43 the following section:-

Section 43A. (a) Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than two and one-half years or by a fine of not more than \$1,000, or by both such fine and imprisonment. Such conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device including, but not limited to, electronic mail, internet communications or facsimile communications.

(b) Whoever, after having been convicted of the crime of criminal harassment, commits a second or subsequent such crime, or whoever commits the crime of criminal harassment having previously been convicted of a violation of section 43, shall be punished by imprisonment in a house of correction for not more than two and one-half years or by imprisonment in the state prison for not more than ten years.

Approved August 1, 2000.

**Chapter 165. AN ACT RELATIVE TO THE LEASING OF CERTAIN PROPERTY BY THE TOWNS OF GROVELAND, MERRIMAC AND WEST NEWBURY.**

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

The towns of Groveland, Merrimac and West Newbury are hereby authorized to lease land and buildings to the Pentucket Regional School District for any new or existing elementary school. The lease shall be for a term not exceeding 50 years and shall be authorized, executed and delivered on behalf of each town by its board of selectmen and by said school district by the regional district school committee. The lease may provide, without limitation, that it shall terminate and the leased property shall revert to the town if the town should no longer be a member of the regional school district or if the regional school district

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school committee should determine that the land, with the building and other improvements thereon, is no longer needed for educational programs of the school district.

Approved August 1, 2000.

### **Chapter 166. AN ACT RELATIVE TO DISCLOSURE OF INFORMATION TO THE STATE POLICE VIOLENT FUGITIVE ARREST SQUAD.**

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

**SECTION 1.** Section 2 of chapter 18 of the General Laws, as so appearing, is hereby amended by inserting after the word "default", in line 159 the following words:- or arrest.

**SECTION 2.** Said section 2 of said chapter 18, as so appearing, is hereby further amended by inserting after the word "default", in line 166 the following words:- or arrest.

**SECTION 3.** Said section 2 of said chapter 18, as so appearing, is hereby further amended by inserting after the word "default", in line 167, the following words:- or arrest.

**SECTION 4.** Paragraph (f) of the seventh paragraph of subsection (D) of said section 2 of said chapter 18, as so appearing, is hereby amended by adding the following paragraph:-

If a hearing is requested to challenge the termination of benefits due to an outstanding default or arrest warrant, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section.

**SECTION 5.** Chapter 22C of the General Laws is hereby amended by inserting after section 36 the following section:-

Section 36A. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department of state police, including the state police violent fugitive arrest squad, and local police departments, shall be provided with identifying information upon request from the records or files of any agency, department, commission, division or authority of the commonwealth for the sole purpose of identifying and locating individuals wanted on default or arrest warrants; provided, that only identifying information including, but not limited to, name, date of birth, all pertinent addresses, telephone number and social security number shall be made available to the state police and local police departments. Information about any individual, except the individual against whom a default or arrest warrant was issued, may not be requested by the departments under this section.

**SECTION 6.** Section 36 of chapter 62C of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-



No person against whom a default or arrest warrant issued by any court of the commonwealth is outstanding may be issued a state tax refund. In lieu of the payment, the taxpayer shall receive notice informing the taxpayer that the refund is being withheld because there is a default or arrest warrant outstanding for such individual and that the refund will be withheld until the individual furnishes sufficient proof that the default or arrest warrant has been recalled or that no such warrant exists. Such refund shall be issued upon presentation of sufficient proof to the commissioner that said warrant has been recalled or that there is no such warrant outstanding for the individual. The commissioner of revenue shall promulgate regulations to implement this section, which shall include the opportunity for a hearing to challenge the existence of the outstanding warrant. If a hearing is requested, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section.

**SECTION 7.** Section 8 of chapter 62E of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following two sentences:- Such information may also be disclosed to the state police, including the state police violent fugitive arrest squad, and local police departments, for the sole purpose of identifying and locating individuals wanted on default or arrest warrants. Only identifying and locating information, including, but not limited to, the name, date of birth, all pertinent addresses, telephone number and social security number of such individuals shall be made available to the state police and local police departments pursuant to this section.

**SECTION 8.** Section 17A of chapter 66 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following two sentences:- The state police, including the state police violent fugitive arrest squad, and local police departments, shall also be provided with identifying and locating information upon request from the department's records or files for the sole purpose of identifying and locating individuals wanted on default or arrest warrants. Only identifying information including, but not limited to, the name, date of birth, all pertinent addresses, telephone number and social security number of such individuals shall be made available to the state police and local police departments pursuant to this section.

**SECTION 9.** Section 22 of chapter 90 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(i) The registrar shall suspend the license to operate motor vehicles of a person against whom an arrest or default warrant issued by any court in the commonwealth is outstanding. Evidence of the outstanding warrant appearing in the warrant management system shall be sufficient grounds for such action by the registrar. The person shall receive notice that his license shall be suspended in 90 days due to an outstanding warrant unless such person furnishes proof to the registrar that such warrant has been recalled or does not

exist. A person whose license has been suspended due to an outstanding warrant may petition for reinstatement of such license at any time if he can furnish sufficient proof as determined by the registrar that such warrant has been recalled. The registrar shall promulgate regulations to implement this section, which shall include the opportunity for a hearing to challenge the existence of the outstanding warrant. If a hearing is requested, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section.

**SECTION 10.** Section 25 of chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(i) Any period during which the individual applying for or receiving benefits has a default or arrest warrant outstanding against him, to the extent that federal law allows such benefits not to be paid. In order to determine if an individual has an outstanding default or arrest warrant against him, the department shall transmit to the criminal history systems board a list of applicants and beneficiaries along with sufficient identifying information about such applicants and beneficiaries on at least a quarterly basis. The criminal history systems board shall send to the department a list of the applicants or beneficiaries who have a default or arrest warrant outstanding. Evidence of the outstanding default or arrest warrant appearing in the warrant management system established by section 23A of chapter 276 shall be sufficient grounds for such action by the department. The department shall notify individuals against whom there is a default or arrest warrant outstanding that their benefits shall be denied or suspended unless the individual furnishes proof within 30 days of such notice that such warrant has been recalled or that there is no such warrant outstanding for the individual. Notice of potential denial or suspension shall be deemed sufficient if the notice is mailed to the most recent address furnished to the department. If proof that such warrant has been recalled or that there is no such warrant outstanding is furnished within 30 days, and if the applicant would otherwise be entitled to benefits, such benefits shall be provided from the time that they would have been provided had there not been a denial or suspension of benefits. If no such proof is furnished within 30 days, the individual shall be notified that benefits are denied or suspended subject to the provisions of subsection (b) of section 39. If a hearing is requested, within the ten-day period provided by said subsection (b) of said section 39, no suspension of benefits shall occur until a hearing has taken place and a determination by the commissioner or his authorized representative has been made. If a hearing is requested, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section. A

person whose benefits have been denied or suspended due to an outstanding warrant may petition for reinstatement of such benefits at any time if such person can furnish sufficient proof as determined by the department that such warrant has been recalled. Such benefits will be provided from the time the warrant was recalled. The department shall promulgate regulations to implement this section.

**SECTION 11.** Subsection (c) of section 46 of said chapter 151A, as so appearing, is hereby amended by adding the following clause:-

(6) to the state police, including the state police violent fugitive arrest squad, and local police departments, identifying and locating information, upon request for the sole purpose of identifying and locating individuals wanted on default or arrest warrants. Only identifying information including, but not limited to, name, date of birth, all pertinent addresses, telephone number and social security number shall be made available to the state police and local police departments pursuant to this section.

**SECTION 12.** Section 7 of chapter 152 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(3) No individual shall receive or continue to receive benefits under this chapter if such individual has an outstanding default or arrest warrant against him. In order to determine if an individual has an outstanding default or arrest warrant against him, the department shall transmit to the criminal history systems board a list of applicants and beneficiaries along with sufficient identifying information about such applicants and beneficiaries on at least a quarterly basis. The criminal history systems board shall send to the department a list of any applicants or beneficiaries who have a default or arrest warrant outstanding. Evidence of the outstanding default or arrest warrant appearing in the warrant management system established by section 23A of chapter 276 shall be sufficient grounds for such action by the department. The department shall notify the person against whom there is a default or arrest warrant outstanding that such person's benefits shall be denied or suspended unless such person furnishes proof within 30 days that such warrant has been recalled or that there is no such warrant outstanding for such person. Notice of potential denial or suspension shall be deemed sufficient if the notice is mailed to the most recent address furnished to the department. If proof that such warrant has been recalled or that there is no such warrant outstanding is furnished within 30 days, and if the applicant would otherwise be entitled to benefits, such benefits shall be provided from the time that they would have been provided had there not been a denial or suspension of benefits. If no such proof is furnished within 30 days, such person shall be notified that such benefits are denied or suspended subject to the opportunity for a hearing. After such notice to such person has been delivered or mailed by the department, such person may request a hearing within 90 days with respect to the existence of an outstanding warrant. If a hearing is requested within ten days from the time the notice that benefits are being denied or suspended is mailed or delivered, benefits shall not be suspended until a finding following the hearing. If a hearing is requested, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of



hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section. The department shall issue a finding within 45 days of conducting the hearing as to whether there is a warrant. If there is a warrant outstanding, the benefits shall not be issued or shall be suspended. A person whose benefits have been denied or suspended due to an outstanding warrant may petition for reinstatement of such benefits at any time if such person can furnish sufficient proof as determined by the department that such warrant has been recalled. Such benefits will be provided from the time the warrant was recalled. The department shall promulgate regulations to implement this section.

**SECTION 13.** Section 37E of chapter 266 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(e) A law enforcement officer may arrest without warrant any person he has probable cause to believe has committed the offense of identity fraud as defined in this section.

**SECTION 14.** Section 23A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Whenever a court is requested to issue a warrant, the requesting authority shall provide to the court the person's name, last known address, date of birth, gender, race, height, weight, hair and eye color, the offense or offenses for which the warrant is requested, a designation of the offense or offenses as felonies or misdemeanors, any known aliases and any such information as shall be required for a warrant to be accepted by the criminal justice information system maintained by the criminal history systems board. A warrant which contains the above information as provided by the individual for whom the warrant is being issued shall not be nullified if such information is later found to be inaccurate. An individual or law enforcement official seeking issuance of a warrant which does not contain all of the above required fields may apply to the clerk of the court for an exemption from this requirement. Such exemption shall be automatically granted upon the request of any law enforcement official or agency. No rights regarding the validity of a warrant may arise from such requirements not being met. Such information and the name of the police department responsible for serving the warrant shall be entered by the clerk's office into a computer system to be known as the warrant management system. All warrants appearing in the warrant management system shall be accessible through the criminal justice information system, maintained by the criminal history systems board, to law enforcement agencies and the registry of motor vehicles. The warrant shall consist of sufficient information electronically appearing in the warrant management system, and a printout of the electronic warrant from the criminal justice information system shall constitute a true copy of the warrant. Such warrants appearing electronically in the warrant management system and, in turn, in the criminal justice information system, shall constitute notice and delivery of said warrants to the police department responsible for serving the warrant. Whenever a warrant

is recalled or removed, the clerk's office shall, without any unnecessary delay, enter the same in the warrant management system which entry shall be electronically transmitted to the criminal justice information system.

**SECTION 15.** Said section 23A of said chapter 276, as so appearing, is hereby further amended by adding the following paragraph:-

The issuing court shall provide notification, either before the issuance of a default or arrest warrant or no later than 30 days after the issuance of the warrant, to the subject of the warrant. Such notice shall contain the following information: the name and address of the issuing court, a description of the charge for which the warrant is being issued, a description of the method by which the individual may clear the warrant and a summary of the consequences the individual may face for not responding to the warrant. Such notice shall be deemed satisfactory if notice is mailed to the address stated on the warrant.

**SECTION 16.** Said chapter 276 is hereby further amended by inserting after section 23A the following section:-

Section 23B. (a) Any agency, department, commission, division or authority of the commonwealth that issues a professional license, certificate, permit or authorization to engage in a profession, trade, or business shall ensure that such license, certificate, permit or authorization is suspended for a person who has a default or arrest warrant outstanding against him.

(b) In order to determine if a person has an outstanding warrant against him, the licensing authorities referenced in subsection (a) shall transmit to the criminal history systems board, in an electronic format and reporting schedule approved by the executive director of the criminal history systems board, a list of persons who are registered with such licensing authorities on an annual basis. The criminal history systems board shall, subject to appropriation, remit to each licensing authority a list of persons who have received a license, certificate, permit or authorization to engage in a profession, trade, or business against whom there is an outstanding default or arrest warrant issued by any court of the commonwealth. Evidence of the outstanding default or arrest warrant appearing in the warrant management system as established by section 23A shall be sufficient grounds for such suspension.

(c) Each licensing authority shall notify persons against whom there is a default or arrest warrant outstanding that their license, certificate, permit or authorization shall be suspended unless the person furnishes proof within 30 days that such warrant has been recalled or that there is no such warrant outstanding against the person. Such notification shall be deemed sufficient if the notice is mailed to the address listed on the license, certificate, permit or authorization or application for the license, certificate, permit or authorization. If no such proof is furnished within 30 days, the person shall be notified that such license, certificate, permit or authorization is suspended subject to the opportunity for a hearing. After such notice to the person has been delivered or mailed by the licensing authority, the person may request a hearing within 90 days with respect to the existence of an outstanding warrant. If a hearing is requested within ten days from the time the notice that



the license, certificate, permit or authorization is suspended is mailed or delivered, the license, certificate, permit or authorization shall not be suspended until a finding following the hearing. If a hearing is requested as provided for in this chapter, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section. The licensing authority shall issue a finding within 45 days of conducting the hearing as to the existence of a warrant. If there is a warrant outstanding, the license, certificate, permit or authorization shall be suspended. Said license shall not be renewed or reinstated without sufficient proof that the warrant has been cleared.

(d) For the purposes of this section, a professional license shall mean any license, permit, certificate, registration, authority or similar form of permission necessary to engage in a trade or profession issued by an agency, department, commission, division or authority of the commonwealth.

(e) The licensing authorities referenced in this section shall promulgate regulations to implement this section. Implementation of this section shall be subject to appropriation.

**SECTION 17.** Section 30 of said chapter 276, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 10, the words "fifty dollars" and inserting in place thereof the following figure:- \$75.

**SECTION 18.** Said chapter 276 is hereby further amended by striking out section 31, as so appearing, and inserting in place thereof the following section:-

Section 31. Whenever a court issues a default warrant solely due to the person's failure to pay a fine, assessment, court cost, restitution, support payment or other amount as ordered by the court or required by law, the court shall specify the amount owed, including an additional assessment of \$50 which assessment may be waived by the court upon a finding of good cause, with a statement that the warrant against the person may be discharged upon payment of the amount and the assessment, if any, and shall note the same in the warrant management system. The administrative office of the trial court shall accept payment of such fine, assessment, court cost, restitution, support payment or other amount as ordered by the court, along with any assessment, to be remitted by mail, telephone or other electronic means, in any form deemed acceptable by the trial court. Upon receipt of payment, the warrant against the person shall be discharged, the discharge shall be noted in the warrant management system and the individual shall receive notice of the discharge within seven days.

**SECTION 19.** Sections 6, 10 and 12 shall take effect on August 1, 2001. Section 16 shall take effect on August 1, 2002. Section 15 shall apply only to warrants issued after the effective date of this act.

Approved August 4, 2000.

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## Chapter 167. AN ACT FURTHER ESTABLISHING THE RIGHTS OF INNKEEPERS.

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

Chapter 140 of the General Laws is hereby amended by inserting after section 12 the following four sections:-

Section 12A. For the purpose of sections 12B to 12D, inclusive, the word "hotel" shall mean a hotel, motel, resort, boarding house, or inn, which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy.

Section 12B. An innkeeper may remove or cause to be removed from a hotel a guest or other person who: refuses or is unable to pay for accommodations or services; while on the premises of the hotel acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a disturbance; or violates a rule of the hotel that is clearly and conspicuously posted at or near the front desk and on the inside of the entrance door of every guest room. If the guest has paid in advance, the innkeeper shall tender to the guest any unused portion of the advanced payment at the time of removal.

Section 12C. (a) An innkeeper may refuse to admit or refuse service or accommodation in the hotel to a person who: while on the premises of the hotel acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a public disturbance; or refuses or is unable to pay for the accommodations or services. An innkeeper may require the prospective guest to demonstrate an ability to pay. An innkeeper may require a parent or guardian of a minor to accept liability for the proper charges for the minor's accommodation, board, room, or lodging; and any damages to the guest room or its furniture or furnishings caused by the minor, and provide a credit card to cover the charges. When the parent or guardian cannot provide a credit card, the innkeeper may require the parent or guardian to make an advance cash deposit in an amount not exceeding \$100 for payment of any additional charges by the minor or any damages to the guest room or its furnishings. The innkeeper shall refund the damage deposit to the extent it is not used to cover any reasonable charges or damages.

(b) An innkeeper may limit the number of persons who may occupy a particular guest room in the hotel.

Section 12D. (a) A person who negligently or intentionally causes damage to the hotel or any furniture or furnishings within the hotel, shall be liable for damages sustained by the innkeeper, including the hotel's loss of revenue resulting from the inability to rent or lease rooms while the damage is being repaired.

(b) A person who negligently or intentionally causes injury to any other person or damage to any personal property of such other person on the hotel premises shall be liable for the injury or damage.

(c) A parent or guardian of a minor shall be liable for acts of the minor described in

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subsections (a) and (b), if the parent or guardian provides a credit card or an advance cash deposit.

Approved August 4, 2000.

**Chapter 168. AN ACT REQUIRING CONTINUING EDUCATION FOR ELECTROLOGISTS.**

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

Section 87GGG of chapter 112 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

The board shall adopt rules and regulations for a system of continuing education compliance which shall be a requirement and condition precedent to the renewal of a license issued by the board.

Approved August 4, 2000.

**Chapter 169. AN ACT RELATIVE TO CERTAIN BORROWING OF THE TOWNS OF GROVELAND AND MERRIMAC.**

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

**SECTION 1.** The towns of Groveland and Merrimac may incur debt, outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws for the following purpose and payable within 20 years: for paying power supply contract termination costs, which are incurred by the electric lighting plants in the towns of Groveland and Merrimac as part of a plan to restructure power supply arrangements with wholesale suppliers of electricity for resale by the electric lighting plants. The outstanding indebtedness so incurred shall not exceed 5 per cent of the equalized valuation of the respective town, unless the emergency finance board established pursuant to section 47 of said chapter 10 authorizes the town of Groveland and the town of Merrimac to incur indebtedness in excess of 5 per cent but not in excess of 10 per cent of the equalized valuation of the respective town. Debts may be authorized under this act only by a two-thirds vote of the voters present and voting at a town meeting duly called.

**SECTION 2.** This act shall cease to be effective on December 21, 2000.

Approved August 4, 2000.

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**Chapter 170. AN ACT AUTHORIZING THE CITY OF EASTHAMPTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority in the city of Easthampton may issue to The Log Cabin Banquet and Meeting House, Inc. an additional license for the sale of all alcoholic beverages to be drunk on the premises in said city under section 12 of said chapter 138. The license shall be subject to all the provisions of said chapter 138 except said section 17. The licensing authority shall not approve the transfer of the license to any other person, organization, corporation or location.

Approved August 4, 2000.

**Chapter 171. AN ACT RELATIVE TO ACCESS TO AUTOPSY REPORTS.**

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

The eighth paragraph of section 2 of chapter 38 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- If a medical examiner conducts an autopsy on a body of a deceased person who within six months before the date of death received services from a facility or program operated, contracted for, or licensed by the department of mental health, the office of the chief medical examiner shall provide a copy of the autopsy report, upon request, to the commissioner of mental health for the purpose of completing an investigation into the circumstances surrounding the death, if a next of kin does not object thereto.

Approved August 4, 2000.

**Chapter 172. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND UNDER THE CARE AND CONTROL OF THE DEPARTMENT OF CORRECTION TO THE TOWN OF CONCORD HOUSING AUTHORITY.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance is hereby authorized, notwithstanding the provisions of sections 40F to 40I, inclusive, of chapter 7 of the General Laws, to convey a parcel of land and the buildings thereon known as 365 Commonwealth Avenue in the town of Concord currently under the care and control of the department of correction to the Concord Housing Authority, and said



Concord Housing Authority is hereby authorized notwithstanding any general or special law to the contrary, acquire said parcel for public housing purposes. Said parcel shall be specifically described in a plan approved by said commissioner.

**SECTION 2.** The Concord Housing Authority shall pay full and fair market value for the property as determined by the commissioner of the division of capital asset management and maintenance based on an independent appraisal and shall assume all costs of appraisals, surveys, deed preparation and other expenses related to the conveyance of the property and shall be responsible for all costs and liabilities of its condition, ownership and operation. The inspector general shall review and comment on said appraisal, and said review and comment shall include an examination of the methodology utilized for said appraisal. The commissioner shall, 30 days prior to the conveyance authorized by this act, submit said appraisal and a report thereon to the inspector general. The inspector general shall prepare a report of his review of said appraisal and file said report with the commissioner, and copies of the same shall be filed with house and senate committees on ways and means and the chairmen of the joint committees on state administration. If said parcel ceases to be used for the purposes authorized herein or is used for any other purpose, then upon notice by the commissioner, all interest in the parcel shall revert to the commonwealth upon such terms and conditions as the commissioner may direct and its further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and to the prior approval of the general court.

Approved August 4, 2000.

## **Chapter 173. AN ACT ESTABLISHING THE ASSABET PUBLIC SAFETY DISTRICT.**

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

**SECTION 1.** As used in this act, the following words shall have the following meanings:-

"Appointing community", the member community in which an officer has been appointed as a police officer.

"District", the Assabet public safety district.

"Member community", the town of Berlin or the city of Marlborough.

"Member communities", the town of Berlin and the city of Marlborough.

"On-duty officer", an officer who has been assigned to duty, for whatever purpose, by the police department of his appointing community. Except when actually relieved of his official duties, the chief of police of the member communities shall be considered, for the purposes of this act, to be on-duty at all times.

"Other member community", the member community other than the one in which an officer has been appointed as a police officer.



**SECTION 2.** There is hereby established the Assabet Public Safety District, consisting of land and waters located in the town of Berlin and the city of Marlborough, the boundaries of which are described in section 9.

**SECTION 3. (a)** The city of Marlborough shall have primary responsibility for providing emergency and nonemergency police services to the district. In the case of emergency and nonemergency police services, officers of the Marlborough police department shall have primary jurisdictional authority within the district and officers of the Berlin police department shall have concurrent jurisdictional authority. Nothing in this section shall be deemed to effect either the inspection or license and permit issuing authority of the chiefs of police of the member communities.

**(b)** The city of Marlborough shall have primary responsibility for providing emergency and nonemergency fire services to the district. In regard to emergency fire services, the chief, officers and firefighters of the Marlborough fire department shall have primary jurisdiction within the district and the chief, officers and firefighters of the Berlin fire department shall have concurrent jurisdiction. Each fire chief of the member communities shall develop and issue, to his department, uniform protocols for providing emergency and nonemergency fire services to the district. Nothing in this section shall be deemed to effect either the inspection or license and permit issuing authority of the fire chiefs of the member communities.

**(c)** The city of Marlborough shall have primary responsibility for providing emergency medical services to the district. In regard to emergency medical services, the chief of the Marlborough fire department and the agents, employees or servants of the city of Marlborough shall have primary jurisdiction; the chief, officers and members of the Berlin rescue squad shall have concurrent jurisdiction. The chief of the Marlborough fire department and the chief of the Berlin rescue squad shall develop and issue to his department, uniform protocols for providing emergency medical services to the district.

**(d) (1)** The city of Marlborough's public safety answering point (PSAP) shall provide PSAP service to the district.

**(2)** The city of Marlborough's public safety communications unit shall be the designated answering or monitoring point for burglar, fire or other emergency alarms located within the district.

**(e)** The member communities may jointly enter into mutual aid agreements with nonmember communities for emergency medical services, fire and police mutual aid within the district. The chief of police of the city of Marlborough or his designee shall be authorized to request, pursuant to the provisions of section 99 of chapter 41 of the General Laws, mutual aid assistance within the district.

**SECTION 4. (a)** Within the district, police officers of the town of Berlin and the city of Marlborough shall have all the authority and powers of a constable or police officer, except as to service of civil process.

**(b)** Except in accordance with this act, section 99 of chapter 41 of the General Laws, any applicable police mutual aid agreement or any other statutory or common law grant of

extra-jurisdictional authority, police officers of the member communities shall not exercise the authority of a police officer in the other member community. Pursuant to this act, an on-duty police officer of a member community shall have all of the authority of a constable or police officer, except as to service of civil process, in the other member community; provided, however, that:

(1) the officer's presence in the other member community results from or is incidental to the officer's performance of his official duties for the district;

(2) the officer is aiding or assisting an officer of the other member community;

(3) the officer has responded to an incident or an offense in the other member community at the request of an officer or dispatcher of the police department of the other member community;

(4) the officer has responded to an incident or offense in the other member community in the belief that the incident or offense is occurring or did occur in his appointing community;

(5) the officer has observed an incident or offense occurring in the other member community and reasonably believes that immediate police action is required to protect life or property or to prevent the escape of a suspect;

(6) the officer is in fresh and continuous pursuit of a suspect who, the officer has probable cause to believe, committed a criminal offense or civil infraction in the officer's appointing community;

(7) the officer has been assigned to a task force or other specialized unit, consisting of officers of the member communities, and is engaged in performing duties related to such assignment; and

(8) the officer has been requested, by the police department of the other member community, to perform a paid detail within such other member community.

Each chief of police of the member communities shall develop and issue, to his department, a uniform policy and procedures for the exercise of such extra-jurisdictional authority.

**SECTION 5.** (a) Each criminal offense and civil infraction committed within the district shall, for the purposes of venue, be alleged to have been committed in the city of Marlborough. Such offenses and infractions shall be within the territorial jurisdiction of the district court of Marlborough and the superior court of Middlesex county. No defendant shall be discharged for want of jurisdiction if, at trial, the evidence discloses that the crime with which he is charged is determined to have been committed in Worcester county.

(b) The parking clerk of the city of Marlborough shall serve as the parking clerk for the district and may exercise all of the powers and authority granted to parking clerks by the general laws for the district.

(c) Nothing in this act shall be deemed to effect or alter any statutory provision for the disposition or disbursement of fines, penalties and court costs to municipalities.

**SECTION 6.** (a) The board of selectmen of the town of Berlin and the city council

of the city of Marlborough, may, by a majority vote of each body, enact regulations for the district relative to the maintenance of peace and order, the control of traffic and parking and the control of dogs and other animals. Such regulations shall take effect only after review and approval by the attorney general and publication in a newspaper of general circulation in the member communities. Violations of such regulations shall be enforceable by civil or criminal penalties, not to exceed \$300 per offense. Each regulation enacted shall specify whether it is civil or criminal in nature.

(b) Enactment of a specific regulation authorized by this section shall, within the district only, void any by-law of the town of Berlin or ordinances of the city of Marlborough regulating the same subject matter.

(c) A person, who remains within the district while in wilful violation of a regulation which is punishable by a criminal penalty, may be arrested by a police officer pursuant to the provisions of section 59 of chapter 272 of the General Laws.

**SECTION 7.** An agent, employee or officer of any public safety department of a member community shall not be required to take any additional oath of office prior to exercising any authority granted by this act.

**SECTION 8.** Except as specified herein, nothing in this act shall be deemed to limit or interfere with the authority or jurisdiction of any governmental body, court, officer, agency or department of the commonwealth, Middlesex or Worcester counties, the town of Berlin or the city of Marlborough.

**SECTION 9.** The Assabet public safety district is bounded and described as follows:

(a) The following parcels of land, located in the city of Marlborough in Middlesex County and the town of Berlin in Worcester county, located on the northerly side of Donald J. Lynch boulevard and the southerly side of Bridge road and Bigelow street, being shown as Lots DE2, DM2 and DM4 on an Approval Not Required Plan entitled: "Plan of Land in Marlborough, Mass. & Berlin, Mass.", dated November 15, 1994, Scale: 1" = 100', by Hayes Engineering, Inc., recorded December 29, 1994 with Middlesex south district registry of deeds as Plan No. 1306 of 1994 and with the Worcester district registry of deeds on December 23, 1994 as Plan Book 689, Plan 3.

(b) Those certain parcels of land in the city of Marlborough, located on the southerly side of Donald J. Lynch boulevard, being shown as Lot DM6 and Parcel 4 on an Approval Not Required plan entitled "Plan of Land in Marlborough, Mass." Scale 1" = 100', dated November 30, 1994, by Hayes Engineering, Inc., recorded with Middlesex south deeds as Plan No. 1307 of 1994.

(c) The land in the town of Berlin, shown as Parcel A on a plan entitled "Land in Berlin, Massachusetts, surveyed for E.L. Dauphinais, Inc.", dated June, 1987, prepared by Charles A. Perkins Company, Inc., recorded with Worcester district registry of deeds in Plan Book No. 588 as Plan No. 84.

(d) The land in the city of Marlborough, Massachusetts, being Grantor's remaining interest in Parcel 2 as shown on said Plan No. 1607 following the conveyance to Paramount Development Associates, Inc., by deed dated April 29, 1991, recorded with Middlesex south

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registry of deeds in Book 21125 Page 390 of Parcel E as shown on the plan entitled "Land in Marlborough, Mass. owned by Marlborough Associates II Realty Trust" dated October 19, 1990. Said "Parcel E Plan", recorded with said Middlesex south registry of deeds as Plan No. 305 of 1991, Book 21125, Page 389.

Approved August 4, 2000.

## Chapter 174. AN ACT RELATIVE TO THE ESTATE OF HOMESTEAD.

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

**SECTION 1.** Section 1 of chapter 188 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "one hundred thousand dollars" and inserting in place thereof the following figure:- \$300,000.

**SECTION 2.** Section 1A of said chapter 188, as so appearing, is hereby amended by striking out, in lines 4 and 5, and in line 29, the words "two hundred thousand dollars" and inserting in place thereof, in each instance, the following figure:- \$300,000.

**SECTION 3.** This act shall apply to declarations of homestead recorded or filed for registration pursuant to section 1 or 1A of chapter 188 of the General Laws before, on, or after the effective date of this act, but the increase in the amount of homestead protection for declarations recorded or filed for registration before the effective date of this act shall not have priority over, and shall be subordinate to, any lien, right or interest recorded or filed for registration before the effective date of this act.

Approved August 4, 2000.

## Chapter 175. AN ACT RELATIVE TO THE SALE OR DELIVERY OF ALCOHOLIC BEVERAGES OR ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to strengthen forthwith the criminal laws relative to the sale of alcoholic beverages to minors, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, safety and convenience.

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

Section 34 of chapter 138 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-



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No person shall receive a license or permit under this chapter who is under 21 years of age. Whoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 12 or 15, delivers or procures to be delivered in any public room or area of such establishment if licensed under section 12, 15, 19B, 19C or 19D or in any area of such establishment if licensed under said section 15, 19B, 19C or 19D any such beverages or alcohol to or for use by a person who he knows or has reason to believe is under 21 years of age or whoever procures any such beverage or alcohol for a person under 21 years of age in any establishment licensed under section 12 or procures any such beverage or alcohol for a person under 21 years of age who is not his child, ward or spouse in any establishment licensed under said section 15, 19B, 19C or 19D or whoever furnishes any such beverage or alcohol for a person under 21 years of age shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both. For the purpose of this section the word "furnish" shall mean to knowingly or intentionally supply, give, or provide to or allow a person under 21 years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol.

Approved August 4, 2000.

## **Chapter 176. AN ACT ESTABLISHING THE POSITION OF DEPUTY CHIEF OF POLICE IN THE CITY KNOWN AS THE TOWN OF FRANKLIN.**

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

**SECTION 1.** The city known as the town of Franklin may establish the position of deputy chief of police in the police department of said town of Franklin.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the position of deputy chief of police in the police department of the town of Franklin shall be exempt from the provisions of chapter 31 of the General Laws.

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

Approved August 4, 2000.



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**Chapter 177. AN ACT AUTHORIZING NONPROFIT HOSPITAL SERVICE CORPORATIONS AND NONPROFIT MEDICAL SERVICE CORPORATIONS TO MAKE CONTRACTS OF REINSURANCE.**

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

**SECTION 1.** Chapter 176A of the General Laws is hereby amended by inserting after section 1C the following section:-

Section 1D. Any corporation subject to this chapter may make contracts of reinsurance relating to the providing of medical or other health services or reimbursement thereof, but the costs of such reinsurance shall not inure to or otherwise affect the premiums charged for any policy offered, sold, issued or delivered by the corporation pursuant to chapter 176K or for any nongroup health plan offered, sold, issued or delivered by the corporation pursuant to chapter 176M.

**SECTION 2.** Chapter 176B of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. Any corporation subject to this chapter may make contracts of reinsurance relating to the providing of medical or other health services or reimbursement thereof, but the costs of such reinsurance shall not inure to or otherwise affect the premiums charged for any policy offered, sold, issued or delivered by the corporation pursuant to chapter 176K or for any nongroup health plan offered, sold, issued or delivered by the corporation pursuant to chapter 176M.

Approved August 6, 2000.

**Chapter 178. AN ACT DIRECTING THE RETIREMENT BOARD OF THE CITY OF WORCESTER TO RETIRE MICHAEL P. COAKLEY, A FIREFIGHTER OF THE CITY OF WORCESTER.**

*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 Worcester shall retire Michael P. Coakley, a firefighter of the city of Worcester who, as a result of serious injuries sustained while in the performance of his duties on December 3, 1999, is totally and permanently incapacitated from further service as a firefighter. The annual amount of pension payable to Michael P. Coakley under this act 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 firefighter in said city at the grade held by him at the time of his retirement, but (a) after he has attained the maximum age for his group, his retirement shall be reduced to the appropriate rate for an accidental disability retirement, treating his retirement years as creditable service for determining the amount of his benefits and (b) the retirement allowances payable to him after he has attained the maximum age for his group

shall be increased in the manner provided to all retirees of the city pursuant to any provision of chapter 32 of the General Laws.

Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation.

Upon the retirement of Michael P. Coakley, the retirement board of the city of Worcester shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said city.

**SECTION 2.** Upon the death of Michael P. Coakley prior to the maximum age for his group, if his wife at the time of the incident survives him, and as long as she remains unmarried, the city of Worcester shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and \$527.28 annually adjusted for a cost-of-living adjustment for each child of Michael P. Coakley for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full time student. Upon the death of Michael P. Coakley after the maximum age for retirement for his group, if his wife at the time of the incident survives him, she shall be entitled to the same benefits as other surviving spouses under chapter 32, as shall their children.

In the event of the death of Michael P. Coakley, and if his wife at the time of the incident does not survive him, such allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children, as defined above.

**SECTION 3.** Michael P. Coakley shall be eligible for health insurance through the city of Worcester on the same basis as all other retirees and be responsible for the retirees' share of all premiums.

**SECTION 4.** Following the retirement of Michael P. Coakley, the city of Worcester shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired.

(i) Medical care shall first be provided through the health insurance provided to retired city of Worcester employees pursuant to chapters 32B and 150E of the General Laws.

(ii) The city of Worcester shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured. The city of Worcester shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured. The city of Worcester shall pay to the health care providers the fees and other expenses for authorized services whose costs exceed applicable benefits limits, but whose payment is denied solely because of such applicable benefits limit.

(iii) Any such payments pursuant to this section shall meet all other eligibility requirements of said health insurance; provided, however, that Michael P. Coakley shall not be required to change health care providers; and provided, further, that any changes made by him in health care providers, and any referrals from current health care providers to health care providers who have not rendered care to him for injury for which he was retired, shall comply with paragraph (i).

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**SECTION 5.** Notwithstanding the provisions of any general or special law to the contrary, including, but not limited to, section 8 of chapter 32 of the General Laws, Michael P. Coakley shall not be subject to examination or re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in said chapter 32.

**SECTION 6.** Michael P. Coakley shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to the public employee retirement administration pursuant to section 91A of chapter 32 of the General Laws.

Michael P. Coakley shall be subject to the limitation of earnings formula as set forth in said section 91A, with the ability to earn the amount described in said section 91A plus an additional \$2,500.00. If he earns in excess of these allowable amounts, the public employee retirement administration shall inform him of the excess amount earned and the amount owed by him to the retirement board of the city of Worcester. The retirement administration shall, in its discretion, require repayment of that amount to said retirement board, or may withhold amounts as it deems appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

**SECTION 7.** The retirement allowances payable pursuant to this section shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements in the normal course of events pursuant to said chapter 32, except to the extent that said chapter 32 conflicts with this act.

Approved August 6, 2000.

## **Chapter 179. AN ACT AUTHORIZING THE TOWN OF CONCORD TO CONVEY A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF ACTON.**

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

**SECTION 1.** Notwithstanding the provisions of section 15B of chapter 40 of the General Laws, the town of Concord may convey a certain parcel of land located in the town of Acton which was obtained for water supply purposes to the Palmer Family Trust. The parcel is identified on the town of Acton Assessors Map as parcel 29, sheet D4.

**SECTION 2.** In consideration for the conveyance authorized in section 1, the Palmer Family Trust shall convey a certain parcel of land located in the town of Acton to the town of Concord to be used in connection with the abutting town of Concord ozone treatment facility. The parcel is shown on a plan of land entitled "Proposed Land Transfer" drawn by Haley and Ward, Inc., dated September, 1993.

**SECTION 3.** The commissioner of the division of capital asset management and maintenance shall determine the value of the parcels described herein, based upon independent appraisals. The inspector general shall review and comment on the appraisals, and the review and comment shall include an examination of the methodology utilized for the appraisal. The commissioner shall, 30 days prior to the conveyances authorized by this act, submit the appraisals and reports thereon, to the inspector general. The inspector general shall prepare a report of his review of the appraisal and file the reports with the commissioner, and copies of same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committees on state administration.

Approved August 6, 2000.

## **Chapter 180. AN ACT RELATIVE TO THE NASHOBA REGIONAL SCHOOL DISTRICT.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the Nashoba regional school district agreement is hereby amended by striking out section 1 (A) and inserting in place thereof the following section:-

Section 1.(A) The powers and duties of the regional school district shall be vested in and exercised by a regional school district committee, sometimes referred to as the committee. The committee shall consist of eight members: three from the town of Lancaster, three from the town of Stow and two from the town of Bolton. Such committee shall be elected at the 2001 annual election of each town as follows:

Bolton: two members to be elected, one for a term of three years and one for a term of two years;

Lancaster: three members to be elected, one for a term of one year, one for a term of two years, and one for a term of three years;

Stow: three members to be elected, one for a term of one year, one for a term of two years, and one for a term of three years.

At the expiration of each term set forth above, each town will elect a member for a term of three years.

Upon the election of the school committee members in the 2001 annual election of each town as provided above, the office of the existing school committee members from that town shall terminate.

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

Approved August 6, 2000.



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**Chapter 181. AN ACT AUTHORIZING THE CONVEYANCE TO THE TOWN OF BILLERICA OF A CERTAIN PARCEL OF LAND TO BE USED FOR CONSTRUCTION OF A WATER TREATMENT PLANT.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance, notwithstanding the provisions of section 40H of chapter 7 of the General Laws, may convey for consideration to the town of Billerica, a certain parcel of land to be used for the construction of water treatment plant, the parcel being situated in the town of Billerica and currently under the care and control of the Middlesex sheriff's department. The parcel of land located on the easterly side of state highway route 3 north in the town is shown as parcel 111 on the town assessor's Map 59.

In consideration of the conveyance, the town shall convey to the commonwealth, to be placed under the care and control of the Middlesex sheriff's office, a portion of a certain parcel of land located on the east side of Treble Cove road, the portion beginning at the northwest corner, at a point on the sideline of Treble Cove road, said point located 170.16' south from a point of curvature, at land of the town of Billerica, running

S74° 42' 44" E, two hundred fifty feet, along land of the town of Billerica to a point,

Thence S15° 17' 16" W, seventy-nine and twenty-one one hundredths feet, along land of the town of Billerica to a point,

Thence S24° 4' 28" W, one hundred seventy-eight and fifty-eight one hundredths feet, along land of the town of Billerica to a point,

Thence R=1046.14', L=370.51', along a curve to the right along land of the town of Billerica to a point,

Thence S 44° 22' 1" W, one hundred fifteen and twenty-six one hundredths feet, along land of the town of Billerica to a point,

Thence R=179.47', L=58.70', along a curve to the left along land of the town of Billerica to a point,

Thence R=1381.08', L=215.33', along a curve to the left, along land of the town of Billerica to a point,

Thence N 73° 18' 29" W, two hundred fifty feet, along land of the town of Billerica to a point on the east side of Treble Cove Road,

Thence R=1631.08', L=254.31', along a curve to the right along Treble Cove Road to a point,

Thence R=429.47', L=140.48', along a curve to the right along Treble Cove Road to a point,

Thence N 44° 22' 1", one hundred fifteen and twenty-six one hundredths feet, along Treble Cove Road to a point,

Thence R=796.14', L=281.97', along a curve to the left along Treble Cove Road to a point,

Thence N 24° 4' 28" E, one hundred fifty-nine and thirty-seven one hundredths feet, along Treble Cove Road to point,



Thence N 15° 17' 16"E, sixty feet, along Treble Cove Road to a point at land of the town of Billerica, said point being the point of beginning.

The portion consists of 253,623 square feet or 5.82 acres of land area and is shown on "Lease Plan of Land in Billerica, Massachusetts, dated December 29, 1998, prepared by Merrimack Engineering Services, 66 Park Street, Andover, Massachusetts".

**SECTION 2.** There shall be an independent appraisal for the use described herein of the fair market value of the property conveyed by the commonwealth to the town of Billerica and of the parcels of land conveyed to the commonwealth to be placed under the care and control of the Middlesex sheriff's office. The inspector general shall review and approve the appraisals and the review shall include a review of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration in accordance with this act. If the consideration offered by the town of Billerica is less than the value of the property to be conveyed by the commonwealth, then the town of Billerica shall pay the amount of the difference between the two values to the commonwealth, but if the commissioner determines that the consideration for any of the above referenced parcels of land should be less than at fair market value, the commissioner shall provide a written disclosure in the central register, detailing the reasons for such determination. The consideration for the parcels of land shall take into account the obligations placed on the town and the sheriff's office required by this section and the benefits of the projects to the town, to the surrounding communities, to the commonwealth and to the sheriff's office. The commissioner 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. 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 amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to execution.

The plan for the construction of the water treatment plant shall be subject to the approval of the department of environmental protection.

The town of Billerica shall pay all expenses associated with and any cost of appraisals, surveys and other expenses relating to the transfer of land, and any cost and liabilities and expenses of any nature and kind for its ownership, maintenance or operation.

**SECTION 3.** In the event the parcel of land conveyed by section 1 to the town of Billerica is not used for the construction of a water treatment plant or the conditions and restrictions to the conveyance are not fulfilled, title in all interests in the parcel of land shall revert to the commonwealth. In the event the parcel of land conveyed by section 1 to the commonwealth and placed under the care and control of the Middlesex sheriff's office is not

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used under the terms agreed to upon the execution of this act, title in all interests in the parcel of land shall revert to the town.

Approved August 6, 2000.

## **Chapter 182. AN ACT RELATIVE TO THE SEEKONK WATER DISTRICT.**

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

Chapter 381 of the acts of 1945 is hereby amended by inserting after section 9 the following section:-

*Section 9A.* Notwithstanding chapter 32B of the General Laws or any other general or special law to the contrary, the amount of compensation paid to elected officials of the Seekonk Water District shall not make such officials eligible for medical, dental or life insurance coverage.

Approved August 6, 2000.

## **Chapter 183. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF ANDOVER TO GRANT AN EASEMENT.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the conservation commission of the town of Andover may grant to the board of selectmen on behalf of the town an easement in a certain parcel of conservation land for utility purposes including constructing, maintaining and repairing water and sewer pipes within the parcel. The parcel is shown on a plan of land entitled "Mill Dam Estates in Andover, Mass." sheet 2 of 12 which plan is recorded in the Essex north district registry of deeds as Plan #10577 and as further shown as land on town of Andover Assessor's Map 121, Lot 2U.

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

Approved August 6, 2000.

## **Chapter 184. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF BECKET.**

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

**SECTION 1.** Chapter 662 of the acts of 1989 is hereby amended by striking out section 3, inserted by section 1 of chapter 158 of the acts of 1996, and inserting in place thereof the following section:-

*Section 3.* There shall be a board of selectmen elected as provided in section 2.

**SECTION 2.** Section 4 of said chapter 662, as so appearing, is hereby amended by adding the following clause:-

(v) zoning enforcement officer.

**SECTION 3.** Section 5 of said chapter 662, as so inserted, is hereby amended by inserting after the word "Becket", in line 9, the following words:- except that he may be appointed zoning enforcement officer.

Approved August 6, 2000.

## **Chapter 185. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN LAND IN THE TOWN OF LANCASTER.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance shall, notwithstanding any general or special law to the contrary but subject to the provisions of section 40J of chapter 7 of the General Laws and in consultation with the inspector general, execute and deliver in the name of and on behalf of the commonwealth one or more instruments to lease for a period of 99 years, a certain parcel of land in the town of Lancaster, currently used in part by the Robert F. Kennedy Children's Action Corps hereinafter referred to as RFKCAC, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, which parcel shall not exceed 25 acres with the buildings thereon, for consideration described in sections 2 and 3 of this act, to RFKCAC or a corporation organized for the exclusive purpose of holding title to property owned by RFKCAC, in order to provide the opportunity to relocate certain of the programs on the site which is shared with the department of correction and to continue and enhance the ability of RFKCAC to care for the children entrusted to its care by the commonwealth.

Said parcel is bounded and described as follows:

Beginning on the southerly side of Bolton Road at the most westerly corner of the premises at land of John H. & Charlotte Creighton; thence easterly by the southerly side of Bolton Road about one thousand eight hundred eighty and 00/100 (1,880') feet to a point; thence S02°-00'09"E about two hundred seventy-seven (277') feet to an existing spike; thence S60°-33'-38"W eighty-one and 48/100 (81.48') feet to an existing spike; thence S47°-05'-34"W forty and 99/100 (40.99') feet to an existing spike; thence S02°-08'-49"E one hundred sixty-four (164') feet to a spike; thence S68°-45'-31"W one hundred nine and 53/100

(109.53') feet to a spike; thence S81°-05'-40"W one hundred seventy and 40/100 (170.40') feet to a spike; thence S07°-03'-29"W four hundred forty and 25/100 (440.25') feet to a spike; said spike being 4.0 feet off the existing building; thence S08°-03'-07"W about two hundred sixteen (216') feet to the north side of Old Common Road; thence northwesterly by the northerly side of Old Common Road about six hundred thirty-five (635') feet to land of Edward W. Joyner & Suzanne M. Barrett at a concrete bound; thence northeasterly by said Edward W. Joyner and Suzanne M. Barrett about eighty-five (85') feet to a point; thence northwesterly, sixteen and 5/10 (16.5') feet by land of Edward W. Joyner and Suzanne M. Barrett; thence northeasterly, six and 6/10 (6.6') feet by land of Edward W. Joyner and Suzanne M. Barrett; thence northwesterly, one hundred ninety-two and 72/100 (192.72') feet by land of Edward W. Joyner and Suzanne M. Barrett to land owned by the Commonwealth; thence northeasterly, by said land one hundred one and 34/100 (101.34') feet to a point; thence northwesterly, by said land about two hundred twelve (212') feet to a point; thence southwesterly by said land two hundred (200') feet to the northerly side of Old Common Road; thence northwesterly by the northerly side of Old Common Road about two hundred twenty-seven (227') feet to land of Town of Lancaster; thence northeasterly by land of Town of Lancaster about two hundred five (205') feet to a point; thence northwesterly by land of Town of Lancaster, Stanley L. & Mary Hollywood and John H. & Charlotte Creighton about four hundred eighty (480') feet to a point of beginning.

**SECTION 2.** The consideration for the lease described in section 1 shall be in the form of capital expenditures for a new residential facility and a new educational facility to be constructed on the leased premises, to replace those facilities now used by RFKCAC on that portion of the property currently shared with the department of correction which will not be leased pursuant to this act, in capital improvements to the buildings on the parcel or parcels to be leased, and for such additional consideration, if any, that the inspector general deems necessary to effectuate and achieve the full and fair market value of the lease or leases authorized herein. Such full and fair market value of the leased premises shall be based on the current use of the property for residential and educational purposes to care for children referred to RFKCAC by the division of social services. Any such determination of additional consideration in the form of compensation shall be determined by the inspector general only after an appraisal of the value of the property in its present condition and an estimate of the value of the property in its proposed improved condition and considering the value of any expenditures or services performed or to be performed by the lessee.

**SECTION 3.** The expenditures for new facilities and capital improvements to existing buildings referred to in section 2 shall be a minimum of \$3,000,000 and shall be undertaken within seven years of the effective date of this act. In the interim, the RFKCAC shall be allowed to continue to use its existing buildings in the town of Lancaster. Upon presentation of documentary evidence to the commissioner, in consultation with the inspector general, of the capacity of RFKCAC to expend a minimum of \$3,000,000, the lease shall be executed and delivered to RFKCAC.



**SECTION 4.** RFKCAC shall be responsible for any costs for appraisals, surveys, and other expenses relating to the leasing of the property, and shall be thereafter fully responsible for the maintenance and operation of the site. Nothing in this act shall prevent RFKCAC from including such responsibilities as reimbursable costs to the extent permitted by law.

**SECTION 5.** The commissioner of the division of capital asset management and maintenance shall provide the clerk of the house of representatives, who shall forward copies to the legislature's joint committee on state administration and to the inspector general of the commonwealth, a copy of any such lease or leases at least 20 business days prior to the execution thereof by the commissioner. The inspector general shall review and comment within 15 business days of the receipt of such lease or leases by the inspector general. A copy of said review and comments, and any recommendations thereon by the inspector general, shall thereupon be forwarded to the clerk. The lease or leases, when executed by the commissioner, shall be deemed conclusively authorized by this act if all provisions therein are consistent with the provisions of this act. The commissioner is hereby authorized to execute and deliver, in the name and on behalf of the commonwealth, a notice of such lease or leases for recording and any and all other agreements and instruments related to the lease or leases authorized hereby.

The lease or leases authorized hereby shall provide that all capital improvements to the premises shall become the property of the commonwealth upon termination of same, without payment of compensation of any kind by the commonwealth. No assignment or sublease of any lease or leases authorized herein shall be effective unless authorized in writing by the commissioner or by any successor agency as public agency lessor, subject to the approval of the general court, and provided that no such assignment or sublease shall modify or impair the terms, conditions or consideration provided under the lease or leases. In the event that the aforementioned purpose described in section 1 ceases at any time, by either RFKCAC or any successor organization, the lease or leases authorized hereunder shall be terminated and the property shall revert to the care and control of the division and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and to the prior approval of the general court.

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

Approved August 6, 2000.

## **Chapter 186. AN ACT RELATIVE TO THE NATIONAL WORLD WAR II MEMORIAL.**

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

Notwithstanding the provisions of any general or special law to the contrary, and subject to appropriation, the secretary of administration and finance shall transfer an amount

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from the general fund equal to \$1 for each resident of the commonwealth who served in the armed forces of the United States during World War II to the American battle monuments commission for the construction and maintenance of the World War II monument in Washington, D.C.

Approved August 6, 2000.

**Chapter 187. AN ACT AUTHORIZING THE SUPERINTENDENT OF STATE OFFICE BUILDINGS TO INSTALL AND MAINTAIN A PLAQUE IN HONOR OF THOSE MASSACHUSETTS MEMBERS OF THE UNITED STATES NAVY AND UNITED STATES COAST GUARD WHO SERVED ON A LANDING TANK.**

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

The superintendent of state office buildings shall, subject to the approval of the art commission as to size and content, install and maintain a plaque in a suitable space outside the Hall of Flags in the state house, in honor of the members from the commonwealth of the United States Navy and the United States Coast Guard who served on a landing ship tank.

The Massachusetts chapter of the U.S.L.S.T. Association shall be responsible for the funding of the plaque.

Approved August 6, 2000.

**Chapter 188. AN ACT REGULATING ELIGIBILITY FOR THE OFFICE OF SELECTMAN 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, no person employed by the town of Mendon, the Mendon-Upton Regional School District or the Blackstone Valley Vocational Regional School District shall be eligible to hold the office of selectman in the town of Mendon while so employed. Any person so employed and holding the office of selectman in the town of Mendon on the effective date of this act shall be permitted to serve the remainder of his term but shall be ineligible for re-election while so employed.

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

Approved August 6, 2000.

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**Chapter 189. AN ACT VALIDATING THE ACTION TAKEN AT THE SPECIAL TOWN ELECTION HELD IN THE TOWN OF ACUSHNET.**

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

**SECTION 1.** The acts and proceedings taken by the town of Acushnet at the special town election held on February 29, 2000, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrant for that election had been posted and published in full compliance with law.

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

Approved August 7, 2000.

**Chapter 190. AN ACT VALIDATING THE ACTIONS TAKEN AT CERTAIN TOWN MEETINGS IN THE TOWN OF BROOKLINE.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or by-law to the contrary, all acts and proceedings taken by the town of Brookline at its annual town meeting held on May 23, 2000, May 24, 2000 and May 25, 2000, and the special town meeting held on May 23, 2000, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the posting of the warrant for such meeting had been in full compliance with the law, including any applicable by-law.

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

Approved August 7, 2000.

**Chapter 191. AN ACT AUTHORIZING A PRIVATIZED WASTEWATER FACILITY FOR THE TOWN OF PROVINCETOWN.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Provincetown 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 the town's wastewater treatment plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local laws. All contracts awarded pursuant to this section shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44M, inclusive, of chapter 149 of the General

Laws, but each such contract shall be awarded pursuant to 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 of said chapter 30B.

The requests for proposals for such contracts shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the town including, but not limited to, all capital financing, operating and maintenance costs. If the town awards a contract to an offeror who did not submit the proposal offering the lowest overall cost, the 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 Provincetown in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the town. Contracts entered into pursuant to this act may provide that, subject to a majority vote of the town meeting, the 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 the wastewater treatment plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local laws, but such costs shall be amortized over a period that is no longer than the useful life of such modifications, equipment and systems. The 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 the town's wastewater treatment plant, sewers and related pump stations.

**SECTION 3.** The town manager of the town of Provincetown shall solicit proposals through requests for proposals which shall include those items in clauses (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, but 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 the town.

**SECTION 4.** The town manager of the town of Provincetown shall make a prelim-



inary 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. The town manager may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. If, after negotiation with such offeror, the town manager determines that it is in the town's best interests, the 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. The 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, the 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.** Subject to 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 Provincetown shall determine to be in the best interests of the town and shall be authorized by a majority vote of the board of selectmen. Any such contract shall provide that, prior to the construction of modifications or installation of equipment and systems, the town shall cause a qualified wastewater engineer to independently review and approve plans and specifications for such modifications, equipment and systems. The contract shall further provide that prior to the town's acceptance of any modifications, equipment or systems, including work undertaken pursuant to section 8 and estimated to cost more than \$100,000, the 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 6.** Notwithstanding the provisions of any general or special law, 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 Provincetown 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 7.** The provisions of any general or special law, 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, but 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 Provincetown or other adjustment to the fees or costs paid by the town including, but not limited to, any adjustment to sewer rates paid by the 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 the 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, but the 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, the 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 the town does not approve the contractor's proposed plans and specifications pursuant to this section, the town or the contractor may terminate the contract under the terms and conditions of such contract.

**SECTION 8.** All contracts or subcontracts for new construction, renovation, modernization, improvement or capital improvements to the town of Provincetown'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 the 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 9.** This act shall take effect upon its passage.

Approved August 7, 2000.

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## **Chapter 192. AN ACT RELATIVE TO TOWN MEETINGS IN THE TOWN OF TRURO.**

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

Section 1 of chapter 2 of the charter of the town of Truro is hereby amended by striking out subsection 2-1-2 and inserting in place thereof the following subsection:-

Section 2-1-2. The annual town meeting shall be held in each year on the last Tuesday in April.

Approved August 7, 2000.

## **Chapter 193. AN ACT AUTHORIZING THE REBUILDING OF THE JULIAN D. STEELE PUBLIC HOUSING DEVELOPMENT IN THE CITY OF LOWELL.**

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

**SECTION 1.** Notwithstanding chapter 121B and chapter 30B of the General Laws or any other general or special law to the contrary, the Lowell housing authority may transfer ownership of a certain parcel of land located in the city of Lowell to the Residents First Development Corporation, a designated non-profit corporation located in the city of Lowell. The parcel, more commonly known as the Julian D. Steele state-aided public housing development, shall be demolished and rebuilt as a mixed-income housing development with rental and homeownership opportunities to persons of very low, low, and moderate income. Outstanding state housing bond funds of which the proceeds were invested in the Julian D. Steele project need not be repaid at the time of the transfer of the project.

**SECTION 2.** The Lowell housing authority shall provide the department of housing and community development a development plan for the permanent affordability of an aggregate percentage of at least 45 per cent of the total units in the new mixed-income development to families with incomes falling at or below 80 per cent of the city of Lowell's area median income. Of this aggregate percentage, a minimum of 75 per cent of such units shall be reserved for households whose median income is not more than 50 per cent of the city of Lowell's area median income; provided, that the plan provide for the adequate relocation of all existing residents of the public housing development into appropriate alternative and decent, safe, and sanitary housing; provided further, that the plan demonstrate its financial viability for the development and its financial feasibility as evidenced by an analysis of the long-term cost to the commonwealth of the new development versus the projected long-term cost to the commonwealth of maintaining and preserving the existing development as a fully occupied and exclusively, low-income decent, safe, and sanitary public housing development; provided further, that the plan is approved and endorsed by the local governing body and the chief governing body of the locale; and provided further, that



the department of housing and community development shall promulgate regulations necessary for the implementation of said development plan.

**SECTION 3.** Subject to the provisions of section 5 of chapter 257 of the acts of 1998, the department of housing and community development may provide funds necessary for the implementation of said development plan. The development plan shall call for the creation of 180 new units on the present Julian D. Steele site of which 81 units are to be available to persons of very low, low and moderate income with both rental and homeownership opportunities. The development plan shall also include the replication of 220 units throughout the city of Lowell for persons of very low, low and moderate income.

**SECTION 4.** The department of housing and community development shall establish a new annual fund of \$600,000 to be utilized by the Lowell housing authority to provide rental assistance to persons of very low income within the city of Lowell. Said funds shall be utilized by the Lowell housing authority to make 157 of the 220 replicated housing units referred to in section 3 within the city of Lowell, available to households whose median income is not more than 50 per cent of the city of Lowell's area median income. The department of housing and community development shall certify that the 157 additional rental housing units are in fact available for households whose median income is not more than 50 per cent of the city of Lowell's area median income.

**SECTION 4A.** There is hereby established a special commission, for the purpose of making an investigation and study of the need for renovation and revitalization of state-assisted housing developments created pursuant to chapter 200 of the acts of 1948 and for the purpose of developing new program initiatives for chapter 200 state-assisted housing developments. The commission shall consist of two members of the senate, one of whom shall be the senate chairman of the joint committee on housing and urban development, two members of the house of representatives, one of whom shall be the house chairman of the joint committee on housing and urban development, the director of the department of housing and community development or her designee, and nine persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials, one of whom shall be a representative of the Massachusetts Union of Public Housing Tenants, two of whom shall be executive directors of public housing authorities which own chapter 200 housing, two of whom shall be residents of chapter 200 state-assisted housing developments, one of whom shall be a representative of the Council of Large Public Housing Authorities, one of whom shall be a representative from Citizens' Housing and Planning Association, and one of whom shall be experienced in the development of affordable housing. The study shall include, but not be limited to: (a) the extent of modernization needs of said housing; (b) recommendations for funding mechanisms to modernize and revitalize chapter 200 state-assisted housing developments, including a review of the process and criteria by which state modernization funds are awarded; (c) the feasibility of establishing replacement reserve accounts at local housing authorities; (d) the feasibility of using private capital in the redevelopment of chapter



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200 state-assisted housing developments; (e) the criteria for replacement housing in cases where there will be a reduction of units. The chairs of the joint committee on housing and urban development shall be the co-chairs of the special commission. The special commission may conduct public hearings throughout the commonwealth. The commission shall report to the general court the results of the investigation and study, and its recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing them with the clerks of the senate and house of representatives who shall forward them to the joint committee on housing and urban development on or before October 31, 2000.

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

Approved August 7, 2000.

## **Chapter 194. AN ACT AUTHORIZING THE TOWN OF CLINTON TO USE A CERTAIN PARCEL OF LAND FOR SAFE DRINKING WATER PURPOSES.**

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

The town of Clinton may use for purposes of compliance with the federal Safe Water Drinking Act the parcel of land conveyed for recreation, open space and education purposes pursuant to section 1 of chapter 194 of the acts of 1997.

Approved August 8, 2000.

## **Chapter 195. AN ACT RELATIVE TO CERTAIN CAPITAL SPENDING AUTHORIZATIONS.**

Whereas , The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith capital spending 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.** To provide for the continued availability of certain capital spending authorizations which otherwise would expire on June 30, 2000, the balances of the following appropriation items and any allocations thereof are hereby extended through June 30, 2001, for the purposes of and subject to the conditions stated for said items in the original authorizations and any amendments to such authorizations.

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		Appropriation		
0330-0951	1102-7977	2120-8951	2440-7875	3722-8898
0330-1961	1102-7978	2120-9841	2440-7882	3722-8899
0330-8890	1102-7979	2122-8846	2440-7890	3722-8900
0330-8891	1102-8791	2130-8771	2440-7898	3722-9950
0330-8968	1102-8812	2150-9951	2440-7957	4000-8000
0330-9998	1102-8819	2150-9952	2440-7958	4000-8100
0332-5961	1102-8847	2190-9962	2440-8840	4000-8200
0332-5962	1102-8861	2200-7883	2440-8843	4000-8860
0332-8811	1102-8862	2200-7888	2440-8848	4010-8831
0431-8833	1102-8869	2200-9959	2440-8950	4043-8870
0521-0950	1102-8872	2240-8820	2440-8951	4180-7890
1100-8860	1102-8875	2240-8860	2440-8952	4180-7891
1100-8880	1102-8877	2250-7874	2440-8956	4180-8941
1102-0890	1102-8878	2250-8820	2440-8958	4180-8942
1102-0961	1102-8880	2250-8822	2440-9800	4190-7881
1102-0962	1102-8883	2250-8823	2440-9812	4190-7883
1102-0964	1102-8888	2250-8844	2440-9843	4238-8871
1102-6896	1102-8890	2250-8863	2440-9844	4311-7880
1102-7840	1102-8891	2250-8864	2445-8958	4311-7881
1102-7841	1102-8894	2250-8865	2449-7350	4311-7890
1102-7842	1102-8897	2260-6996	2449-8755	4313-8841
1102-7843	1102-8899	2260-8840	2490-0010	4315-8841
1102-7846	1102-9802	2260-9881	2490-0012	4315-8891
1102-7849	1102-9880	2260-9882	2495-8968	4400-1111
1102-7870	1102-9882	2260-9884	2495-8969	4530-8300
1102-7871	1102-9884	2260-9885	2495-9968	4530-8400
1102-7872	1102-9896	2260-9886	2511-8942	4530-8500
1102-7881	1102-9897	2260-9965	2530-8958	4530-8600
1102-7882	1102-9899	2270-8772	3722-7870	4530-9999
1102-7883	1599-3914	2300-8840	3722-7871	4533-7890
1102-7885	1599-8000	2310-7880	3722-8864	4536-7880
1102-7886	1790-0130	2310-7891	3722-8865	4536-7890
1102-7887	1790-0140	2310-7892	3722-8871	4537-7891
1102-7888	1790-8922	2320-8843	3722-8872	4540-8881
1102-7890	2100-8941	2410-7872	3722-8873	4800-8950
1102-7891	2120-7880	2410-8802	3722-8874	5011-8801
1102-7893	2120-7957	2420-1402	3722-8875	5011-8811
1102-7894	2120-7977	2420-7880	3722-8891	5011-8812
1102-7896	2120-7978	2420-7881	3722-8892	5011-8841
1102-7897	2120-8848	2420-7882	3722-8894	5011-8842
1102-7930	2120-8861	2420-8936	3722-8896	5095-6870

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		Appropriation		
5095-8870	5800-8610	7113-2962	7310-7893	7508-0961
5095-8872	5800-8810	7113-2963	7410-7960	7508-0962
5095-8874	5800-9000	7113-2964	7410-8958	7508-7871
5095-8875	5800-9999	7114-0960	7411-7894	7509-7960
5095-8877	5911-7894	7114-0961	7411-7960	7510-7960
5377-8841	6001-9610	7114-8968	7452-2963	7510-7961
5500-8100	6005-8880	7115-0960	7452-7960	7511-7960
5500-8300	6033-8051	7115-0961	7452-7961	7511-7961
5500-8400	6033-9595	7116-0960	7452-7962	7512-7960
5500-8500	7000-9952	7116-0961	7452-7963	7512-7961
5500-8600	7109-0961	7116-0962	7452-7964	7514-7960
5500-8700	7109-0962	7117-0960	7452-7965	7514-7961
5500-8800	7109-7893	7118-0960	7502-0960	7515-7960
5500-8893	7110-0960	7118-0961	7502-0961	7516-7960
5500-8900	7110-0962	7118-7962	7502-0963	7518-7871
5500-9000	7111-7891	7220-0960	7502-7957	7518-7892
5500-9100	7112-0960	7220-0961	7503-7892	7518-7960
5500-9220	7112-0961	7220-2960	7503-7960	8000-7950
5500-9230	7112-0962	7220-2961	7504-7892	8000-8958
5500-9400	7112-0964	7220-2962	7504-7960	8095-5968
5500-9410	7113-0960	7220-7893	7504-7961	8100-8958
5500-9999	7113-0961	7220-7894	7505-7960	8195-8968
5800-8100	7113-0962	7310-0960	7506-7960	8200-8842
5800-8110	7113-0963	7310-0961	7506-7961	8995-8968
5800-8120	7113-0964	7310-0962	7506-7962	9300-3905
5800-8300	7113-2960	7310-2964	7507-7960	9300-3909
5800-8400	7113-2961	7310-2965	7508-0960	

**SECTION 2.** The third sentence of section 3 of chapter 584 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 3.** The third sentence of the third paragraph of section 9 of chapter 765 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 4.** The fourth sentence of section 8 of chapter 803 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 5.** The second sentence of section 11 of chapter 723 of the acts of 1983,

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as amended by section 6 of chapter 132 of the acts of 1993, is hereby further amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 6.** The second sentence of section 11L of said chapter 723 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 7.** The second sentence of section 14 of chapter 799 of the acts of 1985 is hereby amended by striking out the words "June thirtieth, two thousand" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 8.** The second sentence of section 77 of chapter 206 of the acts of 1986 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2007.

**SECTION 9.** The fourth sentence of section 107 of chapter 88 of the acts of 1997 is hereby amended by striking out the figure "2000", inserted by section 3 of chapter 90 of the acts of 1999, and inserting in place thereof the following figure:- 2001.

**SECTION 10.** The first sentence of subsection (d) of section 10 of chapter 152 of the acts of 1977 is hereby amended by striking out the words "June 30, 2002" and inserting in place thereof the following words:- June 30, 2003.

**SECTION 11.** The definition of "Convention Center Fund" in section 2 of chapter 152 of the acts of 1997 is hereby amended by striking out the word "Boston".

**SECTION 12.** The first sentence of subsection (a) of section 10 of said chapter 152 is hereby amended by striking out the word "Boston".

**SECTION 13.** The first sentence of section 12 of said chapter 152 is hereby amended by striking out the words "section 5" and inserting in place thereof the following words:- section 1A.

**SECTION 14.** The second sentence of section 1 of chapter 289 of the acts of 1998 is hereby amended by striking out the figure "2000" and inserting in place thereof the following figure:- 2003.

**SECTION 15.** Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the bond-funded authorization that is listed below which is in excess of the amount specified below for such item shall cease to be available for expenditure on the effective date of this act.

Appropriation Item

1100-8860 \$1,000,000

**SECTION 16.** Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance shall file, not later than April 1 of each year, proposed legislation that provides for the reauthorization of capital spending authorizations. The proposed legislation shall be accompanied by a five-year capital spending plan established in such a manner that the capital spending needs of each agency funded by the plan shall require not more than the amount of the outstanding authorizations than can



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be scheduled and expended within eight fiscal years.

**SECTION 17.** This act shall take effect as of June 30, 2000.

Approved August 8, 2000.

**Chapter 196. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR  
2001 TO PROVIDE FOR SUPPLEMENTING CERTAIN  
EXPENDITURES.**

*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 2001, the sum set forth in section 2A is hereby appropriated from the general fund, 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, 2001. The sum shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**NO SECTION 2.**

**SECTION 2A.**

**LEGISLATURE.**

*Joint Legislature.*

9744-1000 For joint legislative data processing and telecommunications  
equipment and services, prior appropriation continued . . . . . \$2,000,000

**SECTION 3.** This act shall take effect as of July 1, 2000.

Approved August 8, 2000.

**Chapter 197. AN ACT RELATIVE TO REFERENDUM PROCEDURE IN THE  
TOWN OF DARTMOUTH.**

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

Chapter 26 of the acts of 1927 is hereby amended by striking out section 8, as amended by chapter 428 of the acts of 1953, and inserting in place thereof the following section:-

*Section 8.* A vote passed at any representative town meeting authorizing the expenditure of \$220,000 or more as a special appropriation, establishing or abolishing a board or office, merging two or more boards or offices, fixing the term of office of town of-

ficers where such term is optional, increasing or reducing the number of members of a board or adopting or amending a by-law, shall not be operative until after the expiration of eight days, exclusive of Sundays and holidays, from the dissolution of the meeting. If within said eight days a petition signed by not less than 6 per cent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, the selectmen, within not less than 21 days of the filing of such petition, shall call a special election for the sole purpose of presenting to the registered voters at large the question or questions so involved and said election shall be held not less than 35 days and not more than 60 days from the date of the call of such election. The polls shall be open not later than 11 o'clock in the forenoon and shall be closed no earlier than 8 o'clock in the evening and all votes upon any question so submitted shall be taken by ballot, and the check list shall be used in the several precinct meetings in the same manner as in the election of town officers. The questions so submitted shall be determined by a majority vote of the registered voters of the town voting thereon, but no action of the representative town meeting shall be reversed unless at least 25 per cent of the registered voters shall vote to disapprove such action. Each question so submitted shall be in the form of the following question, which shall be placed upon the official ballot: "Shall the town vote to approve the action of the representative town meeting whereby it was voted (the vote as it appears in the records of the town clerk)?" If such petition is not filed within said period of eight days, the vote of the representative town meeting shall become operative and effective upon the expiration of said period.

Approved August 8, 2000.

## Chapter 198. AN ACT RELATIVE TO ABANDONED PROPERTY.

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

**SECTION 1.** Chapter 200A of the General Laws is hereby amended by striking out section 1, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

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

"Abandoned property", property presumed abandoned pursuant to this chapter.

"Claim", demand for payment or surrender of property from the holder of same, whose duty it is to pay or surrender the property to the legitimate claimant.

"Date prescribed for payment or delivery", the earliest date upon which the owner of property could become entitled to the payment, possession or delivery thereof by demand or other affirmative act.

"Person", any individual, corporation, joint stock companies, estate, trust, partnership, association, government or political subdivision, public corporation or authority, any bank defined in section 1 of chapter 167, savings bank, savings and loan association, credit union, trust company, national banks, federal savings and loan association, co-operative banks, bank holding companies and bank subsidiaries, mutual funds and any issuer of traveler's checks, money orders, outstanding checks and unclaimed wages or similar monetary obligations or commitments, whether organized or operated under state or federal law; utility companies, insurance companies; two or more persons having a joint or common trust or any legal or commercial entity.

"Property", all intangible property, including: (i) money, money orders, checks, drafts, deposits, interest, dividends, income and bonds; (ii) credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, mineral proceeds and unidentified remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) money deposited to redeem stocks, bonds, coupons and other securities, or to make distributions; (v) amounts due and payable under the terms of an annuity or insurance policy; (vi) amounts distributed from a trust or custodial fund established under a plan to provide any health, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employees savings, supplemental unemployment insurance, or similar benefit; and all tangible property, which includes all other property not defined herein as intangible.

"Treasurer", the treasurer and receiver-general.

**SECTION 2.** Section 5 of said chapter 200A, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of the preceding paragraph, any outstanding credit balances to a vendor or commercial customer from a vendor resulting from a transaction occurring in the normal and ordinary course of business shall be exempt from the provisions of this chapter. This exemption shall not apply to unallocated distributions from securities held by financial intermediaries including, but not limited to, brokers, mutual funds, custodians, trust companies and depositories and owing to unknown beneficiaries but held in the intermediary's nominee names.

**SECTION 3.** Section 12 of said chapter 200A, as so appearing, is hereby amended by adding the following four subsections:-

(f) Any examination undertaken by the treasurer, pursuant to this section, shall be conducted within a period of limitation; provided, however, that said period of limitation shall be defined as an abandonment period of three years pursuant to section 2, 3, 4, 5, 5A, 5B, 5C, 6, 6A or 6B, plus a six year statute of limitation period immediately following said abandonment period; provided, further, that unless otherwise provided, holders of abandoned property shall maintain records of the property for the period of limitation; and provided, further, that in the event a holder fails to comply with the provisions of subsection (d) of section 7, any examination undertaken by the treasurer shall not be temporally limited.

(g) If the treasurer finds that the holder of property has violated the provisions of section 7 pursuant to an audit finding, the holder may appeal said finding. The appeal shall be in writing on a form prescribed by the treasurer and received by the assistant state treasurer of the abandoned property division within 30 days of said finding. The assistant state treasurer of the abandoned property division may hold a hearing on such appeal at a time and place to be fixed by him, but not later than 30 days from the date the appeal was due, unless such time shall be extended by mutual agreement of both parties. The holder may appear in person or by agent or attorney at such hearing. To the extent the assistant state treasurer of the abandoned property division may consider practicable, the hearing shall be conducted as informally as possible and shall eliminate formal rules of evidence, practice and pleading. The assistant treasurer or his designee shall hear all pertinent evidence and determine the facts, and shall issue an appropriate decision or order reversing, affirming or modifying in whole or in part said finding. The decision or order shall be made in writing within 45 days after the hearing and a copy of the decision or order shall be sent by registered mail to the holder or his designee, and to all interested parties. Nothing herein shall be construed as preventing the assistant state treasurer of the abandoned property division from granting temporary relief if, in his discretion, such relief is justified, nor from informally adjusting or settling controversies with the consent of all parties.

(h) A holder aggrieved by the decision of the assistant treasurer of the abandoned property division may, within 30 days of the receipt of such decision, file a written petition for review, on a form prescribed by the treasurer, with the treasurer or his appointee. Said petition shall include a summary of the facts presented to the assistant state treasurer of the abandoned property division, a copy of the assistant treasurer's decision, the issue in dispute, and any other relevant information. Within 45 days of receipt of the petition, the state treasurer or his appointee, shall either affirm or amend the decision of the assistant state treasurer. The treasurer's decision shall be in writing and sent by first class mail to the holder and any interested parties stating the decision and outlining the reasons therefor.

(i) A holder aggrieved by the decision of the treasurer or his appointee may, after exhausting the processes described in paragraphs (g) and (h), file a claim in superior court pursuant to the requirements set forth in chapter 212.

**SECTION 4.** Notwithstanding section 12 of chapter 200A of the General Laws, the state treasurer shall establish an amnesty period for holders of abandoned property during which such holders shall not be subject to the penalties, fines or interest pursuant to said section 12: provided, however, that said period shall commence six months from the effective date of this act and end 181 days after said commencement; provided, further, that the amnesty period shall be extended to any holder, provided that: (1) each such holder is not, at the beginning of said period of amnesty, the subject of investigation or audit by the treasurer, or a party to litigation affecting said abandoned property, (2) the abandoned property of said holder was required to be reported on or before November 1, 2000 or in the case of life insurance companies before May 1, 2000, (3) the abandoned property of the holder is



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transferred directly to the treasurer or his authorized agent during said amnesty period, (4) appropriate reports pertaining to the property are filed with the treasurer in a manner satisfactory to the treasurer during the amnesty period, and (5) records pertaining to said abandoned property are maintained by the holder in compliance with said chapter 200A; and provided, further, that the treasurer shall conduct an outreach and publicity program to notify business entities and other holders of abandoned property of their obligations under the General Laws, and the amnesty program.

**SECTION 5.** On or before December 31, 2001 the state treasurer shall prepare a report of the activities, procedures, performance, operation and implementation of the abandoned property system established by this act; provided that, the treasurer in preparing the report shall consult with the Massachusetts Bankers Association, the Associated Industries of Massachusetts, the Massachusetts Hospital Association and ACS Unclaimed Property Clearinghouse, Inc. The report shall be filed with the committees on ways and means and the judiciary of the house of representatives and of the senate.

Approved August 8, 2000.

**Chapter 199. AN ACT RELATIVE TO DENTAL REFERRAL SERVICES.**

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

Section 52A of chapter 112 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

If a registered dentist contracts with a referral service and a fee is required for the registered dentist to be part of the referral service network, the referral service shall disclose the existence of the fee arrangement in any newspaper, radio or television advertisement, or in any display sign, personal solicitation or other manner of advertising. The disclosure shall plainly state the existence of the fee arrangement between the referral service and the dentists belonging to the referral service network and shall further state that only dentists who pay a fee are participants in such service.

Approved August 8, 2000.

**Chapter 200. AN ACT RELATIVE TO THE USE OF THE TOWN FOREST IN THE TOWN OF NORTH ATTLEBOROUGH.**

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

**SECTION 1.** The park and recreation commission of the town of North Attleborough may use 15 acres on the westerly side of the town forest for youth sports programs. The par-

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cel is shown as a portion of lot 1 on a plan of land entitled "Plan of Land in North Attleborough, MA." dated September 25, 1997 drawn by Bay Colony Group, Inc. which is on file in the office of the town clerk. If the parcel is no longer used for youth sports programs, it shall revert to the control of the town forest committee.

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

Approved August 8, 2000.

## **Chapter 201. AN ACT RELATIVE TO THE SPECIAL COMMISSION ON ORAL HEALTH.**

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

**SECTION 1.** Section 42 of chapter 170 of the acts of 1997 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Said commission shall 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 November 1, 2000.

**SECTION 2.** This act shall take effect as of January 1, 1999.

Approved August 8, 2000.

## **Chapter 202. AN ACT AUTHORIZING CERTAIN CAPITAL REPAIRS AND RENOVATIONS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for certain public safety and capital needs, 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 public safety and capital needs, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in section 2, for the several purposes and subject to the conditions specified in said section 2, are hereby authorized for expenditure from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof.

**SECTION 2.**  
**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Division of Capital Asset Management and Maintenance.*

1102-9952 For repairs and renovations to certain armories; provided, that not less than \$25,000 shall be made available to repair the floor at the armory located in the town of Natick; provided further, that not less than \$100,000 shall be made available to repair the roof at the armory located in the town of Hingham; and provided further, that not less than \$120,000 shall be made available to install a new hardwood floor at the armory located in the Dorchester section of the city of Boston ..... \$245,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Office of the Secretary.*

8000-0018 For a grant program for fire departments of every city, town, fire district and authority of the commonwealth to purchase firefighter safety equipment, to be administered by the secretary of public safety; provided, that all applications for the grants and supporting documentation deemed necessary by the secretary shall be submitted not later than January 1, 2001; provided further, that the secretary shall process the applications not later than February 1, 2001 and grant funds shall be distributed not later than March 1, 2001; provided further, that eligible fire safety equipment under this program shall include, but is not limited to, turnout gear, hand-held power lights, communication devices, telephones, personal alert safety systems, so-called, air packs, tanks, compressors, thermal imaging devices and computerized personnel accountability systems, but shall exclude firefighter apparatus and vehicles; and provided further, that in addition to the grants, a total amount not to exceed \$200,000 shall be made available from this item for the Massachusetts firefighting academy to administer and provide a series of fire training programs relative to firefighter survival ..... \$10,000,000

**SECTION 3.** To meet 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 \$10,245,000. All bonds issued by the commonwealth

as aforesaid shall be designated on their face, Firefighter Safety Equipment Loan, Act of 2000, and shall be issued for such maximum terms 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 but all such bonds shall be payable not later than June 30, 2010. Notwithstanding any other provision of this act, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth. All interest and payments on account of principal of such obligations shall be payable from the general fund.

**SECTION 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 times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2005. All interest and payments on account of principal of such obligations shall be payable from the general fund. Notwithstanding any other provision of this act, notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 5.** There is hereby established a firefighter safety equipment advisory board consisting of the state fire marshal, the president of the Professional Fire Fighters of Massachusetts, one chief to be selected by the secretary of public safety from a list of three submitted by the Fire Chiefs' Association of Massachusetts, one of whom shall be a chief from a call or volunteer fire department, and the house and senate chairs of the committee on public safety committee. The board shall evaluate existing and new firefighter safety equipment technology and make recommendations to the secretary for the purpose of assisting her in developing and overseeing the application process for the firefighter safety equipment grant program established pursuant to item 8000-0018 of section 2.

**SECTION 6.** Section 2 of chapter 267 of the acts of 1995 is hereby amended by striking out item 7511-7961, as appearing in section 19 of chapter 55 of the acts of 1999, and inserting in place thereof the following item:-

7511-7961 For a study, and the preparation of plans, if necessary, for the design and construction of an expanded Lynn campus including, but not limited to, an addition to the T.W. McGee Building, the lease, purchase, design or construction of an alternate facility, including the acquisition of land, the acquisition of land with building thereon, demolition, alteration, renovation, repair and site preparations and improvements, including the costs of furnishings and equipment . . . . . \$12,000,000



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**SECTION 7.** This act shall take effect as of July 1, 2000.

Approved August 8, 2000.

**Chapter 203. AN ACT RELATIVE TO THE REVIEW OF CERTAIN  
CONDOMINIUM FINANCIAL REPORTS.**

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

**SECTION 1.** Subsection (d) of section 10 of chapter 183A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

An independent certified public accountant shall conduct according to the standards of the American Institute of Certified Public Accountants, a review of the financial report for any condominium comprising 50 or more units. Such review shall be conducted annually, or less frequently in accordance with subsection (m), but in no case less frequently than every two years. In any action brought to enforce the provisions of this paragraph, the prevailing party shall be entitled to reasonable attorneys' fees incurred in such action.

**SECTION 2.** Said section 10 of said chapter 183A, as so appearing, is hereby further amended by inserting after the word "subsection (d)", in line 239, the following words:- , but such review shall be performed not less frequently than every two years as provided in said subsection (d).

Approved August 8, 2000.

**Chapter 204. AN ACT RELATIVE TO A CERTAIN PARCEL OF  
CONSERVATION LAND IN THE CITY OF BOSTON.**

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

**SECTION 1.** The city of Boston may transfer care, custody and control of a certain parcel of conservation land from the conservation commission of the city to the department of parks and recreation to be used for playground purposes. The parcel is described in an Order of Taking recorded in the Suffolk county registry of deeds, Book 9614, Pages 158 and 159.

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

Approved August 8, 2000.

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**Chapter 205. AN ACT RELATIVE TO THE INVESTMENT OF TRUST FUNDS BY THE TOWN OF WINCHESTER.**

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

Notwithstanding the provisions of section 54 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Winchester, acting through its commissions of trust funds, may invest trust funds, including cemetery perpetual care funds, unless otherwise provided or directed by the donor thereof, in any class of securities which are eligible for inclusion in the list of legal investments for savings banks pursuant to paragraph 1 of section 15B of chapter 167 of the General Laws, whether or not such security has been included by the commissioner of banks on such list. All provisions of said section 54 of said chapter 44 regarding the percentage of investment in the securities of any one corporation shall apply to investments under the provisions of this act. Nothing in this act shall prohibit investing such trust funds in any investment otherwise described in said section 54.

Approved August 8, 2000.

**Chapter 206. AN ACT AUTHORIZING THE MEDFORD RETIREMENT BOARD TO CHANGE THE OPTION OF A CERTAIN RETIREE.**

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

Notwithstanding chapter 32 of the General Laws or any other general or special law or rule or regulation to the contrary, the retirement board of the city of Medford shall allow Alfred Miraglia, who retired from the fire department of said city on May 2, 1999, to change his option from Option (b) to Option (c) of subdivision (2) of section 12 of said chapter 32. Said Alfred Miraglia or his named beneficiary shall repay into the retirement system of the city of Medford, on such terms as said board deems appropriate, an amount equal to the difference between the retirement allowance that said retiree and beneficiary actually received and such allowance that said retiree and beneficiary would have received had it been paid in accordance with the terms of said Option (c), plus regular interest as defined in section 1 of said chapter 32, but in no case shall said repayment be required to be paid in full in less than one year.

Approved August 8, 2000.

**Chapter 207. AN ACT AUTHORIZING CERTAIN CAPITAL REPAIRS AND RENOVATIONS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which

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

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

**SECTION 1.** Item 2120-8881 of section 2 of chapter 564 of the acts of 1987 is hereby amended by inserting after the words "calendar year nineteen hundred and eighty-eight" in line 30 the following words:- ; provided further, that the department of environmental management may issue a grant of not more than \$500,000 from the amount appropriated herein to Historic Massachusetts, Inc., for the purpose of addressing code compliance, public safety improvements, historic preservation and associated costs at the Baker Chocolate Factory Company Administration Building at Lower mills in the city of Boston, under the historic curatorship program, so-called, established pursuant to section 44 of chapter 85 of the acts of 1994; provided further, that the grant shall be charged to the books of the commonwealth as a fiscal year 2000 expenditure.

**SECTION 2.** Section 2 of chapter 267 of the acts of 1995 is hereby amended by striking out item 7506-7961 and inserting in place thereof the following item:-

7506-7961 For the planning, design and construction of a technology  
building ..... \$9,000,000  
Approved August 8, 2000.

**Chapter 208. AN ACT RELATIVE TO THE CONSTRUCTION AND FINANCING  
OF INFRASTRUCTURE AND OTHER IMPROVEMENTS IN THE  
CITY OF BOSTON AND AROUND FENWAY PARK.**

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

**SECTION 1.** The general court hereby finds that:

(a) the construction within the city of Boston of a new open air ballpark of sufficient size and with adequate support facilities to attract, retain and accommodate professional teams shall significantly enhance the economic development and the general welfare of the commonwealth;

(b) the continuation and expansion of such activities shall stimulate hotel restaurant, recreation, entertainment and retail sales activity in the ballpark development area and in the city of Boston, which shall in turn promote the overall economic development of the commonwealth, enhance employment opportunities for its citizens, increase tourism and increase the tax base;

(c) the continuation and expansion of such activities shall enhance the public pride and spirit within the commonwealth and within the city of Boston;

(d) the current open air ballpark in the city of Boston is inadequate for the purposes for which it was designed and a new ballpark is required to attract and retain those athletic events which shall promote the economic health of the commonwealth and encourage further private development, including development of other commercial facilities;

(e) private industry is prepared to make a substantial additional investment to construct the new ballpark in the city of Boston;

(f) the acquisition and financing by the city of Boston of a suitable site within the city for the new ballpark is in furtherance of a public purpose and shall provide an essential stimulus to the development of the ballpark and the economic health and development of the city and the community adjacent to the ballpark; further development of the city and the community adjacent to the ballpark requires the construction of a parking garage by the city of Boston;

(h) the construction of a new ballpark in the city of Boston and its use as a venue for professional sports events also requires the construction, development, modernization and improvement of substantial support facilities to the ballpark including roadways, pedestrian walkways, bridges, public transportation facilities, lighting and other utilities and similar improvements; and

(i) the financing of such improvements by the commonwealth is in furtherance of a public purpose, shall promote and enhance public safety and convenience and shall provide an essential stimulus to the construction of the new ballpark and related facilities for economic development by private industry and the economic development of communities adjacent to the ballpark.

**SECTION 2.**

xxxx-xxxx For the executive office of transportation and construction for essential infrastructure improvements in the city of Boston, pursuant to section 8, described in the memorandum as defined in section 3, to promote the public safety and convenience, including, but not be limited to, the reconstruction of Kilmarnock street intersecting it with Brookline avenue, the redirection and extension of Yawkey way to Beacon street, the relocation of Van Ness street north of its present location, the construction of a so-called "Rear Access Drive" connecting Boylston street to Lansdowne street through a relocated Van Ness street, the construction of a new extension of Ipswich street to connect Boylston street with Lansdowne street, the reconstruction of, Maitland street, the reconfiguration of the roadways comprising the "Sears Rotary", so-called, including, but not limited to, portions of Park drive, the Riverway, the Fenway, Brookline avenue and signalization, and street-scape improvements to



the public roadways within and around the ballpark development area and the parking facility development area, including, but not limited to, Boylston street, Brookline avenue, the Riverway, the Fenway, Park drive, and Audubon circle, streetscape improvements to Kenmore square, traffic controls and signals, lighting, sign barriers, pedestrian and bicycle enhancements, including, but not limited to, bridges, underpasses, and walkways throughout the ballpark development area, improvements to the Muddy river watershed area, the expansion of the Kenmore square and Fenway rapid transit stations and Green Line service, including renovation projects required by the Americans with Disabilities Act, the acquisition and improvement of the abandoned spur tracks located between Fenway station and Beacon street, the reconstruction of Yawkey station and the trackwork servicing the Fenway, Kenmore and Longwood Medical area, and the relocation and construction of utilities along and within the public way; provided that none of the planning, design, development, construction, improvement or any combination of the aforesaid is within the boundaries of the ballpark; provided that not more than \$150,000 be allocated to study the feasibility, design and cost of exit and entrance ramps from the Massachusetts turnpike in the area of the parking facility project . . . . . \$100,000,000

**SECTION 3.** (a) As used in this act, the following words shall have the following meanings unless the context clearly indicates another or different meaning:

"Ballpark", an approximately 44,000 seat, open air ballpark designed primarily to house major league baseball and other events, together with facilities ancillary thereto to support such ballpark and such events, all as more fully described in the economic development plan.

"Ballpark development area", the area within the city of Boston bounded and described as follows: beginning at the intersection of the centerline of Brookline avenue and the centerline of Boylston street, thence easterly following the centerline of Boylston street to the intersection with the centerline of Ipswich street, then northerly and easterly along the centerline of Ipswich street to the intersection with the centerline of Landsdowne street, then westerly along the centerline of Landsdowne street to the intersection with the centerline of Brookline avenue, then southwesterly along the centerline of Brookline avenue to the point of beginning.

"Ballpark site finance fund", the fund established by section 7.

"Ballpark site project", the acquisition by the corporation within the ballpark develop-

ment area by gift, grant, purchase, exchange, lease or by the exercise of eminent domain in accordance with chapter 79 or chapter 80A of the General Laws of all lands or other property, and rights, air rights, subsurface rights, easements and interests therein described in the economic development plan necessary as and for a site for the ballpark; the relocation of persons and businesses therein and the demolition and removal of structures thereon; the remediation of environmental and other hazards thereon; the preparation thereof for the construction thereon of the ballpark to the extent provided in the ground lease therefor from the corporation to the developer as provided in this act; and the lease of such site to the developer as provided in this act and in the economic development plan.

"BRA", the Boston redevelopment authority established pursuant to section 4 of chapter 121B of the General Laws and chapter 652 of the acts of 1960.

"City", the city of Boston.

"Corporation", the Economic Development and Industrial Corporation of Boston created and existing under the development act or, if said corporation 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 corporation shall be given by law.

"Cost", as applied to the ballpark site project and the parking facility project shall have the meaning given such term in the development act.

"Developer", Boston Red Sox Baseball Club Limited Partnership, or any designee thereof or any successor to or assignee or designee of the foregoing.

"Development act", Chapter 1097 of the acts of 1971 as amended.

"Economic development plan", the economic development plan describing the ballpark site project and the parking facility project prepared by the corporation pursuant to section 4.

"EOTC", the Executive Office for Transportation and Construction.

"Fenway parking management zone", the area within the city of Boston within a one mile radius centered at the northeast corner of the intersection of Yawkey way and Van Ness street.

"Infrastructure improvements", the planning, design, development, construction, improvement, or any combination of the foregoing, of those facilities and other improvements in the city to promote the public safety and convenience, approved by the secretary of administration and finance and the collector-treasurer of the city, that are described in the memorandum, including, but not be limited to, the reconstruction of Kilmarnock street intersecting it with Brookline avenue, the redirection and extension of Yawkey way to Beacon street, the relocation of Van Ness street north of its present location, the construction of a so-called "Rear Access Drive" connecting Boylston street to Lansdowne street through a relocated Van Ness street, the construction of a new extension of Ipswich street to connect Boylston street with Lansdowne street, the reconstruction of Maitland street, the reconfiguration of the roadways comprising the "Sears Rotary", including, but not limited to, portions of Park drive, the Riverway, the Fenway, Brookline avenue, and Boylston street, road, utility, traffic signalization and streetscape improvements to the public roadways within

and around the ballpark development area and the parking facility development area, including, but not limited to, Boylston street, Brookline avenue, the Riverway, the Fenway, Park drive, and Audubon circle, streetscape improvements to Kenmore square, traffic controls and signals, lighting, sign barriers, pedestrian and bicycle enhancements, including, but not limited to, bridges, underpasses, and walkways throughout the ballpark development area, improvements to the Muddy river watershed area, the expansion of the Kenmore square and Fenway rapid transit stations and Green Line service, including renovation projects required by the Americans with Disabilities Act, the acquisition and improvement of the abandoned spur tracks located between Fenway station and Beacon street, the reconstruction of Yawkey station and the trackwork servicing the Fenway Kenmore, and Longwood Medical area, and the relocation and construction of utilities along and within the public way; provided that none of the planning, design, development, construction, improvement or any combination of the aforesaid is within the boundaries of the ballpark.

"MBTA", Massachusetts Bay Transportation Authority.

"MDC", Metropolitan District Commission.

"Memorandum", the memorandum filed with the secretary of administration and finance and the collector-treasurer of the city pursuant to section 8, as the same may be amended from time to time with the approval of such officers, including the text of the report entitled "Fenway Area Proposed Transportation Improvements" prepared by Howard/Stein Hudson Associates and Vanasse and Associates, regarding infrastructure improvements to be undertaken in connection with the ballpark by EOTC, the MBTA, the MDC or other public agencies.

"Parking facility development area", the area within the city of Boston bounded and described as follows: beginning at the intersection of the centerline of Brookline avenue and the centerline of Overland street, thence northerly and westerly following the centerline of Overland street to a line intersecting with the southwesterly border of Maitland street, then northerly along the southwesterly border of Maitland street to the intersection with the centerline of Beacon street, then northeasterly along the centerline of Beacon street --to the intersection with a line coterminous with the northerly border of the Massachusetts turnpike extension, then southeasterly along the northerly border of the Massachusetts turnpike extension to a line coterminous with the centerline of Brookline avenue; then southwesterly along the centerline of Brookline avenue to the point of beginning.

"Parking facility project", the acquisition by the corporation within the parking facility development area by gift, grant, purchase, exchange, lease or by the exercise of eminent domain in accordance with chapter 79 or chapter 80A of the General Laws of all lands or other property, and rights, air rights, sub-surface rights, easements and interests therein described in the economic development plan necessary for a site for, and the planning, design, acquisition, construction, furnishing, equipping and furnishing, or any combination thereof, thereon and the operation, or the lease to or operation by others, including the developer, of a parking garage containing not more than 3,000 vehicle spaces,

together with associated support facilities therefor and the development of available commercial space therein or in the air rights over such facility, as more fully described in the economic development plan.

"Special receipts", the receipts described in section 6.

**SECTION 4.** (a) Subject to section 10 hereof, the corporation may undertake, or contract with the BRA for the BRA to undertake, in whole or in part, the ballpark site project and the parking facility project in accordance with the development act. Notwithstanding any provision of the development act or any other general or special law to the contrary, the ballpark development area and the parking facility development area are each hereby found and declared to be an "economic development area" within the meaning of section I of the development act and the ballpark site project and the parking facility project, and the use thereof by the corporation and the developer as contemplated by this act, shall each be an "economic development project" for all purposes of the development act. To carry out and effectuate the foregoing purposes, the corporation shall have and may exercise all of the powers granted to the corporation under the development act and may exercise within the ballpark development area and the parking facility development area and with respect to the ballpark site project and the parking facility project all powers, and shall have all immunities, consistent with this act, granted to operating agencies, including without limitation redevelopment authorities, as defined in chapter 121B of the General Laws and granted to an industrial development financing authority existing under chapter 40D of the General Laws. In the event of any conflict between the provisions of the development act and the provisions of this act, the provisions of this act shall prevail.

(b) In consideration of the acquisition and lease of the ballpark site to the developer as provided in this act, all properties and interests held within the ballpark development area and the parking facility development area by the developer necessary for the ballpark site project or the parking facility project shall be conveyed to the corporation without further consideration. 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 ballpark development area by the city or the Boston water and sewer commission or their successors and assigns, are being held by said city and commission, 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 commission any rights to damages for such taking. Any taking of property within the ballpark development area or the parking facility development area held by the city or said commission or any other governmental body shall be effective notwithstanding any inconsistent prior public use. The corporation shall make relocation payments or provide relocation assistance to persons and businesses displaced as a result of carrying out the ballpark site project and the parking facility project and shall otherwise provide relocation assistance as provided in chapter 79A and chapter 121B of the General Laws. Notwithstanding anything in this act to the contrary, the Massachusetts turnpike authority shall convey to the corporation all lands and other properties held by such authority within the parking facility development area and required by the corporation for purposes of this act



upon payment of the fair market value of such lands and other properties as reasonably determined by the secretary of administration and finance and the collector-treasurer of the city. Notwithstanding the provisions of any general or special law to the contrary, the provisions of section 39M of chapter 30, chapter 30B, sections 44A to 44M, inclusive, of chapter 149 of the General Laws and any other general or special law, regulation or ordinance or by-law providing for the advertising, bidding or awarding of contracts, for design or construction or for improvements to property shall not apply to the ballpark, the ballpark site project or the parking facility project.

(c) The corporation and the developer shall prepare or cause to be prepared an environmental impact report regarding the ballpark site project and the parking facility project, the ballpark and the infrastructure improvements required by this act. The environmental impact report shall be prepared jointly on behalf of the corporation, the developer and any other person or agency involved in the ballpark site project and the parking facility project and the infrastructure improvements. The environmental impact report shall be prepared in accordance with the provisions of section 62B of chapter 30 of the General Laws. Notwithstanding the provisions of any general or special law to the contrary, the secretary of environmental affairs shall require the corporation and the developer to prepare the report as a final environmental impact report without any prior draft thereof. The scope of the final environmental impact report shall be based upon the submission of an expanded environmental notification form by the corporation and the developer and the comments of said secretary made not later than 30 days after the submission of the expanded environmental notification form. Said secretary's comments shall determine the form, content, level of detail and alternatives required for the report. Notwithstanding the provisions of sections 62 to 62H, inclusive, of said chapter 30, the corporation, the developer and such other persons and agencies may take all actions, including, but not limited to, expenditure of funds pursuant to this act which are necessary or appropriate or required for acquisition of lands and other properties within the ballpark development area and the parking facility development area as provided in this act prior to the publication of the final environmental impact report pursuant to this act and section 62C of said chapter 30.

(d) Notwithstanding any provision of this section to the contrary, the corporation shall neither acquire any property within the ballpark development area or the parking facility development area as provided in this act nor institute any proceeding therefor under chapter 79 or chapter 80A of the General Laws, prior to the preparation by the corporation of an economic development plan for the ballpark site project and the parking facility project and the approval of such plan by the city council and the mayor as provided in section 6 of the development act. In addition to the requirement of section 6 of the development act, the economic development plan shall (1) be consistent with the general plan for the city and any master plan for the area adjacent to the ballpark development area and the parking facility 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 on the site of the ballpark and within the parking facility development area, and proposed land uses, maximum densities and building requirements, including preliminary project designs and a description of the project programs for such site and within such area; (3) indicated or be accompanied by materials indicating the proposed method for relocation of persons and organizations to be displaced by the ballpark site project and the parking facility project; (4) describe the economic impacts of the ballpark, the ballpark site project and the parking facility project, including job creation, local business opportunities and related development; (5) indicate cost estimates of the ballpark site project and the parking facility project and a financing plan therefor, including an acquisition plan for the sites thereof and identification of parcels to be acquired and the estimated cost thereof; (6) include proposals for neighborhood participation in the development of the ballpark and the parking facility project; (7) may provide for the sharing of net operating income of the parking facility project between the corporation and the developer; and (8) consider and describe measures to mitigate environmental and neighborhood impacts of the ballpark and the ballpark site project and such other planning and urban design issues as the corporation shall determine are presented by the ballpark and the ballpark site project.

(e) Notwithstanding subsection (d), the second paragraph of section 6 of the development act shall not apply to the ballpark, the ballpark site project, the parking facility project or the infrastructure improvements provided that in undertaking the construction of the ballpark, the ballpark site project, the parking facility project and the infrastructure improvements, the developer, the corporation and EOTC, as applicable, shall take all steps legally allowed to hire Boston residents in accordance with the hiring goals as contained in the Boston Jobs for Boston Residents Policy, so called, city of Boston code: ordinances, section 12-10. The developer, the corporation and EOTC shall also comply with the city'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 in the planning, construction and operation of the ballpark. Copies of all reports required by the city pursuant to said section 12-10 and said section 4-4 shall be forwarded to the clerks of the house and senate and to the committee on state administration.

(f) The developer shall prepare quarterly reports which shall include, but not be limited to: (1) the total dollars expended on the project to date, (2) the number of contracts entered into to date; (3) the number of contracts entered into with minority businesses; (4) the number of contracts entered into with women-owned businesses; (5) the dollar value of contracts entered into with minority businesses; (6) the dollar value of contracts entered into with women-owned businesses; (7) the total number of employees working on the project; (8) the total number of employees working on the project, broken down by race, ethnicity and gender; and (9) the total number of Boston residents working on the project. The quarterly

reports shall be submitted to the secretary of administration and finance, the secretary of EOTC, the house and senate committees on ways and means, the clerk of the house of representatives, the clerk of the senate, and the house committee on long term debt and capital expenditures.

**SECTION 5.** (a) The city shall have no obligation for any costs incurred by the corporation to carry out the packing facility project as contemplated by this act. All costs incurred by the corporation to carry out the ballpark site project as contemplated by this act shall be borne by the city. The city shall raise and appropriate, or may borrow as provided in section 11 of the development act and in chapter 643 of the acts of 1983, as amended, and shall agree with the corporation to raise and appropriate or borrow, such sums as may be necessary to defray any such costs of the ballpark site project; provided, however, that the amount so appropriated or borrowed shall not exceed \$140,000,000. Any costs incurred by the corporation to carry out the ballpark site project in excess of such amounts shall be borne by the developer.

(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 Ballpark Development Loan, Act of 2000. Each issue shall constitute a separate loan and, except as provided in said chapter 643, such loans shall be payable in not more than 30 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 in this act 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 if 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 6.** (a) Without limiting the powers conferred upon the corporation in this act and in the development act, the corporation shall lease to the developer that part of the ballpark development area acquired by the corporation as and for the site of the ballpark on such terms and conditions, consistent with this act, as the corporation and the developer shall agree and shall be approved by the collector-treasurer of the city. The developer shall pay annually to the corporation as consideration for the lease of the ballpark site a sum equal to the total debt service incurred by the city in such period on debt of the city issued in accordance with section 5 on account of the ballpark site project, but in no event more than \$12,100,000 annually, or, subsequent to the payment of all such debt, an amount equal to \$1 annually. All such amounts received by the corporation shall be paid to the collector-treasurer of the city for deposit in the ballpark site finance fund in accordance with section 7.

(b) In order to provide for a portion of the amounts required to make the payments hereunder to be made by the developer, the developer shall impose, collect and pay over to the city as hereinafter provided a facility betterment fee on the price of each ticket sold for



events held within the ballpark equal to 5 per cent of such price and shall impose an additional facility betterment fee on the price of each private suite in the ball park equal to 15 per cent of the license fee attributable to the price of such private suite as determined by the developer and approved by the collector-treasurer of the city. As a further source of funds to defray such payments, an administrative parking fee equal to not more than \$5 for each parking space, shall be imposed on all commercial parking facilities within the Fenway parking management zone, only on days during which professional baseball events are held in the ballpark and no earlier than two hours before such events. The terms and conditions of such administrative parking fee, the assessment and collection thereof and any reasonable exemptions therefrom shall be determined by rules, regulations or guidelines issued by the collector-treasurer of the city, provided that such rules, regulations or guidelines shall be designed to assure that the Fenway parking management zone shall contain no less than 9,000 parking spaces subject to assessment for such administrative parking fee and shall grant an exemption from such fee for any space used by the faculty, students, staff or persons having legitimate business at a college or university within said zone or by employees of a hospital or health care facility parking their motor vehicles during their working hours, or by a person visiting any hospital or other health care facility in the city, as defined by such regulations or guidelines, whose parking voucher has been stamped or otherwise marked by such college, university, hospital or other health care facility in a manner satisfactory to the collector-treasurer to evidence such use or visitation. Notwithstanding any general or special law to the contrary, commencing with the fiscal year ending June 30, 2000, 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 in the ballpark and within the curbline of the entire footprint of the ballpark in excess of the amount of such receipts so collected for the fiscal year ended June 30, 2001, but in no event in excess of \$1,500,000 annually, shall be paid to the city and applied as hereinafter provided as a credit against the obligation of the developer to pay rent for its lease of the site of the ballpark. In addition, notwithstanding chapter 152 of the acts of 1997 or any other general or special law to the contrary, commencing 90 days following the effective date of this act, the excise imposed by the city by section 3A of chapter 64G of the General Laws shall be increased to the rate of 4.25 per cent and all receipts equal to the .25 per cent increase thereof over the rate of such excise currently in effect, but in no event in excess of \$1,000,000 annually, shall be credited as hereinafter provided against the obligations of the developer to pay rent for its lease of the site of the ballpark. All sums imposed on account of such excise pursuant to section 3A of chapter 64G of the General Laws pursuant to this paragraph shall remain in effect after the dissolution of the ballpark site finance fund and shall be thereafter deposited in the general fund of the city or otherwise as provided in law. All other fees and excises described in this subsection shall expire upon the dissolution of the ballpark site finance fund. The facility betterment fees, parking administrative fee and excise tax receipts described in this paragraph shall be considered "special receipts" for all purposes of this act.



(c) Notwithstanding anything in this act to the contrary, the corporation shall credit the amount of all special receipts received by the city in this act in any year against the obligations hereunder of the developer to pay rent to the corporation for its lease of the site of the ballpark on such terms and conditions as shall be approved by the collector-treasurer of the city and specified in such lease. The developer shall execute and deliver to the corporation or the city such collateral, pledges, security agreements, guarantees, mortgages, contracts, assignments, promissory notes and any other encumbrances upon any of the developer's revenues and assets, including any amounts due the developer from any revenue sharing program of major league baseball, as shall be deemed by the collector-treasurer of the city satisfactory to secure the obligations of the developer under this section.

**SECTION 7.** (a) On or before the first date of issuance by the city of any bonds, notes or other indebtedness pursuant to section 5, 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 5, a separate fund entitled the ballpark site finance 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 general or special law to the contrary, on and after the date of establishment of the ballpark site finance fund, all sums received by the city from or on account of the special receipts described in section 6 shall be deposited in the ballpark site finance fund. Except as otherwise provided in this section, all amounts so deposited shall be used without further appropriation solely to pay the cost of administration and collection of such amounts and to pay or provide for, the principal of and premium and interest on all bonds, notes or the evidences of indebtedness issued under authority of section 5, including the establishment and maintenance of such reserves 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, and except as otherwise provided in the lease of the site of the ballpark to the developer, as provided in this act or any agreement between the city and the developer, any amount deposited in the ballpark site finance fund in any fiscal year which is determined by the collector-treasurer to be not required for the purposes of the fund as set forth in this act 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 5, in addition to other security provided by law, may 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 ballpark site finance fund. Amounts deposited and held in the ballpark site finance fund shall be deemed to be facility revenues within the meaning of said chapter 643 and the ballpark site project and the parking facility project shall each 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 special receipts described in section 6 shall not be reduced below the amount in effect at the time of issue of any such indebtedness.

(e) The ballpark site finance fund shall be dissolved on June 30, 2003, if no indebtedness of the city issued under the authority of section 5 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. Except as otherwise provided in the lease of the site of the ballpark to the developer as provided in this act, or any agreement between the city and the developer, any balance remaining in said ballpark site finance fund on such date of dissolution shall be deposited in the general fund of the city.

**SECTION 8.** (a) Within 90 days from the effective date of this act, the corporation and the developer shall file a memorandum with the secretary of administration and finance, the secretary of EOTC, the house and senate committees on ways and means and the collector-treasurer of the city describing those infrastructure improvements which the developer and the corporation recommend should be constructed in connection with the ballpark. The memorandum, and the infrastructure improvements described herein, shall be subject to the approval of the secretary of administration and finance and the collector-treasurer of the city, provided that the cost thereof shall in no event exceed \$100,000,000. Following such approval, EOTC, either directly or by contract with the MBTA, the MDC, the city, the developer or such other agencies of the commonwealth or the city or other persons as EOTC shall determine to be appropriate, shall undertake, carry out and complete all such infrastructure improvements on such terms and conditions and shall be provided in an agreement therefore between EOTC, the corporation and the developer approved by the secretary of administration and finance and the collector-treasurer of the city. All costs of such infrastructure improvements, up to an amount not exceeding \$100,000,000, shall be borne by the commonwealth as provided in this act.

(b) To meet the expenditures necessary in carrying out the provisions of section 2 and this section, 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 \$100,000,000 to be in addition to those bonds previously authorized which authorizations remain uncommitted or unobligated on the effective date of this act. All such bonds issued by the commonwealth shall be general obligations of the commonwealth and shall be designated on their face, Fenway Area Transportation Improvement Loan, Act of 2000, 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, 2026. All interest and payments on account of the principal of such obligations shall be payable from the Highway Fund.

**SECTION 9.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums as may be necessary for the purpose of meeting payments authorized by section 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 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, 2006. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 10.** (a) Notwithstanding any of the provisions of this act to the contrary, the commonwealth shall have no authority or obligation to pay for or finance any costs of infrastructure improvements as provided in section 8, or issue any bonds or notes in payment therefor as provided in said section 8, and the corporation shall have no authority or obligation to undertake the ballpark site project or the parking facility project, and the city shall have no authority or obligation to pay for or finance any costs of the ballpark site project or issue any bonds or notes in payment therefor as provided in section 5, unless:

(1) the memorandum shall have been filed with the secretary of administration and finance, the secretary of EOTC, the house and senate committees on ways and means and the collector-treasurer of the city and the terms thereof and of the infrastructure improvements described therein shall have been approved by the secretary of administration and finance and the collector-treasurer of the city; provided, that the secretary of administration and finance shall have filed with the house and senate committees on ways and means prior to the expenditure of funds for infrastructure improvements, itemized expenditures for each individual infrastructure improvement as part of the infrastructure improvement plan. The itemized expenditure accounts shall include, but not be limited to, anticipated expenditures for each individual project, objectives for each individual project as they relate to the overall goals of the infrastructure improvement plan, accomplished infrastructure improvements, expected future infrastructure improvements and a comprehensive infrastructure improvement schedule. Such reports shall be made available for review and comment to the committees before the anticipated start date for each individual project that is part of the infrastructure improvement plans;

(2) preliminary design drawings for the infrastructure improvements shall have been submitted to and approved by the BRA and the secretary of administration and finance;

(3) the developer shall have submitted plans to construct the ballpark to the secretary



of administration and finance and the BRA and the developer shall have entered into an agreement with the city and the commonwealth in form and substance satisfactory to the secretary and the collector-treasurer of the city to construct the ballpark and to use the same for the uses contemplated by this act for so long as any bonds of the city or the commonwealth authorized hereunder are outstanding and unpaid;

(4) the city council and mayor of the city shall have approved the economic development plan as provided in section 4 of this act and the borrowing by the city of funds for the ballpark site project as provided in section 5;

(5) the developer shall have presented a finance plan for the ballpark to the collector-treasurer of the city and the secretary of administration and finance, including commitment letters from lenders and others, providing evidence satisfactory to said collector-treasurer and said secretary that the developer has or can obtain all amounts necessary to design and construct the ballpark; and

(6) the corporation and the developer shall have agreed to the terms and conditions of a ground lease of the ballpark development area as and for a site of the ballpark and such ground lease shall have been approved by the collector-treasurer of the city.

(b) Satisfaction of the 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 senate, the house and senate committees on ways and means, and the house committee on long-term debt and capital expenditures.

**SECTION 11.** 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 corporation, the city and EOTC 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 12.,** This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 13.** 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 13A.** There shall be established by the developer 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 Fenway neighborhood of the city of Boston. The community liaison shall be a resident of the Fenway neighborhood who shall be appointed by the developer.

**SECTION 13B.** The developer shall allow nonprofit community groups from the impacted city neighborhood to sponsor not less than three charitable events annually at the



600 Club in Fenway park or its comparable replacement in the ballpark. The community events shall be scheduled with the developer so that they shall not compete with Fenway park or ballpark events; at least 50 per cent of the proceeds of the event shall be deposited into the fund established by the BRA for the creation and preservation of affordable housing in to the Fenway neighborhood.

**SECTION 13C.** Section 35J of chapter 10 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following clause:-

(e) notwithstanding the provisions of the preceding paragraphs or any other general or special law to the contrary, for any fiscal year in which revenues deposited into the Massachusetts Tourism Fund exceed the amounts deposited into said fund in the previous fiscal year, 50 per cent of the increase in said revenues shall be applied, subject to appropriation, to the Regional Tourism Facility Fund, established pursuant to section 42 of chapter 23G.

**SECTION 13D.** Chapter 23G of the General Laws is hereby amended by adding the following two sections:-

Section 42. (a) It is in the best public interest of the commonwealth to promote the prosperity and general welfare of all citizens by enhancing the attractiveness of all regions of the commonwealth for cultural activities and tourism-related activities by partially financing the construction, expansion, renovation or repair of cultural, entertainment, public venues or other regional tourism facilities which may stimulate further investment in the arts, entertainment, humanities and interpretive sciences and may result in increased employment or entrepreneurial opportunities for the citizens of the commonwealth or increased tourism to the region where the facility is located, including tourism from outside the commonwealth.

(b) There is hereby established and placed under the control of the agency, the Regional Tourism Facilities Fund, hereinafter referred to as the fund, to which shall be credited, subject to appropriation, for any fiscal year in which revenues deposited into the Massachusetts Tourism Fund exceed the amounts deposited into said Massachusetts Tourism Fund in the previous fiscal year, 50 per cent of the increase in revenues beyond amounts received the prior fiscal year received by said Massachusetts Tourism Fund from the tax imposed by section 3 of chapter 64G, section 22 of chapter 546 of the acts of 1969 or any appropriation made pursuant to section 35J of chapter 10. Notwithstanding the provisions of the previous sentence, the fund shall also be credited with all bond proceeds, federal funds, private contributions, loans or other monies lawfully made available to said fund. The purpose of said fund shall be to make loans or grants for infrastructure projects and eligible projects. Applicants may apply for assistance from the fund for a feasibility grant, grant or loan for the construction, expansion, renovation or repair of cultural, entertainment, public venues, regional tourism facilities or other commercial facilities hereinafter referred to as a project, and the agency may make a qualified investment in a project upon its finding that: (i) the project is an eligible project or infrastructure project; (ii) there is a demonstrated need for the project; (iii) the project will benefit tourism in the local area; (iv) there is local support for the project; and (v) if the project is in a community that has exercised its right to

impose a local option hotel-motel excise tax, pursuant to section 3A of said chapter 64G, there is a commitment for partial financing of the project through such local option hotel-motel excise tax revenue. The agency shall hold said fund in a separate account, segregated from all other agency funds. The agency may invest and reinvest said fund and the income therefrom, except, as hereinafter provided, only (i) in the making of qualified investments; (ii) in the investment of funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (iii) for the payment of binding obligations associated with the qualified investments which are secured by said fund as the same became payable; and (iv) for the payment of principal or interest on qualified investments secured by said fund or the payments of any redemption premium required to be paid when such qualified investments are redeemed prior to maturity. Not less than 50 per cent of said fund shall be expended for cultural facilities projects as defined herein. The agency shall award the first round of grants from the fund in fiscal year 2002.

(c) As used in this section, the terms "construction", "costs of the project" and "federal agency", shall, unless the context requires otherwise, have the meanings set forth in section 1. As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Applicant", a public agency or private organization exempt from income taxation pursuant to Section 501(C)(3) of Title 28 of the Internal Revenue Code.

"Commercial facilities", a building or structure, or site owned or used by a public, private, civic, educational or professional organization or educational foundation concerned with the arts, humanities, interpretive sciences or local arts and exempt from income taxation pursuant to Section 501(c)(3) of Title 28 of the Internal Revenue Code, which is accessible to the public including, but not limited to, museums, historical sites, zoos, aquariums, theaters, concert halls, exhibition spaces, classrooms, auditoriums suitable for presentation of performing or visual arts. This definition does not include public or private educational institutions of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Cultural organization", a nonprofit organization, public or private, which is primarily concerned with the arts, humanities, interpretive sciences or local arts which is exempt from income taxation. This definition does not include public or private educational institutions of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Council", the members of the regional tourism facility fund advisory council, established pursuant to section 43.

"Director", the director of the Massachusetts development finance agency.

"Eligible project", a project for the acquisition, design, construction repair, renovation or deferred maintenance of a regional tourism facility which furthers the purposes of this section.

"Feasibility grant", a direct grant of monies from the fund, subject to matching grant requirements to an applicant for payment of the costs and expenses related to the undertaking and completion of a planning and feasibility study for a proposed project. No such grant shall exceed \$50,000. The agency may award a feasibility grant upon its findings that: (i) there is a likelihood that the proposed project will qualify as an eligible project; and (ii) there is local support for the proposed project.

"Fund", the Regional Tourism Facilities Fund created by this section.

"Grant", a direct grant of monies from the fund to an applicant for payment of the costs of a project; provided, that the amount of any single grant awarded from the fund shall not exceed \$7,000,000; provided further, that grants for a total value less than \$1,000,000 shall be subject to a matching funding requirement of dollar for dollar of the amount of the grant, provided further, that grants for a total value in excess of \$1,000,000 and less than \$2,500,000 shall be subject to a matching funding requirement of at least two times the amount of the grant; provided further, that grants for a total value in excess of \$2,500,000 and less than \$5,000,000 shall be subject to a matching funding requirement of at least three times the amount of the grant; provided, further, that grants for a total value in excess of \$5,000,000 and less than \$7,000,000 shall be subject to a matching funding requirement of at least four times the amount of the grant; provided further, that not less than 50 per cent of all grant funds expended in one fiscal year from the fund shall be for cultural facility projects as defined herein.

"Infrastructure", repairs to the roof, heating and cooling systems, physical plant, plumbing or foundation of an existing facility and improvements to an existing facility which are necessary to meet life and safety code requirements, so-called, or improvements to an existing facility in order to comply with the provision of the Americans with Disabilities Act, or improvements needed to amenities including, but not limited to, light and sound systems, theatre seating, expansion or renovation of revenue generating equipment typical for the venue such as concession stands and new projection equipment.

"Loan", a direct loan to an applicant from the fund for payment of up to 40 per cent of the cost of a project for an eligible project, except that the amount of any single loan awarded from the fund shall not exceed \$7,000,000.

"Public body", the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision or thereof or any consortium of any contiguous subdivisions and any federal agency.

"Qualified investment", a grant, including a feasibility grant, loan, loan insurance or reinsurance, equity investment, guarantee or other financing or credit enhancement device provided under said fund for an eligible project.

"Regional tourism facility", a building, structure or site owned or used by a public or private organization, exempt from income taxation pursuant to Section 501(C)(3) of Title 28 of the Internal Revenue Code, which is accessible to the public and constitutes a regional tourism attraction including, but not limited to, museums, historical sites, zoos, aquariums and facilities for the performing or visual arts.



(d) Notwithstanding the provisions of any general or special law to the contrary, as a condition of accepting a grant from the fund, an applicant shall agree that, whenever ownership of any property which was purchased or improved with a grant from the fund is transferred to another party, such grant shall be repaid immediately to the fund. The amount of such repayment shall be in the full amount of the grant.

(e) The agency may establish rules and regulations relative to the fund. Copies of such rules and regulations, and any modifications or amendments thereto, shall be delivered to the chairmen of the house and senate committees on ways and means and the clerks of the house and senate.

**Section 43.** There shall be established a regional tourism facilities board in this section called the board. The board shall be comprised of 15 members. Five members shall be appointed by the governor including the director of the Massachusetts cultural council or her designee, the director of the office of travel and tourism or her designee, the director of the Massachusetts Development Finance Agency or his designee. The speaker of the house of representatives shall appoint five persons, one of whom shall be from western Massachusetts and one from outside the metropolitan Boston area. The president of the senate shall appoint five persons, one of whom shall be from western Massachusetts and one from outside of the metropolitan Boston area. All members shall be appointed for a period of five years. Members of the board shall serve without compensation, but may be reimbursed for ordinary in-state travel expenses. The board may establish a technical advisory panel to assist in reviewing applications. The Massachusetts Development Finance Agency shall provide administrative support for the board from the administrative funds allowed in this chapter.

All applications for grants or loans shall be reviewed by the board and only those pre-approved by the board may receive consideration by the Massachusetts Development Finance Agency for final approval. Within 30 days, the agency shall provide the applicant a written explanation for any proposals denied final approval.

**SECTION 13E.** Section 55 of chapter 121B of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out clause (d) and inserting in place thereof the following clause:-

(d) The total amount of urban renewal assistance grants to be paid under this section shall not exceed \$4,500,000 in any one fiscal year or a total of \$70,000,000 in the aggregate.

**SECTION 13F.** The third paragraph of section 57 of chapter 121B of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:-

(c) The total amount of urban renewal assistance grants to be paid under this section shall not exceed \$2,000,000 in any one fiscal year or a total of \$20,000,000 in the aggregate, including amounts authorized by the department to be advanced for the estimated expenses as provided in the first paragraph.



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**SECTION 14.** This act shall take effect upon its passage.

*Pursuant to Article 56 of the Amendments to the Constitution, Sections 13D and 13F the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

*The remainder of the bill was approved by the Governor on August 10, 2000 at eleven o'clock and thirty-eight minutes, A.M.*

**Chapter 209. AN ACT FURTHER REGULATING THE SALES TAX ON VENDING MACHINE PURCHASES.**

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

Section 6 of chapter 64H of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 116, the words "one dollar" and inserting in place thereof the following figures:- \$3.50.

Approved August 10, 2000.

**Chapter 210. AN ACT AUTHORIZING THE COMMONWEALTH TO ACQUIRE CERTAIN PARK LAND IN THE CITY OF CHICOPEE.**

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

**SECTION 1.** Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may acquire by purchase, gift, eminent domain pursuant to chapter 79 of the General Laws, or otherwise, on such terms and conditions consistent with this act as the commissioner may determine, and the city of Chicopee may convey to the commonwealth acting by and through the division of capital asset management and maintenance, any and all interests in those certain parcels of land located in the city of Chicopee, described in section 3, including, but not limited to, the acquisition of land, buildings and easements, as the commissioner shall determine necessary for the construction and operation of a women's correctional facility.

**SECTION 2.** If the acquisition of the parcels of land described in section 3 is by purchase, the purchase price for the interests acquired by the commissioner of capital asset management and maintenance pursuant to section 1 shall be the fair market value of said interests as determined by the commissioner based on an independent appraisal made by a qualified, disinterested appraiser. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and

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the house and senate chairmen of the joint committee on state administration.

**SECTION 3.** The parcels are labeled "Lot 1 - Parcel 'A'" and "Lot 1 - Parcel 'B'" on the plan entitled "Plan of Land prepared for the City of Chicopee, Atwater Park, Center Street, Chicopee, Massachusetts" prepared by Messier & Associates, Inc., on file in the office of the division of capital asset management and maintenance. The parcel labeled "Lot 1 - Parcel 'A'" contains 2.215 acres according to the plan and the parcel labeled "Lot 1 - Parcel 'B'" contains 18.362+ acres according to the plan.

**SECTION 4.** The parcels owned by the city of Chicopee, were acquired for open space and park purposes, and are currently used for a dog pound and open space. The parcels are to be diverted from their present uses to use for a women's correctional facility.

**SECTION 5.** Item 1102-8969 of section 2 of chapter 12 of the acts of 1996 is hereby amended by inserting after the word "facilities", in line 1, the following words:- , and the Woman's regional county facility in the city of Chicopee.

Approved August 10, 2000.

## Chapter 211. AN ACT RELATIVE TO HALE HOSPITAL IN THE CITY OF HAVERHILL.

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

**SECTION 1.** Chapter 569 of the acts of 1985 is hereby amended by striking out section 1 and inserting in place thereof the following three sections:-

**Section 1.** For the purposes of this act the following words shall have the following meanings:-

"Board", the board of trustees of the Hale hospital.

"City", the city of Haverhill.

"City council", the city council of the city of Haverhill.

"Health care purchaser", an entity licensed or authorized to do business in the commonwealth under chapter 175 of the General Laws, organized under chapter 176A, 176B or 176G of the General Laws; approved under chapter 176I of the General Laws, a health plan purchasing cooperative, or any other entity that enters into arrangements with health care providers to provide services on behalf of a defined population.

"Hospital", the Hale hospital.

"Mayor", the mayor of the city of Haverhill.

"Medical practice", an individual, professional corporation, limited liability company, medical group practice or similar entity that engages in providing professional medical services.

"Service area", the geographic area defined from time to time by the board as the area within which the hospital provides services. The service area may include portions of New Hampshire.

*Section 1A.* (a) The hospital established and maintained by the city shall be designated and known as the Hale hospital. All provisions in any special law that refers to the Hale municipal hospital, the Haverhill Hale municipal hospital, the Haverhill municipal (Hale) hospital, or similar designation shall be deemed to mean the Hale hospital. All presently existing legal rights and obligations created by statute, contract or otherwise pertaining to the hospital shall be deemed to be rights and obligations of the Hale hospital.

(b) The person who functions as chief executive officer of the Hale hospital shall be referred to as the chief executive officer. All provisions in any special law that refers to the administrator or director of Hale hospital shall be deemed to mean the chief executive officer of the Hale hospital.

*Section 1B.* The city of Haverhill may issue refunding bonds for the purpose of paying or refunding all or any designated part of its bond then outstanding issued under chapter 451 of the acts of 1978. Except as provided in this act the issuance of refunding bonds, the maturities and other details thereof, the security therefor, and the rights, duties and obligations of the city in respect to the same shall be governed by the applicable provisions of said chapter 451 relating to the issuance of bonds other than refunding bonds, including the provisions of section 1A of said chapter 451 relating to establishment of a hospital debt service fund. The refunding bonds may be issued in amounts sufficient to pay or provide for the payment of the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds and the expense of redeeming the bonds being refunded. Such refunding bonds may be issued at one time or from time to time and may be refunded by the issuance of additional refunding bonds under the act; provided, however, that no refunding bonds shall be payable over a period longer than 30 years from the date of the original bonds issued under said chapter 451. For each issue the amounts of principal and interest payable in each year shall be determined in accordance with said chapter 451 beginning with the earliest stated principal maturity date for any of the bonds being refunded. If such refunding bonds are issued prior to the maturity or redemption date of the bonds, the proceeds thereof together with other moneys then available or to become available to the city, which moneys may include income to be derived from the investment of such proceeds, sufficient to pay or provide for the payment of the principal, redemption premium, if any, and interest on the bonds so refunded to the date fixed for their payment or redemption shall be held in a separate fund and in trust solely for the payment of such principal, redemption premium and interest. The funds so held may be invested pursuant to section 55 of chapter 44 of the General Laws and the income derived from such investment may be expended to pay the principal, redemption premium, if any, and interest on the bonds being refunded until they are paid or redeemed; provided that notwithstanding any limitation on the maturity of investments under said section 55, any such investment may have a maturity not later than the date fixed for the payment or redemption of the bonds being refunded. Upon payment of the refunded bonds or establishment of a refunding trust in accordance with this section, any

hospital debt service fund established under section 1A of said chapter 451 for the bonds being refunded and any trust agreement or credit agreement executed in connection with the issuance of the bonds being refunded may be terminated or modified so as to apply to and provide security for the refunding bonds; provided, however, that any moneys in such a hospital debt service fund on the date of issuance of the refunding bonds that the city treasurer determines to be unnecessary to pay debt service on the refunded bonds shall be credited to the city's unreserved general fund balance.

**SECTION 2.** Section 3 of said chapter 569 is hereby amended by striking out, in line 4, the word "one" and inserting in place thereof the following word:- 1B.

**SECTION 3.** The first paragraph of section 4 of said chapter 569 is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following four sentences:- Except as otherwise specifically provided by this act, expenditure from the account authorized by this section shall be made by the chief executive officer of the Hale hospital, subject to appropriation in accordance with chapter 44 of the General Laws, and shall be used for the operation, maintenance, service development, capital equipment and plant for said hospital and for such other purposes as are consistent with the provisions of this act. Said account authorized by this section shall be deemed to be a trust fund. It shall be maintained and invested on behalf of said hospital by the treasurer of the city of Haverhill, and any income accruing thereon shall inure to the benefit of the hospital; provided, however, that such funds shall be invested in any investment as may be lawful for fiduciaries in the commonwealth. Notwithstanding any general or special laws to the contrary and notwithstanding the fact that expenditures from said account are subject to appropriation in accordance with this section, the chief executive officer, with the approval of the board, may transfer funds among the hospital's items of appropriation without the specific approval of the city council and may create job classifications for the hospital's personnel and establish pay scales for the positions so created; if in the aggregate, the hospital does not expend in any fiscal year an amount in excess of the amount total appropriated from the enterprise account for that year, except as may be otherwise provided by this act.

**SECTION 4.** Section 4B of said chapter 569, inserted by section 1A of chapter 58 of the acts of 1990, is hereby amended by striking out the sixth paragraph.

**SECTION 5.** Said chapter 569 is hereby further amended by inserting after section 6 the following eight sections:-

*Section 6A.* Subject to appropriation as required by section 4, the chief executive officer, with the approval of the board, may enter into agreements on behalf of the city and of the hospital with any medical practice to provide professional services in the hospital's service area; to facilitate the development of the hospital's medical staff; to provide management services, by itself or in conjunction with a joint venturer in accordance with the provisions of section 9 to a medical practice; to pay expenses associated with physicians relocating to the hospital's service area; to make loans, as permitted by law, to support minimum salary or the purchase of equipment for physicians relocating to the hospital's service



area, provided that each physician receiving such support agrees to serve on the hospital's active medical staff for the period during which any such loan has outstanding principal or interest, that a reasonable rate of interest be charged and that such loan be on such additional reasonable terms and conditions as the board determines; and to provide such additional service supports as are determined to be reasonable by the chief executive officer and the board.

*Section 6B.* Subject to appropriation as required by section 4, the hospital, by vote of a majority of the full membership of the board, may make investment, hold stock in or otherwise participate in the governance of a physician/hospital organization, independent practice association, medical service corporation or joint venture with physicians and other hospitals, regardless of the form it takes, for the purpose of developing the medical staff of the hospital and for contracting with health care purchasers to provide hospital or medical services under the terms of any health insurance plan or benefit, including for purposes of entering into contracts under the terms of which the hospital will take risk for the services provided by such arrangement. By vote of a majority of the full membership of the board in each instance the hospital may delegate to any such entity the right to negotiate and execute contracts with health care purchasers on its behalf including risk contracts and to agree to be bound by the terms of any contract so negotiated and entered into on its behalf including terms relating to the allocation of risk to the hospital through the hospital's participation in risk pools or other risk arrangements. The hospital may appoint one or more members of the board or one or more hospital or city employees to serve as members of the governing body and of committees, and as officers of any such organization, if their participation in any such capacity is approved by the board. Such board members and employees shall not by so serving violate section 17 or section 19 of chapter 268A of the General Laws, and section 20 of said chapter 268A shall not apply with respect to any interest such board member or employee may have with regard to any contract between the city and any such organization entered into within the scope of this section where such interest arises because of an appointment made pursuant to this section.

*Section 6C.* The hospital is hereby authorized to enter into joint venture arrangements with any individual, private, nonprofit, for-profit or public entity or agency to provide health care services within its service area or to engage in any activity or undertaking necessary or incidental thereto. Any such arrangement must be approved by a majority of the full membership of the board, and the chief executive officer may, pursuant to any such vote, expend funds from the hospital's enterprise account, subject to appropriation as provided in section 4, for purposes of engaging in such joint venture arrangement; provided, however, that in using its funds for such purpose the hospital shall act in a manner consistent with the regulations of the Internal Revenue Service applicable to organizations that are exempt from federal income tax under section 501(c) of the Internal Revenue Code of 1986, or a successor thereto, when such organization is engaged in a joint venture with an entity that is not so exempt. The hospital may appoint one or more members of the board or one or more hospital

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or city employees to serve as members of the governing body and of committees, and as officers of any such joint venture arrangement organization, if their participation in any such capacity is approved by the board. Such board members and employees shall not by so serving violate section 17 or section 19 of chapter 268A of the General Laws, and section 20 of said chapter 268A shall not apply with respect to any interest such board member or employee may have with regard to any contract between the city and any such organization entered into within the scope of this section where such interest arises because of an appointment made pursuant to this section.

*Section 6D.* Notwithstanding any general or special laws to the contrary or the provisions of any ordinance of the city, the mayor may appoint persons who are not residents of the city to the board, but at no time shall persons who are nonresidents of the city constitute more than one-third of the full membership of the board. In appointing persons to the board who are not residents of the city, the mayor shall consider the desire to have representation on the board from cities and towns within the hospital's service area, other than the city, and from any system or systems with which the hospital is affiliated, as provided in section 6F.

*Section 6E.* Notwithstanding any general or special law to the contrary, the hospital may develop health care services in locations anywhere within its service area, including outside of the city, and may expend funds from the hospital's enterprise account for this purpose, including, as deemed appropriate by the board and as authorized by an appropriation approved pursuant to section 4 acquiring or leasing real estate for such purposes, if the development of such services does not jeopardize the hospital's principal mission of promoting health care services for the residents of the city.

*Section 6F.* (a) By vote of a majority of the full membership of the board and the approval of the city council, the hospital may enter into affiliation arrangements with one or more health care systems, each of which includes one or more other hospitals that are formed for purposes that include, but are not limited to, coordinating more effective provision of health care services and undertaking more effective contracting with managed care plans. For purposes of this section, "affiliation arrangements" shall mean the creation of a relationship whereby the hospital participates as a component of the broader health care system including, subject to other provisions of this section, participation in the governance of such system, in managed care risk and other third party payor contracts negotiated on behalf of such system, and in joint strategic, business and financial planning within such system. Subject to appropriation pursuant to section 4, the hospital may expend amounts in its enterprise account in furtherance of the common purposes of a system with which it affiliates.

(b) In conjunction with any system with which the hospital enters into an affiliation arrangement in accordance with this section, by vote of a majority of the full membership of the board in each instance, the hospital may delegate to an entity within such system the right to negotiate and execute contracts with health care purchasers on its behalf, including risk contracts, and to agree to be bound by the terms of any contract so negotiated and entered into on behalf of the system, including terms relating to the allocation of risk to the hospital

through the hospital's participation in risk pools or other risk arrangements.

(c) In conjunction with any system with which the hospital enters into an affiliation arrangement in accordance with this section, the hospital may serve as a member of any nonprofit organization that is a part of such system or as a shareholder or member of any for-profit entity or limited liability company that is part of such system. The hospital may appoint one or more members of the board or one or more hospital or city employees to serve as members of the governing body and of committees, and as officers of any constituent entity or entities included within any such system, if the participation of any such person in any such capacity is approved by the board and by the mayor. Such board members and employees shall not by so serving violate section 17 or section 19 of chapter 268A of the General Laws, and section 20 of said chapter 268A shall not apply with respect to any interest such board member or employee may have with regard to any contract between the city and any such organization entered into within the scope of this section where such interest arises because of an appointment made pursuant to this section.

(d) This section shall be deemed to provide a complete, additional and alternative method for the effectuation of the purposes of this section and shall be construed to be supplemental to, and not in derogation of, powers otherwise conferred by law; but insofar as this section is inconsistent with any general or special law, administrative order or regulation or any limitation imposed by the municipal charter of the city, this section shall be controlling. This section shall be interpreted liberally to effectuate its purposes.

*Section 6G.* (a) For purposes of this section, "authorized officers" shall mean the mayor, the city auditor and the chairman of the hospital board, acting unanimously; but each of said individuals may designate any other officer of the city, or, in the case of the chairman of the board, the chief executive officer, to act on his behalf as an authorized officer for any and all purposes under this section. For purposes of this definition, "officer of the city" shall mean a person who is in charge of a department of the city or who is a member of an administrative board of the city. The mayor, city auditor and chairman of the hospital board shall not all designate the same person to serve as an authorized officer, nor shall any two of them designate the same person so to serve.

(b) The city may provide for the issuance from time to time of debt obligations on behalf of the hospital for any of its purposes. Any borrowing by the city on behalf of the hospital under the provisions of this section shall be subject to authorization by a two-thirds vote of the city council, with the approval of the mayor. All such debt obligations shall be negotiable for all purposes without regard to any other law subject only to the provisions of any such debt obligations for registration.

(c) Debt obligations issued under this section may be secured by a pledge, mortgage of or security interest in any and all assets of the hospital, whether real or personal, tangible or intangible, whether then existing or thereafter arising, including but not limited to revenues, receipts, cash, accounts, goods, equipment, inventory, general intangibles, securities or other assets or funds of the hospital, by mortgages or other instruments covering



all or any part of the foregoing, including any additions, improvements, extensions to or enlargements of any real property thereafter made, or by any one or more of the foregoing, all as may be determined by the authorized officers. Debt obligations may be dated, may bear interest at such rate or rates, including rates variable from time to time, may be payable in any domestic or foreign currency and at any domestic or foreign location and may mature or otherwise be payable at such time or times as may be provided for by the authorized officers, and may be made redeemable or determinable prior to maturity at the option of the hospital or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the authorized officers.

(d) The authorized officers shall determine the form of debt obligations and the manner of execution, denomination or denominations and place or places of payment thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any debt obligations shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until after such delivery. The authorized officers may provide for the authentication of debt obligations by a trustee, fiscal agent, registrar or transfer agent.

(e) In the discretion of the authorized officers, debt obligations of the city issued under this section may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The city may sell the hospital's debt obligations in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at discount in lieu of interest, as the authorized officers determine will best effectuate its corporate purposes.

(f) In the discretion of the city council, any debt obligations issued hereunder may be secured by a resolution of the city council or by a trust agreement between the city, on behalf of the hospital, and the Massachusetts Health and Educational Facilities authority established by chapter 614 of the acts of 1968 and, for this purpose, the hospital shall be deemed to be a hospital within the meaning of section 3 of said chapter 614, or a corporate trustee, which corporate trustee may be any trust company or bank having the powers of a trust company within or without the commonwealth, and any such trust agreement shall be in such form and executed in such manner as may be determined by the authorized officers. Such trust agreement or resolution may pledge or assign, in whole or in part, any revenues, receipts, cash, accounts, inventory, general intangibles, or other assets and funds, held or to be received by the hospital, and its real property, including any additions, improvements, extensions to or enlargements of any real property thereafter 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 hospital, and the proceeds thereof. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of holders of debt obligations as may be reasonable or advisable, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, restrictions on individual right of action by holders of debt obligations and covenants setting



forth duties of and limitations on the hospital in relation to the conduct of its programs and the management of its property, the custody, safeguarding, investment and application of moneys, the issuance of additional or refunding debt obligations, the establishment of reserves and the making and amending of contracts.

(g) In addition to other security provided in this act or otherwise by law, debt obligations issued by the city under this section may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the city or the hospital, or a trustee, or any other person by any bank, trust company, insurance or surety company or other financial institution, within or without the commonwealth, and the city may pledge or assign any and all assets of the hospital, whether then existing or thereafter arising, including but not limited to revenues, receipts, cash, accounts, goods, equipment, inventory, general intangibles, securities, or other assets and funds of the hospital, including any additions, improvements, extensions to or enlargements of any real property thereafter made, as security for such guaranties or insurance or for the reimbursement by the city to the issuer of any such letter of credit of any payments made under such letter of credit.

(h) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of debt obligations, revenues or other moneys under any trust agreement or resolution provided for herein and to furnish such indemnification or to pledge such securities and issue such letters of credit as may be required by the city. Any such trust agreement or resolution may set forth the rights and remedies of holders of debt obligations and of the trustee and may restrict the individual right of action by holders of debt obligations. Any pledge of hospital revenues or other property made by the city under the provisions of this section, including, without limitation, any pledge by the city of its rights to receive payments of any kind from or for the account of mortgagors under mortgages, participations therein or subsidy, guaranty, insurance or other contracts relating thereto, and of its revenues and other property, and of the mortgages, notes, such participations, such subsidy, guaranty, insurance or other contracts or other collateral, and of the proceeds of any or all thereof shall be valid and binding and shall be deemed continuously perfected for the purposes of chapter 106 of the General Laws and other laws from the time when such pledge is made. The revenues, moneys, property, rights and proceeds so pledged and then held or thereafter acquired or received by the city or the hospital shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the city or the hospital, regardless of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the city, and no filing need be made under said chapter 106 or any other law.

(i) Any holder of a debt obligation issued by the city under the provisions of this section and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may

bring suit upon the debt obligations and may, either at law or in equity, by suit, action, mandamus or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the hospital, to operate and maintain the same, to make any necessary repair, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement, resolution or other agreement and may enforce and compel the performance of all duties required by this section or by such trust agreement or resolution to be performed by the city, the hospital or by any officer thereof.

(j) Debt obligations issued by the city under this section are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such debt obligations are hereby made securities which may properly and legally be deposited with and received by any commonwealth or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

(k) Debt obligations issued by the city under the provisions of this section shall not be deemed to be a debt or a pledge of the faith and credit of the city but shall be payable solely from the funds of the hospital from which they are made payable pursuant to the provisions of this section. All debt obligations issued by the city under 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 of every kind by the commonwealth and by the cities, towns and other political subdivisions in the commonwealth.

(l) Notwithstanding anything in this section to the contrary, the hospital shall be liable to the city in each year for an amount equal to the amount of principal and interest payments coming due in such year on outstanding bonds of the city issued for the purposes of the hospital, and the rights of the holders of any debt obligations issued under this section shall be subordinated to the right of the city to receive such amount.

*Section 6H.* In order to promote the hospital's ability to compete more effectively in the health care marketplace, and in furtherance of the other purposes of this act, notwithstanding sections 23A to 23C, inclusive, of chapter 39 of the General Laws applicable to meetings of the board of any of its committees, and section 10 of chapter 66 of the General Laws relating to the availability of public records as defined in clause Twenty-sixth of section 7 of chapter 4 of the General Laws, all writings and other records concerning the following shall not be deemed to be public records for the purposes of said section 6D, and executive sessions may be held concerning the following: rates and charges; contracts and other arrangements with health care purchasers or with health care systems, or a constituent

or affiliate thereof, with which the hospital is affiliated or is proposing to affiliate, including contracts relating to clinical service arrangements; medical records; and marketing strategies, strategic plans or other plans, analyses, evaluations, data or programs, if disclosure is deemed by the board to be likely to give an unfair competitive or bargaining advantage to any person or entity. This section shall not be construed to modify the provisions of the statutes cited in this paragraph as they otherwise apply to records, meetings and deliberations of the city council affecting the hospital, except that meetings and deliberations of the city council relating to its taking actions with respect to the hospital entering into affiliation arrangements, as provided in subsection (a) of section 6F may be in executive session, and all writings and other records provided to the hospital or to the city council by a health care system with which affiliation is under consideration by the hospital and the city council shall not be deemed to be public records for purposes of said section 10. Notwithstanding the foregoing, the seventh paragraph of section 23B of chapter 39 of the General Laws, relating to the records of and votes taken in executive sessions, shall apply to the records of and votes taken in executive sessions held by the board or any of its committees, or of the city council, with regard to any of the subject matters identified in this section for which executive sessions may be held. This section shall not be deemed to prevent access by an agency of the commonwealth to records of the hospital to which it would otherwise be entitled under other provisions of general or special law.

**SECTION 6.** Chapter 604 of the acts of 1987 is hereby repealed.

**SECTION 7.** Chapter 101 of the acts of 1993 is hereby repealed.

**SECTION 8.** This act shall take effect upon its passage.

Approved August 10, 2000.

**Chapter 212. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN PROPERTY IN THE CITY OF MALDEN TO THE CITY OF MALDEN.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance, in consultation with the armory commission, may, notwithstanding the provisions of sections 40F, 40H and 40I, of chapter 7 of the General Laws, convey to the city of Malden for nonprofit recreational, educational or community use, the parcel of land and building situated thereon used as a state armory and commonly known as the Malden armory property. Said parcel being the same taken by said armory commission on October 30, 1907. The filing of a description of said land for the record in the Middlesex Southern district registry of deeds, recorded in Book 3334, Page 501 and by a plan of the same entitled, "Plan of the Armory Lot Malden, Massachusetts", dated October 16, 1907.

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The consideration for the conveyance authorized by this act shall be the full and fair market value of the property, taking into consideration and account the use, restriction, value of any real estate said city of Malden may add to the Malden Armory Project by the city and the Malden Housing Authority for public use the value of any in-kind services to be provided by said city of Malden, any quasi-governmental agency, or any successor in title to said city of Malden.

There shall be an independent appraisal for use as described in this act of the fair market value of the property conveyed by the commonwealth to the city as consideration. The inspector general shall review and approve said appraisal and shall include an examination of the methodology utilized for the appraisal. Said inspector general shall prepare a report of his review and approval and file said report with said commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration in accordance with this act. Said commissioner 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 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 to the chairmen of the joint committee on state administration at least 15 days before execution.

**SECTION 2.** The city of Malden shall pay as part of the consideration described in section 1, the sum of \$500,000 in the following manner. In fiscal year 2001 to 2005, inclusive, the city's lottery distribution from the State Lottery Fund under the provisions of section 35 of chapter 10 of the General Laws shall be reduced by \$100,000.

**SECTION 3.** If the property is not used for the purposes described in this act, or is used for any other purpose, upon notice by the commissioner of the division of capital asset management and maintenance, the property shall revert to the care and control of the commonwealth through said division, under the care and control of the armory commission, and any further disposition of the property shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

**SECTION 4.** The city of Malden shall pay all expenses associated with and any cost of appraisals, surveys and other expenses relating to the transfer of the land, and any cost and liabilities and expenses of any nature and kind for its ownership, maintenance or operation.

Approved August 10, 2000.

## **Chapter 213. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO ENTER INTO CERTAIN AGREEMENTS AND TO CONVEY AND ACCEPT CERTAIN INTEREST IN REAL ESTATE.**

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



**SECTION 1.** Notwithstanding the provisions of chapter 30B and chapter 41 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Andover and the conservation commission of the town may grant and accept easements in real estate and convey and accept conveyances of real estate lying between River road and the Merrimack river as shown on plans entitled "Plan of Land in Andover, Massachusetts", dated April 14, 1999 by Dana F. Perkins, Inc. and "Subdivision and Easement Plan of Land in Andover, Massachusetts", dated April 17, 1995 by Dana F. Perkins, Inc., on file in the office of the town clerk. Said board of selectmen of said town and said conservation commission may enter into one or more agreements or ratify any existing agreement with the trustees of Phillips Academy and the Greater Lawrence Regional Vocational High School District, the agreements to include a management agreement with an initial term of ten years and provisions for automatic renewal or renegotiations, upon such terms as said board of selectmen and said conservation commission deem to be in the best interest of said town. The management agreement shall include terms for monitoring and controlling access to the real property mentioned in this section.

The parcels of land to be conveyed by the town are currently used for open space.

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

Approved August 10, 2000.

**Chapter 214. AN ACT PROVIDING FOR TRANSFER OF LAND WITHIN THE TOWN OF PLAINVILLE FROM THE KING PHILIP REGIONAL SCHOOL DISTRICT TO THE TOWN OF PLAINVILLE.**

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

**SECTION 1.** The King Philip Regional School District may, upon a majority vote of the King Philip regional district school committee, acting on terms agreeable to the school committee and to the town of Plainville, convey full and clear ownership and title to the town of Plainville of any portion of the land currently owned by the King Philip Regional School District within the town.

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

Approved August 10, 2000.

**Chapter 215. AN ACT AUTHORIZING THE TOWN OF KINGSTON TO GRANT AN EASEMENT IN CERTAIN PARK LAND.**

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

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The town of Kingston, acting by and through its board of selectmen, may grant an easement in a certain parcel of land located in the town which was acquired for park purposes for the installation, operation and maintenance of a municipal sewer interceptor and lateral sewers and appurtenances for the purpose of providing town sewer services to public and private facilities. The easement is shown on a plan of land entitled "Town of Kingston, Massachusetts Waste Water Facilities Proposed Sewer Route Through 'Gray's Beach Park'" drawn by Camp Dresser & McKee Inc., dated October 1999.

Approved August 10, 2000.

## **Chapter 216. AN ACT RELATIVE TO THE DISPOSITION OF AN INTEREST IN A CERTAIN PARCEL OF LAND LOCATED WITHIN THE LOWELL-DRACUT-TYNGSBOROUGH STATE FOREST.**

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

**SECTION 1.** The commissioner of capital asset management and maintenance, on behalf of and in consultation with the commissioner of environmental management, may, notwithstanding the provisions of section 40H of chapter 7 of the General Laws, convey an easement over a certain parcel of land in the town of Dracut currently under the care and control of the department of environmental management for conservation and recreational purposes, as part of the Lowell-Dracut-Tyngsborough State Forest to the town of Dracut, for purposes of planning, constructing and maintaining, repairing and replacing a sewer pipeline, subject to the requirements of sections 2 and 3, and to such additional terms and conditions consistent with this act as said commissioner may prescribe in consultation with said department of environmental management. The interest in land authorized to be conveyed herein may not be used to increase building density of adjacent land of grantees or to create additional subdivision lots. Said herein described parcel of land shall be composed of a 20 foot wide strip of land containing 32,000 square feet or 0.74 acres of land and is shown on plans of land, sheets 7, 8 and 9 entitled "Cross Country From Davis Road", "Cross Country" and "Cross Country and Eldridge terrace" as prepared by Camp, Dresser and McKee. Minor modifications to the property description set forth above may be made in order to conform with a final land survey.

**SECTION 2.** No instrument conveying, by or on behalf of the commonwealth, the easement described in section 1 shall be valid unless such instrument provides that said easement shall be used for the purposes described in section 1. The instrument shall include a reversionary clause that stipulates that the interest shall revert back to the commonwealth, and assigned to the care and control of the department of environmental management, if the property ceases to be utilized for the express purposes for which it was conveyed.

**SECTION 3.** The grantees of said easement shall assume the cost of any appraisals, surveys and other expenses deemed necessary by the commissioner of the division of capital

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asset management and maintenance for the granting of the title.

**SECTION 4.** The grantees shall compensate the commonwealth pursuant to the terms and conditions of a Memorandum of Agreement executed between the department of environmental management and the grantees. Said compensation shall be greater than or equal value to the full and fair market value of the property interest, or its value in use as a sewer pipeline, whichever is greater, as determined by independent appraisal. The grantees of said interest shall pay said compensation in accordance with the terms of the agreement.

The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of capital asset management and maintenance for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

**SECTION 5.** The department of environmental management may, on behalf of the commonwealth, deposit any sum received pursuant to section 4 in the conservation trust established pursuant to section 1 of chapter 132A of the General Laws. Said sum is to be dedicated for use at the Lowell-Dracut-Tyngsborough State Forest.

Approved August 10, 2000.

## Chapter 217. AN ACT RELATIVE TO REPRODUCTIVE HEALTH CARE FACILITIES.

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

**SECTION 1.** The purpose of this act is to:-

(a) increase the public safety in and around reproductive health care facilities;  
(b) maintain the flow of traffic and prevent congestion around reproductive health care facilities;

(c) enact reasonable time, place and manner restrictions to reconcile and protect both the first amendment rights of persons to express their views, assemble and pray near reproductive health care facilities and the rights of persons seeking access to such facilities to be free from hindrance, harassment, intimidation and harm; and

(d) create an environment in and around reproductive health care facilities which is conducive to safe and effective medical services, including surgical procedures, for patients.

**SECTION 2.** Chapter 266 of the General Laws is hereby amended by inserting after section 120E the following section:-

Section 120EJ. (a) For the purposes of this section, "reproductive health care facility" means a place, other than within a hospital, where abortions are offered or performed.

(b) No person shall knowingly approach another person or occupied motor vehicle within six feet of such person or vehicle, unless such other person or occupant of the vehicle consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging

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in oral protest, education or counseling with such other person in the public way or sidewalk area within a radius of 18 feet from any entrance door or driveway to a reproductive health care facility or within the area within a rectangle not greater than six feet in width created by extending the outside boundaries of any entrance door or driveway to a reproductive health care facility at a right angle and in straight lines to the point where such lines intersect the sideline of the street in front of such entrance door or driveway. This subsection shall not apply to the following:-

- (1) persons entering or leaving such facility;
- (2) employees or agents of such facility acting within the scope of their employment;
- (3) law enforcement, ambulance, firefighting, construction, utilities, public works and other municipal agents acting within the scope of their employment; and

- (4) persons using the public sidewalk or street right-of-way adjacent to such facility solely for the purpose of reaching a destination other than such facility.

(c) The provisions of subsection (b) shall only take effect during a facility's business hours and if the area contained within the radius and rectangle described in said subsection (b) is clearly marked and posted.

(d) Whoever knowingly violates this section shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 and not more than \$5,000 or not more than two and one-half years in a jail or house of correction, or both such fine and imprisonment. A person who knowingly violates this section may be arrested without a warrant by a sheriff, deputy sheriff or police officer if that sheriff, deputy sheriff, or police officer observes that person violating this section.

(e) Any person who knowingly obstructs, detains, hinders, impedes or blocks another person's entry to or exit from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 nor more than \$5,000 or not more than two and one-half years in a jail or house of correction, or by both such fine and imprisonment

A person who knowingly violates this provision may be arrested without a warrant by a sheriff, deputy sheriff or police officer.

(f) A reproductive health care facility or a person whose rights to provide or obtain reproductive health care services have been violated or interfered with by a violation of this section or any person whose rights to express their views, assemble or pray near a reproductive health care facility have been violated or interfered with may commence a civil action for equitable relief. The civil action shall be commenced either in the superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business.

Approved August 10, 2000



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**Chapter 218. AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN SURPLUS WATERWORKS FACILITIES OF THE MASSACHUSETTS WATER RESOURCES AUTHORITY AND THE METROPOLITAN DISTRICT COMMISSION LOCATED IN THE CITY OF BOSTON.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the disposition of certain surplus waterworks facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Upon a declaration of the Massachusetts Water Resources Authority that all or a portion of certain lands and improvements thereon, known as the Chestnut Hill waterworks in the city of Boston, adjacent to the city of Newton and the town of Brookline, are surplus to the authority's needs for construction, maintenance and operation of a sewer or waterworks system, the commissioner of the division of capital asset management and maintenance shall, subject to any easements, restrictions, conditions and other limitations on use that currently exist or are contained in the authority's declaration, convey all interest in the lands and improvements thereon covered by the declaration and currently under the care, custody and control of the metropolitan district commission or the authority, by deed or by lease for a term deemed appropriate by the commissioner, to a developer or development team, committed to the protection of open space, the preservation of historic structures and the maintenance of appropriate public access and selected in accordance with section 40H of chapter 7 of the General Laws, for private development or public commercial or residential uses. All of the lands and improvements thereon of the Chestnut Hill waterworks subject to this act were taken or acquired and used for water supply purposes in accordance with chapter 488 of the acts of 1895 and chapter 372 of the acts of 1984 and are shown on a survey plan of land titled "Chestnut Hill Pumps Station, Chestnut Hill Surplus Property, Plan of Land and Easements Boston (Brighton), Massachusetts, Job Number J9960" prepared by the "Massachusetts Water Resources Authority Engineering and Construction Division" and on file with the authority. Prior to the declaration, the commissioner shall proceed, in accordance with section 40F½ of chapter 7 of the General Laws and in consultation with the secretary of environmental affairs, the secretary of the commonwealth, the authority and the commission, with all necessary activities, including planning and bidding, associated with the anticipated disposition of the lands and improvements thereon, as described in this section.

**SECTION 2.** Prior to the execution of any lease or as part of any deed, described in section 1, the commissioner of the division of capital asset management and maintenance shall retain on behalf of the commonwealth and record in the registry of deeds or register in the land court, as applicable, and in perpetuity conservation and preservation restriction acceptable to the secretary of environmental affairs and the secretary of the commonwealth.

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on behalf of the Massachusetts historical commission, on that portion of the lands and improvements thereon as shown on a site plan titled "Chestnut Hill Waterworks Complex, Conservation and Preservation Restrictions", dated March 28, 2000, prepared by the "Engineering & Construction Department, Design Information Systems Center" of the authority and on file with the authority. The restriction shall be consistent with sections 31, 32 and 33 of chapter 184 of the General Laws, shall ensure appropriate public access, preservation of historic structures and conservation of open space, shall be evidenced by certificates of the secretary of environmental affairs and the secretary of the commonwealth and subject to any easements, restrictions, conditions and other limitations on use that currently exist or are contained in the authority's declaration.

Approved August 10, 2000.

## Chapter 219. AN ACT PROVIDING FOR THE DISPOSITION OF COMMONWEALTH PROPERTY IN THE CITY OF CHELSEA.

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws and the provisions of this act, may sell and convey by deed the commonwealth-owned property at 24 Hillside avenue in the city of Chelsea, shown generally as lot 59 on the city of Chelsea Assessor's Map 66.

**SECTION 2.** The consideration for the conveyance authorized by this act shall be the full and fair market value of the property for its highest and best use, determined by the commissioner of the division of capital asset management and maintenance based on an independent professional appraisal. The amount of the consideration shall be subject to the review and approval of the inspector general, which review and approval shall include the methodology used in said appraisal. Said commissioner shall submit the appraisal to said inspector general, together with a report stating the intended consideration for the conveyance. Said inspector general shall have 30 days after receipt of said appraisal and the report for his review and approval. Said inspector general shall submit a report on his review and approval of said appraisal and consideration for the property to said commissioner. At least 15 days before conveying a deed of the property, said commissioner shall submit a copy of said inspector general's report to the clerks of the senate and house for distribution to the chairmen of the house and senate committees on ways and means and the joint committee on administration.

**SECTION 3.** The recipient of the property shall be responsible for all costs and expenses of the transaction authorized by this act as determined by the commissioner of the division of capital asset management and maintenance, including without limitation, the cost of any survey, appraisal and preparation of the deed and for all costs and liabilities associated

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with the ownership of said property. The recipient shall acquire said property in its existing condition without any warranty by the commonwealth.

Approved August 10, 2000.

### **Chapter 220. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN EASEMENT TO THE TOWN OF MONTAGUE.**

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

**SECTION 1.** The commissioner of capital asset management and maintenance, in consultation with the department of environmental management, may notwithstanding chapter 7 of the General Laws, convey a permanent easement to the town of Montague for highway purposes over three certain parcels of land of the commonwealth located in the town presently under the care and control of the department of environmental management used for recreational purposes. The parcels are shown as parcels: 1-T, E-1 and TE-3 on a plan entitled "The Commonwealth of Massachusetts Plan of Land" in the town of Montague, owned by the department of environmental management. Said land now required for highway purposes and being plan project file #600862 MHD. The plan shall be kept on file with the town of Montague and recorded at the Franklin county registry of deeds.

**SECTION 2.** The consideration to be paid by the town of Montague for the easement described in section 1 shall be the full and fair market value of the easement, as determined by an independent appraisal. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner of capital asset management and maintenance and the senate and house committees on ways and means at least 30 days prior to the execution of any final agreement authorized under this act.

Approved August 10, 2000.

### **Chapter 221. AN ACT RELATIVE TO THE FINANCES OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make certain changes in the law relative to the finances of the Massachusetts Bay Transportation Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

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Section 2E of chapter 127 of the acts of 1999 is hereby amended by striking out item 6005-9986 and inserting in place thereof the following item:-

6005-9986 For the purpose of establishing the commonwealth's share of financing for the Massachusetts Bay Transportation Authority on a contemporaneous basis; provided, that the state treasurer is hereby authorized to make payments to said authority from the sum authorized herein for amounts due the authority for the net cost of service, as defined by section 1 of chapter 161A of the General Laws, and for commuter rail assistance, for fiscal year 2000 and for prior fiscal years plus \$100,000,000 to fund working capital; provided, that the aggregate amount paid from this item shall not exceed the total of the actual amounts due said authority for the retirement of temporary notes of the authority, as certified by the state comptroller; and provided further, that said notes shall be retired no later than September 1, 2000 ..... \$325,000,000  
Approved August 10, 2000.

**Chapter 222. AN ACT AUTHORIZING THE TOWN OF ROCKPORT TO ESTABLISH A CERTAIN CAPITAL PROJECTS FUND.**

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

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Rockport may establish a separate fund to be known as the Thatcher Island Capital Projects Fund and to raise and appropriate money. The fund shall be maintained by the town treasurer as a separate account. The treasurer may invest the monies in the manner authorized in sections 55 and 55B of said chapter 44. Any interest earned thereon shall be credited to and become part of the fund. The town may appropriate by majority vote at any annual or special town meeting such sums as may be available in said fund for any capital project on Thatcher island.

Approved August 10, 2000.

**Chapter 223. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF METHUEN TO GRANT CERTAIN EASEMENTS.**

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



**SECTION 1.** The city known as the town of Methuen may grant by Grant of Location and Easement Agreement to the Portland Natural Gas Transmission System, a Maine General Partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land located in and under the control of the town, together with a temporary work space for construction purposes 25 feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use the temporary work space shall expire 12 months after completion of construction. The land, presently being used for open space purposes, is described on a plan of land entitled "Portland Natural Gas Transmission System Maritimes & Northeast Pipeline, Proposed Right-of-way Crossing, the Town of Methuen Property, Essex County, Massachusetts, PTB-K12-T5000-1-075", on file with the town, which shall be recorded with the northern district of the registry of deeds in Essex county.

The easement shall be used for the installation and maintenance of an interstate natural gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 2.** The city known as the town of Methuen may grant by Grant of Location and Easement Agreement to the Portland Natural Gas Transmission System, a Maine General Partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a 50 foot wide permanent easement over a parcel of land located in and under the management and control of the conservation commission of the town, together with a temporary work space for construction purposes 25 feet wide, immediately adjacent to the area of the proposed permanent easement and additional temporary work spaces for construction purposes 25 feet wide immediately adjacent to the area of the proposed permanent easement and immediately adjacent to the temporary work space, as the case may be; all as more particularly shown on the plan of land described below. The rights to use the temporary work space and additional temporary work space shall expire 12 months after completion of construction. The land, presently being used for conservation purposes, is described on a plan of land entitled "Portland Natural Gas Transmission System Maritimes & Northeast Pipeline, Proposed Right-of-way Crossing, the Inhabitants of the Town of Methuen Property, Essex County, Massachusetts, PTB-K12-T5000-1-121", on file with the town, which shall be recorded with the northern district of the registry of deeds in Essex county.

The easement shall be used for the installation and maintenance of an interstate natural gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 3.** The city known as the town of Methuen may grant by Grant of Location and Easement Agreement to the Portland Natural Gas Transmission System, a Maine General Partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land lo-

cated in and under the control of the town, together with a temporary work space for construction purposes not more than 25 feet wide, immediately adjacent to the area of the proposed permanent easement and additional temporary work spaces of varying width for construction purposes, all as more particularly shown on the plan of land described below. The right to use the temporary work space and additional temporary work space shall expire 12 months after completion of construction. The land, presently being used for playground purposes, is described on a plan of land entitled "Portland Natural Gas Transmission System Maritimes & Northeast Pipeline Proposed Right-of-way Crossing, the Town of Methuen Property, Essex County, Massachusetts, PTB-K12-T5000-1-123", on file with the town, which shall be recorded with the northern district registry of deeds in Essex county.

The easement shall be used for the installation and maintenance of an interstate natural gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 4.** The city known as the town of Methuen may grant by Grant of Location and Easement Agreement to the Portland Natural Gas Transmission System, a Maine General Partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land located in and under the control of the town, together with a temporary work space for construction purposes not more than two feet wide, immediately adjacent to the area of the proposed permanent easement, as shown on the plan of land described below. The right to use the temporary work space shall expire 12 months after completion of construction. The land, presently being used for park and public way purposes, is described on a plan of land entitled "Portland Natural Gas Transmission System Proposed Right-of-way Crossing, the Town of Methuen Property, Essex County, Massachusetts, PTB-K12-T5000-1-130", on file with the town, which shall be recorded with the northern district registry of deeds in Essex county.

The easement shall be used for the installation and maintenance of an interstate natural gas transmission line which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 5.** In consideration for the easements authorized in sections 1 to 4, inclusive, Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, L.L.C., shall pay or have paid to the city known as the town of Methuen in the aggregate \$50,000, which amount is equivalent to or in excess of the fair market value of the easements granted.

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

Approved August 10, 2000.

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**Chapter 224. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO GRANT CERTAIN EASEMENTS TO PORTLAND NATURAL GAS TRANSMISSION SYSTEM AND MARITIMES AND NORTHEAST PIPELINE, L.L.C.**

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

**SECTION 1.** The city of Haverhill may grant by grant of location and easement agreement to the Portland Natural Gas Transmission System, a Maine general partnership, and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement of not more than 50 feet wide over a parcel of land located in and under the control of the city, together with temporary workspaces for construction purposes five feet and 25 feet wide, immediately adjacent to the area of the proposed permanent easement and additional temporary workspace for construction purposes 25 feet wide immediately adjacent to the northwesterly portion of the proposed permanent easement and an additional temporary workspace from Crystal Lake to the proposed permanent easement for construction purposes 20 feet by 240 feet wide, as the case may be, as more particularly shown on the plan of land described in this section. The right to use such temporary workspace and additional temporary workspace shall expire 12 months after completion of construction. The land, presently being used for watershed purposes, is described in a plan of land entitled "Proposed Right-of-way Crossing, the City of Haverhill Property, Essex County, Massachusetts, M4-P-9163", on file with the city, which shall be recorded with the southern district of the Essex county registry of deeds. The easement shall be used for the installation and maintenance of an interstate natural gas transmission line, which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 2.** The city of Haverhill may grant by grant of location and easement agreement to the Portland Natural Gas Transmission System, a Maine general partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land located in and under the control of the city, together with a temporary workspace for construction purposes 25 feet wide, immediately adjacent to the area of the proposed permanent easement and additional temporary workspace for construction purposes 50 feet by 100 feet wide and immediately adjacent to the temporary workspace, as the case may be, as more particularly shown on a plan of land described in this section. The right to use such temporary workspace and additional temporary workspace shall expire 12 months after completion of construction. The land, presently being used for watershed purposes, is described on a plan of land entitled, "Proposed Right-of-way Crossing, the City of Haverhill Property, Essex County, Massachusetts, M4-P-9161", on file with the city, which shall be recorded with the southern district of the Essex county registry of deeds. The easement shall be used for the installation and maintenance of an interstate natural gas transmission line, which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 3.** The city of Haverhill may grant by grant of location and easement agreement to the Portland Natural Gas Transmission System, a Maine general partnership

and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land located in and under the control of the city, together with a temporary workspace for construction purposes not more than 25 feet wide, immediately adjacent to the area of the proposed permanent easement and additional temporary workspace 25 feet by 250 feet wide immediately adjacent to the proposed permanent easement for construction purposes, as the case may be, as more particularly shown on the plan of land described in this section. The right to use such temporary workspace and additional temporary workspace shall expire 12 months after completion of construction. The land, presently being used for watershed purposes, is described on a plan of land entitled, "Proposed Right-of-way Crossing, the City of Haverhill Property, Essex County, Massachusetts, M4-P-9159", on file with the city, which shall be recorded with the southern district of the Essex county registry of deeds. The easement shall be used for the installation and maintenance of an interstate natural gas transmission line, which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 4.** The city of Haverhill may grant by grant of location and easement agreement to the Portland Natural Gas Transmission System, a Maine general partnership and Maritimes & Northeast Pipeline, L.L.C., a Delaware limited liability company, a permanent easement not more than 50 feet wide over a parcel of land located in and under the control of the city, together with a temporary workspace for construction purposes not more than 20 feet wide, immediately adjacent to the area of the proposed permanent easement for construction purposes, as more particularly shown on the plan of land described in this section. The right to use such temporary workspace shall expire 12 months after completion of construction. The land, presently being used for watershed purposes, is described on a plan of land entitled, "Proposed Right-of-way Crossing, the City of Haverhill Property, Essex County, Massachusetts, M4-P-9148", on file with the city, which shall be recorded with the southern district of the Essex county registry of deeds. The easement shall be used for the installation and maintenance of an interstate natural gas transmission line, which shall be installed underground, together with appliances and appurtenances necessary thereto.

**SECTION 5.** In consideration for the easements authorized in sections 1 to 4, inclusive, Portland Natural Gas Transmission System and Maritimes & Northeast Pipeline, L.L.C., shall pay or have paid to the city of Haverhill in the aggregate \$20,000, which amount is equivalent to or in excess of the fair market value of the easements granted.

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

Approved August 10, 2000.

## **Chapter 225. AN ACT RELATIVE TO THE ISSUANCE OF SEASONAL LICENSES FOR THE SALE OF ALCOHOLIC BEVERAGES.**

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



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Section 17 of chapter 138 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 46, the words "April the first to November the thirtieth only" and inserting in place thereof the following words:- April 1 to November 30 or from April 1 to the following January 15 at the discretion of the local licensing authority.

Approved August 10, 2000.

## Chapter 226. AN ACT AUTHORIZING THE CENTERVILLE-OSTERVILLE-MARSTONS MILLS FIRE DISTRICT TO ESTABLISH A BETTERMENT RESERVE FUND.

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

Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the Centerville-Osterville-Marstons Mills Fire District may establish a separate fund to be known as the Betterment Reserve Fund, which the treasurer of the district shall keep separate and apart from other monies of the district. All betterment payments, apportioned and unapportioned, and received by the district, shall be deposited into the 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 the district's betterment debt. Any excess in the fund may be transferred to the general fund of the district.

Approved August 10, 2000.

## Chapter 227. AN ACT RELATIVE TO CHARTER SCHOOLS.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to amend the statutes concerning 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.** Subsection (b) of section 89 of chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following sentence:- The board of trustees may include a member of the school committee.

**SECTION 2.** Said section 89 of said chapter 71, as so appearing, is hereby amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(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. Not more than 120 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 9 per cent of said district's net school spending; provided, however, the commonwealth shall incur charter school tuition payments for siblings attending commonwealth charter schools to the extent that their attendance would otherwise cause said school district's charter school tuition payments to exceed 9 per cent of said school district's net school spending. Of the total number of charter schools in the state, 48 shall be reserved for Horace Mann charter schools and 72 shall be reserved for commonwealth charter schools. Under no circumstances shall the total number of students attending commonwealth public schools exceed 4 per cent of the total number of students attending public schools in the commonwealth. Not less than three of the new charters approved by the board in any year shall be granted for charter schools located in districts where overall student performance on the statewide assessment system approved by the board of education pursuant to section 1I of chapter 69 is at or below the statewide average in the year preceding said charter application. In any year, the board shall approve only one regional charter school application of any commonwealth charter school located in a school district where overall student performance on the statewide assessment system is in the top 10 per cent in the year preceding charter application. The board may 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. The board shall not approve a new commonwealth charter school in any community with a population of less than 30,000 unless it is a regional charter school.

**SECTION 3.** Subsection (aa) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following paragraph:-

A charter school shall recognize an employee organization designated by the authorization cards of 60 per cent of its employees in the appropriate bargaining unit as the exclusive representative of all the employees in such unit for the purpose of collective bargaining.

**SECTION 4.** Subsection (ff) of said section 89 of said chapter 71, as so appearing, is hereby amended by adding the following sentence:- A regional charter school as designated by the board of education, and whose charter provides for transportation of all students from charter municipalities shall also be reimbursed by the commonwealth under section 16C of chapter 71 for transportation provided to pupils residing outside the municipality where the charter school is located, but no reimbursement for transportation between the charter school and home shall be made on account of any pupil who resides less

than one and one-half miles from the charter school, measured by a commonly traveled route.

**SECTION 5.** Subsection (ll) of said section 89 of said chapter 71, as so appearing, is hereby amended by inserting after the word "located", in lines 379 and 380, the following words:- ; provided that a commonwealth charter shall not be renewed unless the board of trustees of the charter school has documented in a manner approved by the board of education that said commonwealth charter school has provided models for replication and best practices to the commissioner and to other public schools in the district where the charter school is located.

**SECTION 6.** Said section 89 of said chapter 71, as so appearing, is hereby further amended by adding the following two subsections:-

(qq) No teacher shall be hired by a commonwealth charter school who is not certified pursuant to section 38G unless the teacher has successfully passed the state teacher test as required in said section 38G.

(rr) The commissioner shall provide technical assistance to public school districts to assist in the development of proposals for Horace Mann schools.

**SECTION 7.** Notwithstanding any general or special law, rule or regulation to the contrary, the board of education may increase the number of Horace Mann charter schools only by seven and the number of commonwealth charter schools only by seven upon the effective date of this act, and only by seven Horace Mann charter schools and only by seven commonwealth charter schools each year thereafter, until the total 120 charter schools are established under subsection (i) of section 89 of chapter 71 of the General Laws. Charters revoked, not renewed, or returned to the board of education may be subsequently granted without respect to the number of commonwealth or Horace Mann charters granted in any year. Should fewer than seven commonwealth or seven Horace Mann charters be granted in any given year, the remaining charters in each category shall be available for granting in the following year or years. The board of education may grant each year not more than four additional commonwealth charter schools above the seven granted each year for the specific purpose of establishing alternative education programs for disruptive students.

**SECTION 8.** There is hereby established a special commission consisting of four persons to be appointed by the governor; the chairman of the board of education; five persons to be appointed by the president of the senate; and five persons to be appointed by the speaker of the house of representatives for the purpose of studying and developing models for alternative education programs for disruptive students. In developing models the commission may study existing programs within or without the commonwealth. The commission shall report the results of its study and development of models and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the joint committee on education, arts and humanities, the house and senate committees on ways and means and the clerks of the senate and house of representatives not later than July 1, 2001.

**SECTION 9.** Subsection (qq) of section 89 of chapter 71 of the General Laws, in-

serted by section 6 of this act, shall apply to teachers initially hired by a particular commonwealth charter school after the effective date of this act.

**SECTION 10.** The second paragraph of subsection (aa) of section 89 of chapter 71 of the General Laws, inserted by section 3 of this act, shall apply to charter schools whose charters are issued after the effective date of this act.

Approved August 10, 2000.

**Chapter 228. AN ACT PROVIDING FOR THE COLLECTION OF DATA  
RELATIVE TO TRAFFIC STOPS.**

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

**SECTION 1.** As used in this act, "racial and gender profiling" means the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

**SECTION 2.** The executive office of public safety shall work with the department of state police and municipal police departments to ensure that adequate efforts are being made to identify and eliminate any instances of racial and gender profiling by police officers in the performance of their official duties.

**SECTION 3.** The department of state police and the Massachusetts Chiefs of Police Association, shall develop policies and procedures on how to identify and prevent racial and gender profiling by police officers, and shall submit them to the secretary of public safety for review not later than December 31, 2000. If the secretary approves such policies and procedures, the secretary shall direct the criminal justice training council to include them in (a) the new recruit basic training curriculum under section 116A of chapter 6 of the General Laws; (b) any in-service training for veteran officers; (c) any supervisory training for all superior officers; and (d) any dispatcher and communication officer training.

**SECTION 4.** The executive office of public safety shall initiate a public awareness campaign on racial and gender profiling not later than January 1, 2001. The campaign shall emphasize the responsibility of public safety officials and residents of the commonwealth to identify unlawful or potentially unlawful behavior by an individual, as opposed to the individual's race or gender, before taking any action. As a part of this public awareness campaign, the executive office of public safety shall establish a procedure whereby motorists who allege that an incident of racial or gender profiling has occurred may register a complaint by calling a toll-free telephone number. The executive office of public safety shall periodically analyze such complaints, and shall share the data with the appropriate state or local police departments.

**SECTION 5.** The registry of motor vehicles shall revise the Massachusetts Uniform Citation to include a field that allows officers to note whether a search of a vehicle occurred at the time a citation was issued.



**SECTION 6.** The executive office of public safety shall develop a uniform protocol for state police and municipal police officers on how to use the Massachusetts Uniform Citation to record the race and sex of each individual cited by an officer for a motor vehicle violation, and whether or not a search occurred. The protocol shall be put into effect not later than January 1, 2001.

**SECTION 7.** The registry of motor vehicles shall, in consultation with the department of state police, incorporate in any driver education manual prepared by the registry a section on how motorists should respond if they are stopped by police officers, including what they can do if they believe they were stopped as a result of racial or gender profiling.

**SECTION 8.** The registry of motor vehicles shall collect data from any issued Massachusetts Uniform Citation regarding the following information:

(1) identifying characteristics of the individuals who receive a warning or citation or who are arrested, including the race and gender of the individual;

(2) the traffic infraction;

(3) whether a search was initiated as a result of the stop; and

(4) whether the stop resulted in a warning, citation or arrest.

The registry of motor vehicles shall maintain statistical information on the data required by this section and shall report that information monthly to the secretary of public safety, who shall determine when it is also appropriate to transmit such data to the attorney general. The data collection shall commence not later than January 1, 2001.

**SECTION 9.** Individual data acquired under this section shall be used only for statistical purposes and may not contain information that may reveal the identity of any individual who is stopped or any law enforcement officer.

**SECTION 10.** Not later than one year after the effective date of this act, the secretary of public safety shall transmit the necessary data collected by the registry of motor vehicles to a university in the commonwealth with experience in the analysis of such data, for annual preparation of an analysis and report of its findings. The secretary shall forthwith transmit the university's annual report to the department of the attorney general, the department of state police, the Massachusetts Chiefs of Police Association, the executive office of public safety and the clerks of the house of representatives and the senate. The executive office of public safety shall, in consultation with the attorney general, if such data suggest that a state police barracks or municipal police department appears to have engaged in racial or gender profiling, require said state police barracks or municipality for a period of one year to collect information on all traffic stops, including those not resulting in a warning, citation or arrest. This information shall include the reason for the stop in addition to the other information already required under the Massachusetts Uniform Citation. Upon appeal by the colonel of state police or the municipality, respectively, the attorney general may determine that collecting such information is not required.

Approved August 10, 2000.

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## Chapter 229. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Springfield acting by and through its conservation commission, may convey a certain parcel of land located in the city, acquired for conservation purposes, to the Berkshire Development, LLC to be used for economic development purposes. The parcel is bounded and described as follows:-

Northerly and Northeasterly by Lot 11, shown on hereinafter mentioned plan, three hundred forty and 32/100 (340.32) feet;

Easterly four hundred ninety nine and 31/100 (499.31) feet and

Southerly two hundred ten and 73/100 (210.73) by land of Springfield Area Development Corporation;

Southeasterly by Lot 13, shown on said plan, three hundred thirty-seven and 01/100 (337.01) feet;

Said land is shown as Lot 12 on said hereinafter mentioned plan.

All of said boundaries are determined by the court to be located as shown upon plan numbered 33452D, Sheet 1 and 2, the same being compiled from a plan drawn by Durkee, White, Towne & Chapdelaine, Surveyors dated March 25, 1986 and additional data on file in the land registration office, all as modified and approved by the court, a copy of a portion of which is filed with Certificate of Title No. 22329 recorded at Hampden county registry of deeds.

**SECTION 2.** In consideration for the conveyance authorized in section 1, the Berkshire Development, LLC shall convey to the conservation commission of the city of Springfield a certain parcel of land located in the city to be used for conservation purposes under section 8C of chapter 40 of the General Laws. The parcel is bounded and described as follows:-

Beginning at a point on the easterly side of Carol Ann Street said point marking the north westerly corner of lot 7 as shown on a plan entitled Definitive Street& Lot Layout, Carol Ann Street, Springfield, MA owner Berard & Sons, Inc. dated February, 1992 and updated July 24, 1992 by Smith Associates Surveyors, Inc.

Thence running S 16°-06'-32" E along lot 7 a distance of 164.95' to a point at land of Dilizia; thence continuing along land of Dilizia 17°-08'-24" E a distance of 696.65' to a point at land of Brouillard; thence turning and running along last named land the following courses S 72°-51'-36" W a distance of 185.00' to a point; thence turning and continuing S 17°-08'-24" E a distance of 69.12' to a point at land of Fether, Inc. on the town line between Springfield and East Longmeadow; thence turning and running along land of Fether, Inc. S 80°-27'-53" W a distance of 232.50' to a point at land of Fisk; thence turning and running along last named land N 13°-01'-57" W a distance of 562.33' to a stone bound at land of the City of Springfield; thence turning and running along land of the City of Springfield N 02°-27'-37" E a distance of 986.42' to a point at land of lot 2; thence turning and running

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along lot 2 the following courses S 36°-32'-48" W a distance of 145.36' and S 69°-13'-26" E a distance of 25.00' to a point on the westerly side of Carol Ann Street; thence turning and continuing along the westerly side of Carol Ann Street on a curve to the left having a radius of 175.00', an arc distance of 167.56' to the point of reverse curve; thence continuing along curve to the right having a radius of 305.00', an arc distance of 245.31' to a point; thence continuing S 12°-00'-00" W a distance of 30.00' to a point at the terminus of Carol Ann Street; thence turning and running along the terminus of Carol Ann Street S 78°-00'-00" E a distance of 50.00' to a point; thence turning and running N 12°-00'-00" E a distance of 10.00' to a point marking the north westerly corner of lot 7 as shown on above mentioned plan being the point of beginning.

Meaning and intending to convey 9.38 acres of land shown as "Remaining Land of Berard & Sons, Inc." on above mentioned plan.

The parcel to be conveyed to the city described in this section shall be of equal or greater value than the parcel described in section 1.

**SECTION 3.** In addition to the conveyance required by section 2, Berkshire Development, LLC shall construct and assume all costs for the construction of a new detention basin according to the specifications of the conservation commission of the city of Springfield on or before January 1, 2001.

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

Approved August 10, 2000.

## **Chapter 230. AN ACT AUTHORIZING THE CITY OF WOBURN TO USE CERTAIN PARK LAND FOR SCHOOL PURPOSES.**

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

**SECTION 1.** The city of Woburn may use a portion of a certain parcel of land acquired by the 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. The portion of land is shown as Proposed Shamrock School Land on a Plan of Land which is filed with and incorporated into the permanent records of the city council, specifically in Volume 50 of the journal of the Woburn city council which is on file in the office of the city clerk of the city.

**SECTION 2.** The change in use of the portion of park land is contingent upon suitable replacement park lands, abutting the portion, 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 August 10, 2000.

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## **Chapter 231. AN ACT RELATIVE TO THE DISPOSITION OF CERTAIN PROPERTY IN THE TOWN OF UPTON.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance 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 any improvement located thereon, currently used by the department of environmental management for conservation and recreational purposes for the Upton state forest, in the town of Upton, containing 14,833 square feet, more or less, and as more particularly described below, to Vincent F. Lioce and Kenneth E. Thomas, their successors and assigns, in order that adjacent land of the grantees may conform with current zoning requirements for one single family house lot, 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. The land authorized to be conveyed in this act may not be used to increase building density of adjacent land of the grantees or to create additional subdivision lots.

Said parcel of land is shown on a plan of land entitled "Plan of Land in Upton, Mass., Property of: Lot 2-45: Vincent F. Lioce & Kenneth E. Thomas, Lot 5-37, Parcel A; Commonwealth of Massachusetts, Date: August 27, 1997, Guerriere & Hahn, Inc., Engineering & Land Surveying, 333 West Street, Milford, Mass. 01757," on file with the department of environmental management.

The exact boundaries of the parcel shall be established by the commissioner based on a final land survey to be completed before the conveyance of the parcel.

**SECTION 2.** No deed conveying, by or on behalf of the commonwealth, the title described in section 1 shall be valid unless the deed provides that the property shall be used for the purposes described in section 1. The deed shall include a reversionary clause that stipulates that the property will revert to the commonwealth if the property ceases to be used for the express purposes for which it was conveyed.

**SECTION 3.** The grantees shall assume the cost of any appraisals, surveys and other expenses deemed necessary by the commissioner of the division of capital asset management and maintenance for the conveyance.

**SECTION 4.** The grantees shall compensate the commonwealth through the transfer of land, or an interest of land, of greater or equal value to the full and fair market value of the property as determined by independent appraisal, or in a sum equal to the full and fair market value of the property as determined by independent appraisal or through some combination thereof. The inspector general shall review and approve the appraisal and the review shall include a review of the methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file his report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 5.



**SECTION 5.** The commissioner of the division of capital asset management and maintenance 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. The 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 shall pay the purchase price in accordance with the terms of the agreement.

**SECTION 6.** The department of environmental management is hereby authorized to deposit any sum received pursuant to section 4 in the Conservation Trust established pursuant to section 1 of chapter 132A of the General Laws, for the purchase of property for the Blackstone river and canal heritage state park.

Approved August 10, 2000.

## **Chapter 232. AN ACT RELATIVE TO THE USE OF ALTERNATIVE DISPUTE RESOLUTION.**

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

Section 6 of chapter 40A of the General Laws, as amended by chapter 29 of the acts of 2000, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

Disapproval of a plan shall not serve to terminate any rights which shall have accrued under the provisions of this section, provided an appeal from the decision disapproving said plan is made under applicable provisions of law. Such appeal shall stay, pending either (1) the conclusion of voluntary mediation proceedings and the filing of a written agreement for judgment or stipulation of dismissal, or (2) the entry of an order or decree of a court of final jurisdiction, the applicability to land shown on said plan of the provisions of any zoning ordinance or by-law which became effective after the date of submission of the plan first submitted, together with time required to comply with any such agreement or with the terms of any order or decree of the court.

Approved August 10, 2000.

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**Chapter 233. AN ACT RELATIVE TO THE SALE OF DOGS AND CATS IMPORTED FOR RESALE.**

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

Section 138A of chapter 140 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 34, the word "five" and inserting in place thereof the following word:- two.

Approved August 10, 2000.

**Chapter 234. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF GRAFTON TO ROBERT AND ABBY McINNIS.**

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

**SECTION 1.** The commissioner of capital asset management and maintenance may, notwithstanding section 40H of chapter 7 of the General Laws, convey to Robert and Abby McInnis of the town of Grafton, a certain parcel of state owned land in the town described in section 2. The sale price paid by Robert and Abby McInnis for the parcel of land shall be the full and fair market value of the property determined by independent appraisal. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology used for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration. The grantee of the parcel shall acquire the same in its existing condition and, notwithstanding any general or special law to the contrary, the commonwealth shall not retain any liability or responsibility for the same.

**SECTION 2.** The parcel referred to in section 1 is described generally as a strip of land extending along the westerly boundary of the state owned parcel in the town of Grafton, shown as parcel 71 on the town of Grafton tax Assessor's Map Number 65, which strip is 50.10 feet wide, more or less at its southerly end, adjacent to Worcester Street, and 30.04 feet wide, more or less, at its northerly end. The commissioner of capital asset management and maintenance shall determine the exact boundaries of the parcel based on a survey to be prepared for the commissioner.

**SECTION 3.** Robert and Abby McInnis of the town of Grafton shall pay for all expenses deemed necessary by the commissioner of capital asset management and maintenance in connection with the conveyance authorized by this act, including, but not limited to, the cost of the appraisal, survey and deed preparation.

Approved August 10, 2000.

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**Chapter 235. AN ACT PROVIDING FOR AN ACCELERATED  
TRANSPORTATION DEVELOPMENT AND IMPROVEMENT  
PROGRAM FOR THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith 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, 2C, 2D, 2E, 2F, 2G and 2H 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.*

6033-9915 For projects, pursuant to sections 55 and 56 on the interstate federal aid highway system; provided, that funds may be expended for the costs of said projects including, but not limited to, the non-participating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department of highways employees or by consultants; provided further, that amounts expended for department employees may include salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding the provisions of any general or special law, including other provisions of this act, to the contrary, said 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; and provided further, that the department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon a prior 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 . . . . . \$56,100,000

6033-9916 For federal aid projects, pursuant to sections 55 and 56, and for non-participating portions of such projects; provided, that notwithstanding the provisions of any general or special law, including other provisions of this act, to the contrary, the department of highways shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and are sufficient to fund the corresponding state portion of the federal commitment to fund such obligation; provided further, that the department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon a prior 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 \$4,800,000 shall be expended for projects specifically earmarked as "High Priority Projects" under TEA-21; provided further, that state matching funds for said high priority projects shall be used exclusively for transportation improvements associated with said projects; provided further, that expenditures from this item may include 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 salary and salary related expenses of such employees to the extent that they work on or in support of such projects . . . . . \$410,200,000

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

6033-9935 For projects, pursuant to the provisions of sections 55 and 56, on the interstate federal aid highway system; provided, that funds may be expended for the costs of said projects including, but not limited to, the non-participating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department



of highways and central artery/tunnel project employees or by consultants; provided further, that amounts expended for department and central artery/tunnel project employees may include salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding the provisions of any general or special law, including other provisions of this act, to the contrary, neither the central artery/tunnel project nor the department shall 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; and provided further, that said department or central artery/tunnel project shall only enter into obligations for said 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 . . . . . \$68,600,000

6033-9936 For federal aid projects, pursuant to the provisions of sections 55 and 56, and for non-participating portions of such projects; provided, that notwithstanding the provisions of any general or special law, including other provisions of this act, to the contrary, neither the department of highways nor the central artery/tunnel project shall 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 said department or central artery/ tunnel project shall only enter into obligations for said 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 said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by department and central artery/tunnel project employees or by consultants; and provided further, that amounts expended for department and central artery/tunnel project employees may include salary and salary related expenses of such employees to the extent that they work on or in support of such projects . . \$1,240,000,000

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

- 6037-0019 For construction and reconstruction projects on town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws; provided, however, that a city or town shall comply with the 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 item; 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 item within 30 days of receipt by the department of a request for reimbursement from such city or town, which request shall include certification by such city or town that actual expenses have been incurred on projects eligible for reimbursement under this item, and that 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 and said procedures established by the department; and provided further, that said funds shall be used to support a \$150,000,000 annual program . . . . . \$50,000,000
- 6033-9903 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 the provisions of section 55; 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, subsection (f) of section 3 of chapter 15 of the acts of 1988, item 6033-9501 of section 2A of chapter 273 of the acts of 1994, item 6033-9603 of section 2B of chapter 205 of the acts of 1996, and item 6033-9703 of section 2B of chapter 11 of the acts of 1997 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 cities and towns of the availability of funds through this program and shall inform municipalities of the application process prior to the expenditure of any funds from this item . . . . . \$30,000,000

6033-9917 For the design of, construction of, repair of or improvement to non-federally aided roadway projects and for the non-participating portion of federally aided projects, pursuant to the provisions of section 55; provided, that the costs of professional personnel directly and exclusively involved in the construction, planning, engineering and design of said projects may be charged to this item; provided further, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the projects funded herein; provided further, that the highway department may expend funds from this item for its obligations associated with the Cunningham Brook/Furnace Brook drainage project, so-called; provided further, that said department shall have in place by December 15, 2000 a funding plan for said project; provided further, that \$750,000 shall be expended for the extension of Tanzio road in the city of Leominster; provided further, that not less than \$30,000 shall be expended for the signalization and reconstruction needed to abate the traffic problem at the intersection of Route 12 and Grove street also known as Chadwick Square in Worcester; provided further, that \$2,000,000 shall be expended on the Canal Street Traffic Improvement Project, so-called, in the city of Salem; provided further, that \$2,500,000 shall be expended for the reconstruction of Locust street from Maple street in Danvers

to the Wenham line including the traffic safety improvements to the intersection of Maple, Locust and Hobart streets; provided further, that \$320,000 shall be expended for the signalization at the intersection of Central, Tremont and Warren streets in the city of Peabody; provided further, that \$5,700,000 shall be expended for the design and construction of safety improvements and reconstruction to the state highway route 2 in the town of Erving, pursuant to the state highway route 2 safety improvements study; provided further, that said construction project shall be completed by June of 2003; provided further, that \$500,000 shall be expended for the design of the reconstruction of state highway route 32 to Stimson street in the town of Ware; provided further, that \$1,000,000 shall be expended for the design and reconstruction of state highway route 32 from Stimson street in Palmer to the Ware town line; provided further, that \$7,500,000 shall be expended for the design and construction of the safety improvements and reconstruction to the state highway route 2 from the towns of Athol and Phillipston, pursuant to the state highway route 2 safety improvements study, said construction project shall be completed by September of 2002; provided further, that \$1,200,000 shall be expended to complete the repaving of Reed road in the town of Dartmouth; provided further, that said construction project shall be completed by September of 2002; provided further, that \$5,000,000 shall be expended for the design and construction of safety improvements and reconstruction to the state highway route 2 in the town of Orange; provided further, that not less than \$800,000 shall be expended for the design of the Nahant Beach parkway in the town of Nahant; provided further, that not less than \$10,000,000 shall be expended for the construction, reconstruction and rehabilitation of the Nahant Beach parkway in the town of Nahant; provided further, that not less than \$226,125 shall be expended for the replacement of jersey barriers, so-called, on the Nahant Beach parkway in the town of Nahant; provided further, that \$1,900,000 shall be expended for improvements along state highway route 129 from Great Woods road to Wyoma Square, Broadway to Boston street in the city of Lynn; provided further, that no more than \$400,000 shall be expended



on the construction of intersection improvements at the Tent's Corner intersection, so-called, and the Pleasant street, Smith street, and Baldwin road intersection, so-called, in the town of Marblehead; provided further, that \$1,600,000 shall be expended for the repair and reconstruction of Green street from Olde Fort road to Huttleston avenue in the town of Fairhaven; provided further, that not less than \$1,000,000 shall be expended for improvements to Chestnut street, between Boston street and Western avenue, in the city of Lynn; provided further, that \$6,500,000 shall be expended for traffic improvements in the city of Brockton in accordance with the Brockton Central Area Traffic study, so-called; provided further, that an amount not to exceed \$25,000 shall be expended for a pedestrian light in the town of Hanover; provided further, that \$50,000 shall be expended to study traffic flow on state highway route 9 in the city of Newton; provided further, that \$357,000 shall be expended for improvements at the Parker street, Elliot street and Hartford street intersections with state highway route 9 in the city of Newton; provided further, that \$100,000 shall be expended for traffic study consulting services for Needham street between Centre street and state highway route 128/95 in the city of Newton; provided further, that not less than \$600,000 shall be expended for the reconstruction of South Main street in the town of Acushnet; provided further, that \$50,000 shall be expended for a comprehensive traffic study of the state highway route 128 corridor in the town of Weston; provided further, that \$2,000,000 shall be expended for the renovation of Lee's bridge on state highway route 117 in the towns of Concord and Lincoln; provided further, that an amount not to exceed \$150,000 shall be expended for the relocation of Assabet avenue in the town of Concord; provided further, that \$1,360,000 shall be expended for traffic lights and widening at the intersections of state highway route 4 and Parkhurst, Davis roads and Dalton street in the town of Chelmsford; provided further, that \$35,000 shall be expended for the state highway route 20 transportation corridor initiative in the town of Shrewsbury; provided further, that not less than \$50,000 shall be expended for improvements to Coolidge street in

the town of Auburn; provided further, that not less than \$75,000 shall be expended for improvements to Swanson road in the town of Auburn; provided further, that \$870,750 shall be expended for the repair and reconstruction of Main street from Church street to Huttleston avenue in the town of Fairhaven; provided further, that \$130,000 shall be expended for design and contract specifications for the reconstruction of Highland avenue, from Webster street to Gould street, including the engineering for the traffic signal at Webster street in Needham; provided further, that \$425,000 shall be expended for safety improvements in the town of Attleboro; provided further, that not less than \$100,000 shall be expended for the preliminary engineering including the study, analysis, survey and design for this project which requires a traffic study and design to upgrade existing intersection geometry and installing of new signals on the intersection of state highways route 1, route 1A, and route 120 in the town of North Attleborough; provided further, that \$500,000 shall be expended for improvements to the guard rails on the New Bedford-Fairhaven bridge; provided further, that \$60,000 shall be expended for the construction of traffic signalization lights at the intersection of Thatcher, Canton and Highland streets in the town of Milton; provided further, that the sum of \$35,000 shall be expended for the development of a Master traffic study plan in the town of Milton; provided further, that not less than \$244,578 shall be expended for improvements to the Miller street bridge in the town of Norfolk; provided further, that \$50,000 shall be expended for the installation of blinking school zone lights, so-called, in front of St. Mary's school located on state highway route 28 in the town of Milton; provided further, that \$935,000 shall be expended to address safety concerns along Morton street at the intersections of Corbet, West Seldon, Evans and Norfolk streets in the Mattapan section of the city of Boston; provided further, that \$3,500,000 shall be expended for the reconstruction of state highway route 116, in Chicopee, from Meadow street to the Willimansett bridge; provided further, that \$500,000 shall be expended for road improvements to Van Horn park in the city of Springfield; provided further, that \$200,000 shall be expended for the

study, design and improvements to the area known as the East street corridor in the town of Ludlow; provided further, that \$9,000,000 shall be expended for the full reconstruction of Parker street, from Allen street in the city of Springfield to Main street in the Indian Orchard section of the city of Springfield; provided further, that \$50,000 shall be expended on a full traffic signal for the center island on Columbia road, at Upham's corner in the city of Boston; provided further, that \$210,000 shall be expended to replace existing streetlights along Day boulevard in the South Boston section of the city of Boston; provided further, that \$200,000 shall be expended for a comprehensive traffic analysis at the intersection of Old Colony avenue and Preble street in the South Boston section of the city of Boston; provided further, that \$475,000 shall be expended on traffic signals and roadway improvements at the intersection of Columbia road and interstate highway route 93 in the city of Boston; provided further, that \$156,000 shall be expended for the realignment of the road approaches to the Mill road bridge in the town of Westborough; provided further, that \$1,200,000 shall be expended for the repair and reconstruction of Howland road from the Mullin bridge to Alden road in the town of Fairhaven; provided further, that not less than \$120,000 shall be reimbursed to the town of Saugus for traffic improvements on Hamilton street; provided further, that not more than \$15,000 shall be expended for a 1-directional opticom in the town of Westborough; provided further, that not less than \$50,000 shall be expended to conduct a traffic study of route 109 from Holliston street to Pond street in the town of Medway; provided further, that \$150,000 shall be expended for a design engineering study of state highway route 126 in the town of Ashland; provided further, that \$100,000 shall be expended for a noise pollution study along Delmar avenue, Bonito drive, Gleason street, Florita drive, and Westgate road in the town of Framingham; provided further, that \$730,000 shall be expended for improvements to state highways routes 16 and 126 in the town of Holliston; provided further, that \$775,000 shall be expended for road improvements at Blunt Park in the city of Springfield to improve access to the state skating rink and state pool; provided further, that \$50,000

shall be expended for a site and specification study to determine the economic viability of reconstructing a motor vehicle bridge between the town of West Springfield and the city of Chicopee to connect Riverdale road in West Springfield to Exchange street in the city of Chicopee; provided further, that \$100,000 shall be expended to conduct a study of the feasibility of local shuttle service in the town of Milford between elderly and low income housing and the historic downtown commercial area and shopping plazas; provided further, that said study shall determine the potential ridership, specific routes, optimal times of operation, potential capital and operation funding sources; provided further, that \$1,400,000 shall be expended for the final design, land acquisition and construction of the Blackstone River Bikeway from Worcester to the Rhode Island state boundary; provided further, that not less than \$50,000 shall be expended for the preliminary design and construction of a bike trail in the town of Bellingham to be known as the Southern New England Bike Trail; provided further, the Massachusetts highway department shall erect and maintain a sign on interstate highway route 495 at exit 7A directing motorists to state highway route 24 north bound in order to access Bridgewater state college; provided further, that the section of state highway route 146 between interstate highway route 290 at Brosnihan square in Worcester and the state highway route 146 intersection with Boston road in Sutton shall be designated the Blackstone Valley parkway; provided further, that \$77,000 shall be expended for the installation of reflective center line markers for the purpose of safety improvements to Douglas street, Aldrich street, state highway route 16 and route 98 in the town of Uxbridge; provided further, that \$100,000 shall be expended for the installation of a traffic control signal on the corner of Airport road and West main street in the town of Dudley; provided further, not less than \$171,921 shall be expended for the resurfacing and reconstruction of Southwest Main street in the town of Douglas; provided further, that \$107,807 shall be expended for the resurfacing of state highway route 16 at Northwest Main street in the town of



Douglas; provided further, that \$2,050,000 shall be expended for improvements to the rest area along state highway route 3 in the town of Norwell; provided further, that \$446,000 shall be expended for improvements to the intersection of Crissey road and state highway route 7 in the town of Great Barrington; provided further, that \$1,500,000 shall be expended for the state highway route 37/Forbes road enhancement project in the town of Braintree; provided further, that \$400,000 shall be expended for the reimbursement for expenses incurred by the city of Quincy and the town of Milton for the Cunningham Brook/Furnace Brook Flood Control Project; provided further, that \$362,000 shall be expended on traffic signals and roadway improvements at the intersection of Bay street and interstate highway route 495 in the city of Taunton; provided further, that \$800,000 shall be expended for the reconstruction of the Nemasket street bridge in the town of Middleborough; provided further, that \$409,760 shall be expended for replacement of the Vaughn street bridge in the town of Middleborough; provided further, that \$150,000 shall be expended for the installation of a traffic signal at Church street on state highway route 44 in the town of Raynham; provided further, that \$500,000 shall be expended for a full engineering study and environmental impact report for the improvement of the intersection of state highways route 140 and route 24 in the city of Taunton; provided further, that the Massachusetts highway department shall spend the funds necessary to complete the environmental permitting and design requirements for the previously approved Amherst road project in the town of Pelham; provided further, that \$320,000 shall be made available for the state match for the Federal Intelligent Transportation project for the University of Massachusetts at Amherst; provided further, that \$1,300,000 shall be expended for the reconstruction of South road in the town of Westhampton; provided further, that \$2,500,000 shall be expended for the completion of the redesign, engineering and reconstruction of Buffam road in the town of Pelham; provided further, that \$975,000 shall be expended for the reconstruction of Bridge road and Gore avenue in the town of Hatfield; provided further, that \$810,000 shall be expended for phase I construction of the

proposed bikeway in the county of Franklin; provided further, that \$365,400 shall be expended for phase II construction of the proposed bikeway in the county of Franklin; provided further, that \$3,000,000 shall be expended for the reconstruction of Main road in the town of Gill; provided further, that \$2,000,000 shall be expended for the reconstruction of South Chesterfield road in the town of Goshen; provided further, that \$1,200,000 shall be expended for the reconstruction of Damon road in the town of Northampton; provided further, that \$2,500,000 shall be expended for the reconstruction of Greenfield road in the town of Montague; provided further, that \$85,000 shall be expended for the completion of improvements to the Smith road in the town of Chesterfield; provided further, that \$500,000 shall be expended for the design of the state highway route 1A reconstruction project in the town of Walpole beginning at the Norwood town line and ending at Walpole Center and also including the North street bridge replacement in said town and the installation of a traffic light system at the intersection of route 1A and Winter street in said town; provided further, that the Massachusetts highway department in conjunction with the metropolitan area planning council shall conduct a regional truck study for the municipalities of Cambridge, Belmont, Watertown, Arlington, Somerville, and Everett and surrounding areas with the object of the study to include, but not be limited to, assessing present trucking patterns to reduce the number of trucks driving through these municipalities that neither originate nor terminate in such municipalities, both for night time and day time and also to include a study of the dangers posed by trucks carrying hazardous material; provided further, that the department shall conduct a study to determine sufficient funding for land acquisition from the Boston & Maine Railroad in association with the construction of a recreation path from School street to Grove street in the town of Watertown; provided further, that \$250,000 shall be expended for engineering, construction and installation of traffic lights at the intersection of Chandler and East streets in the town of Tewksbury; provided further, that \$2,900,000 shall be expended for the repair and reconstruction of River street in

the Readville section of the city of Boston; provided further, that \$200,000 shall be expended for the design, engineering and construction of traffic and roadway-related improvements at Milton street and Sprague street, and at Milton street and Hyde Park avenue, in the Readville section of the city of Boston; provided further, that not more than \$3,500,000 shall be expended for the reconstruction and widening of Washington street in the town of Dedham, from the Boston boundary line to Providence Highway, pursuant to an agreement of discontinuance between the town of Dedham and the department of highways; provided further, that \$150,000 shall be expended to complete the engineering design work for the reconstruction of Manley street in the town of West Bridgewater; provided further, that \$400,000 shall be expended for signalization improvements on state highway route 152 in the town of Seekonk; provided further, that the department shall conduct a feasibility study for the construction of a second bridge over the Connecticut River in the towns of Hadley and Northampton; provided further, that \$1,000,000 shall be expended for the replacement of the Greenfield road bridge over the B & M railroad in the town of Montague; provided further, that \$640,000 shall be expended for the design, engineering, hazard mitigation and reconstruction of River road in the town of West Newbury; provided further, that \$300,000 shall be expended for the reconstruction of state highway routes 28 and 62, including Park street, in the town of North Reading; provided further, that \$1,700,000 shall be expended to resurface and repair state highway route 127 in the town of Manchester-by-the-Sea; provided further, that \$500,000 shall be expended for street light signalization and roadway improvements to Main street in the town of Winchester from Winchester center to the Woburn town line; provided further, that \$500,000 shall be expended for street light signalization and roadway improvements for state highway route 60/Medford Square in the city of Medford; provided further, that \$450,000 shall be expended for light signalization and roadway improvements at the intersection of Broadway and Boston avenue in the city of Somerville; provided further, that \$600,000 shall be expended for light signalization at the four intersections of

state highway route 3A/Cambridge street in the town of Winchester; provided further, that \$2,500,000 shall be expended for design, engineering and construction of a new access and entrance roadway, including any necessary interchanges, traffic signals, and pedestrian walkways from state highway route 9 to the University of Massachusetts Medical School campus on Belmont street in the city of Worcester; provided further, that \$150,000 shall be expended in matching funds for the city of Somerville to facilitate transportation planning in conjunction with the redevelopment of the Assembly Square/Mystic View area; provided further, that funds from this item may be expended for the purpose of studying the feasibility of relocating the Massachusetts Bay Transportation Authority maintenance facility in the town of Wilmington in conjunction with the town; provided further, that an amount not to exceed \$123,200 shall be expended for improvements at the railroad station on Jarves street in the town of Sandwich; provided further, that \$650,000 shall be expended for the replacement of the River street bridge over the Eel river in Plymouth; provided further, that \$400,000 be expended in conjunction with the Congestion Management Program, so-called, for the planning, construction and support of signalization on state highway route 83 in the town of East Longmeadow; provided further, that not less than \$3,500,500 be provided for the widening and resurfacing of state highway route 20 in the town of Marlborough from interstate highway route 495 to the town of Northborough line; provided further, that not more than \$50,000 shall be expended on a study of traffic flow/pedestrian access on state highway route 9 from Parker street in the city of Newton to Hammond street in the city of Brookline; provided further, that \$100,000 shall be expended for the purpose of conducting a feasibility study on the Lowell Regional Transit Authority; provided further, that said department shall conduct a study to determine the cost of repairs to, or replacement of, the bridge over Fort Pond brook on state highway route 111 in the town of Acton; provided further, that said study shall include construction costs of pedestrian walkways and pipe rail repair or replacement; provided further, that \$300,000 shall be expended for



the Connecticut River Walk and Bikeway in Agawam; provided further, that not more than \$300,000 shall be expended for the purpose of beautification and sound relief adjacent to the Massachusetts Turnpike in the Allston-Brighton section of Boston; provided further, that not less than \$1,000,000 shall be expended from this item for a comprehensive investigation and study of the traffic impact on the South Boston and Dorchester sections of the city of Boston generated by the Central Artery Tunnel Project, the construction and development of the Boston Convention and Exhibition Center and the overall development of the South Boston Waterfront; provided further, that said study shall be completed within six months of the effective date of this act by the executive office of transportation and construction and shall be reported to the joint committee on transportation; provided further, that said study shall include, but not be limited to, an examination of traffic management, street light signalization and street layout options that will reduce the negative impact of the aforementioned projects on the residential neighborhoods while preserving access to the Port of Boston; provided further, that \$2,500,000 shall be expended for the reconstruction of South Huntington avenue in the Jamaica Plain and Mission Hill sections of the city of Boston; provided further, that \$366,000 shall be expended for emergency repairs to Bolivar street and the Shovel Shop project in the town of Canton; provided further, that \$400,000 shall be expended for upgrades/improvements to the water drainage system in the area known as Elm street to state highway route 83 in the town of East Longmeadow; provided further, that \$150,000 shall be expended for Safety Flashing School Zone Signals in the city of Fall River; provided further, that \$150,000 shall be expended for a full traffic signal at the intersection of U.S. highway route 6 and Locust street in the city of Fall River; provided further, that an amount not to exceed \$100,000 shall be expended on additional commuter parking spaces in the downtown section of the town of Framingham; provided further, that \$15,000 shall be expended for a flashing warning beacon at the intersection of County road, Mason road, and Chace road in the town of Freetown; provided further, that not less

than \$50,000 shall be expended for the construction on state highway route 127 in the city of Gloucester of a planned memorial to the 10,000 men and women lost in the fishing industry; provided further, that \$1,000,000 shall be expended for historic design, engineering and improvements to Elm Park, at the intersection of state highway route 113 and state highway route 97, at the approach to the Bates Bridge, in the town of Groveland, for the specific purpose of preserving the historic character of Elm Park and Groveland Square; provided further, that \$200,000 shall be expended for the resignalization of the intersection of Liberty street and Winter street in the town of Hanson in front of the Historic Hanson town hall; provided further, that \$175,000 shall be expended for resurfacing and other improvements to state highway route 27 in the town of Hanson; provided further, that \$2,000,000 shall be expended for the design, engineering and construction of improvements to the intersection of Groveland street and Lincoln avenue, at the approach to the Bates bridge, in the city of Haverhill, said work will be done in conjunction with the repair or replacement of the Bates bridge; provided further, that \$750,000 shall be expended for the historic design, engineering, and improvements to the intersection of Main street and River road, at the approach to the Rocks Village bridge, in the city of Haverhill for the specific purpose of preserving the historic character of Rocks Village; provided further, that \$51,638 shall be expended for the Holyoke canalwalk; provided further, that \$100,000 shall be expended for sound barriers on state highway route I-91 in the city of Holyoke as determined by the department of highways; provided further, that \$887,000 shall be expended for the construction of an access road over the North Canal bridge in the city of Lawrence; provided further, that \$350,000 shall be expended for the design, engineering, and construction of improvements to the Cottage Avenue bridge in Ludlow and Wilbraham; provided further, that not more than \$400,000 shall be expended for the design and permitting of an access road between state highway routes 110 and 113 in Methuen; provided further, that the sum of \$5,000 shall be expended for the construction and/or improvements to the sidewalks on Hope

avenue at the intersection of Squantum street in the town of Milton; provided further, that the department shall conduct a study of the design and construction of traffic signals and roadway improvements at the intersection of King's Highway and Mount Pleasant street in the city of New Bedford; provided further, that not more than \$200,000 shall be expended for the design and construction of sound barriers along the Massachusetts Turnpike as determined necessary by the Massachusetts Turnpike Authority Priority Results, in the city of Newton; provided further, that not less than \$50,000 shall be reimbursed for design and engineering costs associated with the reconstruction of bridge No. N18-005 located in the town of North Reading; provided further, that not less than \$1,200,000 shall be provided to the town of Orange for the reconstruction and improvement of North Main street; provided further, that \$75,000 shall be expended for an investigation and study relative to the feasibility and advisability of a complementary investment by the commonwealth in a federally funded activity designed to support the creation of an advanced manufacturing facility for electric powered buses and delivery vehicles to be located in the city of Pittsfield; provided further, that the amounts appropriated for said Pittsfield study shall be made available to the Massachusetts Technology Park Corporation and the MassDevelopment Finance Corporation; provided further, that said Pittsfield study, to the extent it contains recommendations in support of such an investment, shall also set forth such terms and conditions as said corporations deem necessary or appropriate to safeguard the commonwealth's investment therein and to otherwise ensure that the maximum public benefits are generated thereby, including but not without limitation, proposals relative to a formal business plan for the activity, public oversight, matching requirements and other issues in the public interest; provided further, that such study and the results of its investigation together with its recommendations, if any, and drafts of legislation necessary to carry any recommendations into effect shall be filed with the house and senate committees on ways and means and the joint committees on commerce and labor and energy and the house and senate committees on science and technology

on or before January 1, 2001; provided further, that \$250,000 shall be expended for the repair of the Furnace Brook tidal gates at Black's Creek in the city of Quincy; provided further, that \$15,000 shall be expended for a traffic study at the Winthrop avenue intersection on the Winthrop Parkway in the city of Revere; provided further, that \$3,500,000 shall be expended on the Marlboro road reconstruction project in the city of Salem; provided further, that \$250,000 shall be expended on the design and planning of the Boston street, Proctor street, and Goodhue Street Intersection Improvement Project, so-called, in the city of Salem; provided further, that funds may be expended on the planning and conceptual design of a multimodal station and parking garage in the city of Salem; provided further, that the department shall conduct a feasibility study for signalization/improvements on U.S. highway route 44 and Lincoln street in the town of Seekonk; provided further, that the department shall conduct a study on the construction of a bicycle pathway-tunnel under the Mystic Wellington bridge at state highway route 28 in the city of Somerville; provided further, that \$1,300,000 shall be expended for the acquisition of the inactive spur line of the Providence and Worcester Railroad Company known as the Southbridge Secondary Track that extends from the town of Southbridge through the town of Webster for an 11-mile recreational bike trail; provided further, that this shall be expended for the purpose of removing the inactive Providence and Worcester Railroad Bridge over state highway route 131 in Southbridge; provided further, that \$250,000 shall be expended for safety improvements to Boston road in the city of Springfield; provided further, that \$500,000 shall be expended for the upgrade of a vehicle storage area in the town of Tisbury; provided further, that \$375,000 shall be expended for the specialized design, engineering and improvements to the intersection of Church street and Bridge street, at the approach to the Rocks Village bridge, in the town of West Newbury, for the specific purpose of preserving the historic character of the neighborhood; provided further, that the sum of \$25,000 shall be expended for the study of traffic control and mitigation along the state highway route 20 corridor in the town of Weston; provided



further, that \$150,000 be expended for the construction of the Rocco DePasquale handicapped access pier at Silver Lake in the town of Wilmington; provided further, that not less than \$50,000 shall be expended for a traffic study and construction of signalization for the area on Cambridge street, also known as route 3, in the town of Winchester between the intersections of Everett street and Pond street; provided further, that not less than \$100,000 shall be expended for the design, study and construction of Phase Two of the Mystic Valley Parkway Rehabilitation project, so-called, encompassing the areas of Roosevelt Circle and South Border road, located in the town of Winchester and the city of Medford; provided further, that \$200,000 shall be expended for a study regarding development plans for the Blackstone canal in Worcester; provided further, that not more than \$250,000 shall be expended for improvements to Buck Island road in the town of Yarmouth; provided further, that \$200,000 shall be expended for the beautification of state highway route 60/Squire road in the city of Revere; provided further, that \$425,000 shall be expended to address on traffic signal and roadway improvements to the state highway route 3A at the following intersections: Pinehurst avenue, Cook street, Webb Brook road, Charnstaff lane, and Treble Cove road; provided further, that \$200,000 shall be expended for the reconstruction and repair of culverts and other drainage improvements to River Lodge road in the town of South Hadley and upon completion of said improvements said road shall become a public way and shall be thereafter maintained by the said town; provided further, that an amount not to exceed \$30,000 shall be expended for a pedestrian activated traffic signal on state highway route 9 in the town of Williamsburg; provided further, that not less than \$450,000 shall be provided for the design and construction of a project to extend an existing sewer main to an industrial-zoned area in the town of Lunenburg; provided further, that state highway route 83 from the Springfield city line to the commonwealth of Massachusetts border shall be designated as the East Longmeadow Veterans' Highway; provided further, that said department shall conduct a study of the feasibility and benefits of authorizing the construction of an exit ramp to

be built on the northbound side of interstate highway route 93 approximately 4.5 miles north of the interchange of interstate highway route 93 and state highway route 3 in the town of Braintree; provided further, that said study shall include the effect on major economic and employment centers and assess the impact on local residential neighborhoods; provided further, that said study may document potential changes in vehicular delay and travel time and the impact on vehicular traffic flow, including lane changing and on and off ramp traffic in the town of Braintree; provided further, that the bridge on Spring street spanning the Boston and Albany railroad tracks between Cochituate street and Middlesex avenue in the town of Natick shall be designated and known as the Alfred DeFlumeri and Michael DiGeronimo bridge; provided further, that the bridge on Speen street spanning the Boston and Albany railroad tracks near West Central street in the town of Natick shall be designated and known as the Michael A. Torti Bridge; provided further, that said department shall erect and maintain suitable markers bearing said designations in compliance with the standards of said department; provided further, that funds from this item shall be expended for the construction of a by-pass roadway, located in the town of Westford, for the purpose of directly linking two disconnected segments of state highway route 225 Concord road, currently terminating at intersections with state highway route 110 Littleton road, and Powers road; provided further, that the Massachusetts highway department shall conduct a study of noise pollution in the communities located within the interstate highway route I-495 belt, so-called, and report a list of the 50 sites most affected by noise pollution to the joint committee on transportation and the respective ways and means committees no later than December 1, 2000; and provided further, that funds shall be expended to conduct a study of the feasibility of a pedestrian overpass on state highway route 2 at the intersection of Main street and Old road to Nine Acre Corner in the town of Concord . . . . . \$650,000,000

6033-9918 For the design of, land acquisition for, construction of, and reconstruction of tourist information centers and sanitary facilities, including but not limited to, light and safety projects, installation of water lines, landscaping, fencing,

	and sign installation, pursuant to section 88; provided further, that when the department upgrades sanitary facilities, it does so in such a way to enhance the environment by utilizing zero pollution discharge technologies including recycling greywater systems . . . . .	\$10,000,000
6033-9960 For	the purpose of furthering compliance with state and federal environmental laws, regulations, consent orders and initiatives, particularly relating to hazardous waste, hazardous materials, solid waste, water quality, wetlands, fuel storage tanks and pollution prevention, including but not limited to the federal Clean Air Act, the federal Clean Water Act, the Massachusetts contingency plan, the Massachusetts wetlands protection act, the federal Resource Conservation and Recovery Act, and the Massachusetts toxic reduction act, at department of highways maintenance facilities, rest areas, rights of way and properties to which contamination, including salt contamination, has migrated from department sites and for which the department is liable, and for the purpose of carrying out the department's environmental compliance plan pursuant to the Massachusetts department of environmental protection and the Environmental Protection Agency consent order and executive order 350 in the areas of hazardous waste, hazardous materials, solid waste, water quality, fuel storage tanks and pollution prevention; provided, that the Massachusetts highway department shall allocate the necessary funding to complete an environmental impact review for the reconfigurations of Rutherford avenue and Sullivan square in the Charlestown section of the city of Boston . . . . .	\$35,000,000
6033-9969 For	the design, reconstruction and improvement of highway bridges and other bridges, including the testing, removal and encapsulation of lead-based paint, pursuant to the provisions of section 59; provided, that the costs of professional personnel, directly and exclusively involved in the construction, planning, engineering and design of the projects funded herein may be charged to this item; provided further, that said costs shall not be classified as administrative costs; 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 projects funded herein . . . . .	\$332,000,000

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

6033-9920	For the purchase and installation of landscape materials along state highways; provided, that the department shall endeavor to utilize horticulture products produced in Massachusetts whenever feasible, in accordance with the department of food and agriculture's "Buy Local" guidelines, so-called . . . . .	\$2,000,000
6033-9929	For the upgrade, retrofit or replacement of department of highways facilities pursuant to relevant Massachusetts building codes, federal Americans with Disabilities Act regulations, and other environmental regulations . . . . .	\$15,000,000
6033-9964	For the repair, upgrade, replacement, and rehabilitation of the statewide microwave/radio communications backbone system and network, so-called, operated and maintained by the department of highways . . . . .	\$3,000,000
6033-9965	For the purchase and maintenance of computer hardware and software for the department of highways, pursuant to the provisions of section 55 . . . . .	\$5,000,000

**SECTION 2D.**  
**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**  
*Office of the Secretary.*

6001-9905	For the purposes authorized by chapter 161B of the General Laws, including the construction, reconstruction, and rehabilitation of regional transit authority facilities and related appurtenances; provided, that \$100,000 shall be expended by the Worcester Regional Transit Authority to provide direct shuttle service between Worcester and Southbridge to implement the Southern Worcester County Transportation Project, so-called, including operation, marketing and vehicle lease-purchase; provided further, that \$100,000 shall be expended for the purpose of conducting a feasibility study on the Lowell Regional Transit Authority; provided further, that not more than \$100,000 shall be expended for the purpose of conducting a feasibility study on shuttle transportation between the Canton campus of Massasoit Community College and the Canton business district, so-called, along state highway route 138; provided further, that \$70,000 shall be expended on a paratransit feeder service
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	for the communities of Grafton, Northbridge, Shrewsbury, Sutton and Upton to the commuter rail station in Grafton to be administered by the Worcester Regional Transit Authority; and provided further, that not more than \$1,214,000 shall be expended for the purpose of constructing a bus facility at the proposed Haverhill Civic Center . . . . .	\$12,370,000
6001-9957 For	the purpose of planning, engineering, design and construction of transportation infrastructure investments to be called regional intermodal transportation centers strategically located to maximize passenger connections between road, air, water, rail and other transportation modes; provided, that the secretary of transportation and construction may set service standards to aid in identifying population hubs where regional intermodal transportation centers would optimally affect passenger movement throughout the commonwealth; and provided further, that \$1,000,000 be expended for the Intermodal Transportation Facility in the town of Westfield . . . . .	\$10,000,000

**SECTION 2E.**

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Massachusetts Aeronautics Commission.*

6006-9980 For	a program of airport planning, development and improvements in the commonwealth; provided, that the funds provided herein, in addition to the funds authorized in item 6006-9680 of section 2I of chapter 205 of the acts of 1996, shall be available for the purpose of conducting environmental analysis and mitigation and construction of a new passenger terminal, aircraft apron, automobile parking areas, access roads and other related improvements at the Barnstable Municipal Airport; provided further, that funds shall be made available for the purpose of conducting environmental analysis and mitigation, modifying and expanding the existing passenger terminal, and constructing automobile parking areas, access roads, bike paths and other related improvements at the Nantucket Memorial Airport; provided further, that funds shall be made available for the purpose of constructing passenger terminal improvements at the Marshfield Municipal Airport; provided further, that not less than \$3,000,000 shall be expended for development	
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and improvement projects at the commonwealth's other municipal and private airports as deemed necessary by the Massachusetts aeronautics commission; provided further, that all airport development and improvement expenditures made hereunder shall be subject to the regulations of said commission regarding matching fund requirements, so-called; provided further, that not more than \$350,000 may be expended for the administrative costs directly attributable to the commission; provided further, that \$11,000,000 shall be expended for the runway expansion at the Pittsfield Municipal Airport; provided further, that not more than \$1,243,200 shall be expended for the design and construction of wastewater treatment and disposal facilities at the Plymouth Municipal Airport; and provided further, that the commission is authorized and directed to seek federal participation for projects earmarked herein whenever applicable . . . . . \$42,213,200

**SECTION 2F.**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Office of the Secretary.*

1100-9000 For payment to the Mystic Valley Development Commission to finance economic development activities within the project area as defined in subsection (b) of section 11 of chapter 294 of the acts of 1996, including site acquisition remediation, demolition, maintenance, repair, management, development, improvement, and protection, construction of site and infrastructure improvements, and relocation of persons and businesses displaced by economic development activities of the commission, and to encourage the location of businesses and non-profit and educational institutions involved in the telecommunication industry into the project area; provided, that no funds shall be expended for site acquisition outside the project area as so defined; and provided, that no funds shall be expended until the terms and conditions of section 67 of this act have been fulfilled; and provided further, that not more than \$3,200,000 shall be expended until the terms and conditions of section 68 of this act have been fulfilled . . . . . \$9,600,000

*Division of Capital Asset Management and Maintenance.*

- 1102-8981 For the demolition of the former registry of motor vehicles building located at 100 Nashua street in Boston, including the preparation of plans and specifications, and other expenses deemed necessary by the commissioner of the division of capital asset management and maintenance to further the transfer or disposition of the site, pursuant to section 96 . . . . . \$6,000,000

*Reserves.*

- 1599-1999 For costs associated with the oversight coordination commission as created by section 2B of chapter 205 of the acts of 1996; provided, that not more than \$450,000 shall be expended by the office of the attorney general; provided further, that not more than \$275,000 shall be expended by the office of the inspector general; provided further, that not more than \$275,000 shall be expended by the office of the Massachusetts state auditor; and provided further, that said commission shall submit, on or before the last day of each quarter, to the house and senate committees on ways and means, the secretary of administration and finance, and the joint committee on transportation, a report detailing the commission's oversight activities and any savings to the commonwealth, which have resulted from said commission's work . . . . . \$1,000,000

**SECTION 2G.**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Office of the Secretary.*

- 6001-9945 For the purposes of implementing the Mobility Assistance Program, pursuant to the provisions of section 13 of chapter 637 of the acts of 1983; provided, that any grant funds awarded under this item shall be for not more than 80 per cent of the total purchase cost of the vehicles or equipment purchased under said program; and provided further, that the secretary of transportation and construction may waive the foregoing limitation under determination that a grant recipient is in critical financial need . . . . . \$5,000,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**  
*State Police.*

8100-9100 For the acquisition of state police cruisers .....	\$5,000,000
8100-9961 For the acquisition of two light twin helicopters .....	\$5,940,000

**SECTION 2H.**

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**  
*Office of the Secretary.*

6005-0016 For payments to regional transit authorities for capital costs incurred including but not limited to debt service and lease payments in connection with federal transit grants, pursuant to the provisions of section 90; provided, that this item shall be the sole source of funding for lease agreements entered into pursuant to said section for fiscal years 2001 to 2005, inclusive .....	\$9,500,000
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**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 \$96,720,000, 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 2000, 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, but all such bonds shall be payable not later than June 30, 2025. 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, but 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. 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. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 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, but all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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 4.** 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 \$281,032,000, 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 2000, 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, but all such bonds shall be payable not later than June 30, 2025. 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. 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. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 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, but all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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 5.** 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 \$1,107,000,000, 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 2000, 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, but all such bonds shall be payable not later than June 30, 2025. 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, but 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. 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. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 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, but all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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 6.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2C, 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 \$25,000,000, to be in addition to those bonds previously authorized 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 2000, and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2010. 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, but 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. 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. All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2010. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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 7.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2D, 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 \$22,370,000, 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 2000, 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, but all such bonds shall be payable not later than June 30, 2025. 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, but 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. 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. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 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.



but all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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.** To meet a portion of the expenditures necessary in carrying out the provisions of section 2E, 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 \$42,213,200, 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 2000, 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, but all such bonds shall be payable not later than June 30, 2025. 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, but 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. 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. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2000 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, but all such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O. 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 9.** To meet the expenditures necessary to carry out the provisions of section 2F, 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 \$16,600,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Capital Outlay Loan Act of 2000, and shall be



issued for such maximum terms 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. All such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Notwithstanding the provisions of any previous act or special law, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 10.** To meet the expenditures necessary in carrying out the provisions of section 2G, 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 \$15,940,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Capital Outlay Loan Act of 2000, and shall be issued for such maximum terms of years, not exceeding 10 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2015. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Notwithstanding the provisions of any previous act or special law, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 11.** To meet the expenditures necessary in carrying out the provisions of section 2H, 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 \$9,500,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Capital Outlay Loan Act of 2000, and shall be issued for such maximum terms 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, 2024. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Notwithstanding the provisions of any previous act or special law, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 12.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums as may be necessary for the purpose of meeting payments authorized by sections 2, 2A, 2B, 2C, 2D, 2E and 2G, and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2005. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. 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 13.** 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 2F and 2H, and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2005. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Notwithstanding the provisions of any previous act or special law, notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 14.** Chapter 21A of the General Laws is hereby amended by striking out section 11A, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 11A. There is hereby established within the executive office of transportation a bicycle advisory board. Said board shall advise the bicycle program office. Said board shall consist of the secretary of transportation and construction or his designee, the secretary of environmental affairs or his designee, the commissioner of highways or his designee, the commissioner of environmental management or his designee, the commissioner of the metropolitan district commission or his designee, the general manager of the Massachusetts Bay transportation authority or his designee, the colonel of the state police or his designee, the commissioner of public health or his designee, the executive director of travel and tourism or his designee; one representative of a regional planning agency and seven nongovernmental members who shall be appointed by the governor upon recommendation of the co-chairmen of the board, three of whom shall be experts in bicycle safety, one of whom shall be a representative of the commercial bicycle industry and three of whom shall be representatives of bicycle organizations. The bicycle program manager shall serve ex-officio. Each appointee shall serve without compensation for a term of two years and may be reappointed to serve for not more than three consecutive terms. Two co-chairmen shall be selected by a majority vote of the board members but at least one of the chairmen shall not be an employee of the commonwealth. The advisory board shall meet at least four times each year. The board shall monitor the implementation of the Massachusetts statewide bicycle transportation plan and assist the bicycle program office in preparing future plan updates. Initially, the nongovernmental members shall be appointed by the governor, chosen from a list of qualified applicants fairly representing the various geographical regions of the

commonwealth, provided by the Bicycle Coalition, also known as MassBike, a statewide bicycle advocacy organization.

**SECTION 15.** Section 49 of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

A provision in any act authorizing the state treasurer to issue and sell bonds of the commonwealth shall also authorize the state treasurer, without any further authorization, to borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of making payments for the purposes for which such bonds are authorized and to issue and renew, from time to time, notes of the commonwealth therefor in anticipation, of such bonds, 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 three years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth. The provisions of this paragraph; (i) shall apply to all bond authorization acts in effect as of July 1, 1999 and all bond authorization acts validly enacted after such date, unless any particular act expressly states that the provisions of this paragraph shall not apply; and (ii) shall constitute authority to issue notes in anticipation of such bonds in addition to and not in limitation of any authority to issue notes in anticipation of bonds contained in any bond authorization act.

**SECTION 16.** Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(rr) Sales of tangible personal property purchased by a consultant contractor or subcontractor, or operating contractor or subcontractor, of any governmental body or agency, described in subsection (d), for use in fulfilling a consulting or operating contract to provide qualified services in a public project, provided that the consultant contractor or subcontractor or operating contractor or subcontractor is required both to acquire such property and to be reimbursed for the cost of such property pursuant to such contract.

For purposes of this subsection:

(A) A consultant contractor or operating contractor of any governmental body or agency described in subsection (d) is a person who enters into a consulting or operating contract to provide qualified services, and agrees to act as the agent for, such governmental body or agency with respect to purchases of tangible personal property on behalf of such governmental body or agency.

(B) A consultant or operating subcontractor is any person who enters into a contract with a consultant or operating contractor to provide qualified services and agrees to act as the agent for a governmental body or agency with respect to purchases of tangible personal property on behalf of such governmental body in fulfilling a consulting contract. A consultant subcontractor or operating subcontractor shall be considered to be reimbursed for the cost of tangible personal property whether it receives such funds directly from any governmental body or agency described in subsection (d) or indirectly through a consultant contractor or subcontractor or operating contractor or subcontractor, as the case may be.



(C) A consultant subcontractor or operating subcontractor who enters into a contract to provide qualified services with any higher-tiered consultant subcontractor or higher tiered operating subcontractor is deemed to be a consultant subcontractor or operating subcontractor.

(D) A consulting or operating contract is a contract to provide qualified services under which any governmental body or agency described in subsection (d) authorizes purchases of tangible personal property to be made on its behalf by a person who agrees to provide qualified services to such governmental body or agency. A governmental body or agency described in subsection (d) shall be considered to have authorized such purchases to be made on its behalf by a person when it enters into such a contract that expressly authorizes the person to act as an agent or subagent of such governmental body or agency for purposes of making such purchases.

(E) Tangible personal property shall be considered to be used in fulfilling a consulting or operating contract if its acquisition has been authorized by the terms of such contract and any one or more of the following has occurred: (i) it is completely expended in the performance of a contract to provide qualified services; (ii) title to and possession of such property is turned over to a governmental body or agency described in subsection (d) pursuant to the consulting or operating contract; or (iii) it becomes an ingredient and component part of tangible personal property that is turned over to said governmental body or agency pursuant to the consulting or operating contract; provided that tangible personal property shall not be considered to be used in fulfilling a consulting or operating contract if it is used to administer, oversee, supply, maintain, or control any of the consultant contractor's or operating contractor's or consultant subcontractors or operating subcontractor's own offices, facilities, workshops, vehicles, equipment or business operations.

(F) Qualified services shall include:

- (i) studying the feasibility or environmental impact of a public project;
- (ii) providing engineering, architectural or other design services necessary to complete a public project;
- (iii) managing the planning, design, or construction of a public project; or
- (iv) managing the operation or maintenance of any publicly owned mass transportation equipment or facilities.

(G) A public project is any project for the construction, alteration, remodeling, repair, remediation or operation of any public highway, tunnel, bridge, building, real property structure, public mass transportation equipment or facility, or other public work which is owned by or held in trust for the benefit of any governmental body or agency mentioned in subsection (d) and the cost of which is funded, in whole or in part, by funds appropriated to or authorized for expenditure by any governmental body or agency described in subsection (d).

**SECTION 17.** Subsection (a) of section 10 of chapter 81A of the General Laws, as so appearing, is hereby amended by adding the following six sentences:- The authority shall maintain the confidentiality of all information including, but not limited to, photographs or



other recorded images and credit and account data, relative to account holders who participate in its electronic toll collection system. Such information shall not be a public record and shall be used for enforcement purposes only with respect to toll collection regulations. An account holder may, upon written request to the authority, have access to all information pertaining solely to the account holder. For each violation of applicable authority regulations related to electronic toll collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The notice shall include the registration number of the vehicle, the state of issuance of such registration and the date, time and place of the violation. The notice may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle and the written certification by a state police officer or other person employed by or under contract with the authority or its electronic toll collection system contractor that it is so based shall be prima facie evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.

**SECTION 18.** Subsection (b) of said section 10 of said chapter 81A, as so appearing, is hereby amended by adding the following six sentences:- The authority shall maintain the confidentiality of all information including, but not limited to, photographs or other recorded images and credit and account data, relative to account holders who participate in its electronic toll collection system. Such information shall not be a public record and shall be used for enforcement purposes only with respect to toll collection regulations. An account holder may, upon written request to the authority, have access to all information pertaining solely to the account holder. For each violation of applicable authority regulations related to electronic toll collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The notice shall include the registration number of the vehicle, the state of issuance of such registration and the date, time and place of the violation. The notice may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle and the written certification by a state police officer or other person employed by or under contract with the authority or its electronic toll collection system contractor that it is so based shall be prima facie evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.

**SECTION 19.** Chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after section 20E the following section:-

Section 20G. If a person fails to appear in accordance with a notice to appear issued pursuant to a Massachusetts Turnpike Authority regulation or fails to pay in a timely manner a violation issued pursuant to such regulations after having received notice thereof, the authority shall notify the registrar who shall place the matter on record and shall not renew the license to operate a motor vehicle or the registrations of any vehicles owned by such person until the matter has been disposed of in accordance with applicable law or regulation. If the person is found to be a resident of another state or jurisdiction, the registrar shall revoke the violator's right to operate in the commonwealth until the matters have been disposed

of in accordance with applicable law or regulation. The liability of lessors of motor vehicles for violations on facilities owned by the authority shall be governed by authority regulations in a manner consistent with the provisions of section 20E. The registrar shall prescribe the manner, form and content of any notice received from the authority to take such action.

**SECTION 20.** Section 33 of chapter 90 of the General Laws, as amended by section 8 of chapter 87 of the acts of 2000, is hereby further amended by adding at the end of the section the following paragraph:-

(37) For the registration of every motorcycle, the fee shall be \$22; provided that said fee shall be collected every year.

**SECTION 21.** Section 34 of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the aforesaid provisions, four dollars from each motorcycle registration fee shall be paid by the registrar or by the person collecting the same into the treasury of the commonwealth and shall be credited on the books of the commonwealth to the Motorcycle Safety Fund established pursuant to the provisions of section 35G of chapter 10.

**SECTION 22.** Section 15A of chapter 90D of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "and the required fee" and inserting in place thereof the following words:- , and the title change fee for such spouse shall be waived.

**SECTION 23.** The sixth paragraph of section 23 of chapter 465 of the acts of 1956 is hereby amended by adding the following six sentences:- The authority shall maintain the confidentiality of all information, including but not limited to photographs or other recorded images and credit and account data, relative to account holders who participate in its electronic toll collection system. Such information shall not be a public record and shall be used for enforcement purposes only with respect to toll collection regulations. An account holder may, upon written request to the authority, have access to all information pertaining solely to the account holder. For each violation of applicable authority regulations related to electronic toll collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The notice shall include the registration number of the vehicle, the state of issuance of such registration and the date, time and place of the violation. The notice may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle and the written certification by a state police officer or other person employed by or under contract with the authority or its electronic toll collection system contractor that it is so based shall be prima facie evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.

**SECTION 24.** Section 3 of chapter 701 of the acts of 1960 is hereby amended by striking out the second paragraph, as amended by section 102 of chapter 33 of the acts of 1991, and inserting in place thereof the following paragraph:-

The Woods Hole, Martha's Vineyard and Nantucket Steamship Authority shall consist of five persons to be appointed as follows: one resident of the town of Nantucket by the selectmen thereof; one resident of the county of Dukes county by the county commissioners thereof and one resident of the town of Falmouth by the selectmen thereof, each of whom shall serve for a term of three years and until his successor has been appointed and qualified; one resident of the town of Barnstable by the town council thereof, who shall be a nonvoting member of the authority and who shall serve at the pleasure of said town council and one resident of the city of New Bedford by the mayor thereof with the approval of the city council, who shall be a nonvoting member of the authority for the period during which freight ferry service is operating to and from the port of New Bedford and who shall serve at the pleasure of said mayor and city council. The successor of each member from the town of Nantucket, the county of Dukes county and the town of Falmouth shall be appointed in a like manner for a like term, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. A member from the town of Nantucket, the county of Dukes county or the town of Falmouth may be removed for cause by the selectmen of the town or the commissioners of the county in which such member was a resident at the time of his appointment.

**SECTION 25.** Paragraph (e) of section 4 of chapter 701 of the acts of 1960, as most recently amended by section 105 of chapter 33 of the acts of 1991, is hereby further amended by adding the following:- The Authority shall operate or secure a private operator to conduct a freight-service program through a request for proposals and subsequent negotiations, which shall commence on May 1, 2001 and shall continue for two years. The program shall consist of the operation of a freight ferry service, making use of one or more vessel which shall make two trips each weekday from May 1st to October 31st, between the port of New Bedford and the island of Martha's Vineyard; and one trip each weekday from November 1st to April 30th, between the port of New Bedford and the island of Martha's Vineyard. The freight transported by said freight ferry service to and from the island of Martha's Vineyard shall be comprised of no more than 25 per cent hazardous cargo and or waste so-called. Said freight ferry service shall have the minimum daily capacity to carry nine trucks to and from the island each day that the service is in operation.

The Authority shall report, on a quarterly basis, to the joint committee on transportation and the house and senate committees on ways and means, on the status of the freight-service program. The first such report shall be filed with the committees one month prior to the commencement of said service.

**SECTION 26.** Section 32 of chapter 637 of the acts of 1983 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The commissioner shall approve or disapprove an application within 45 days of its receipt. Upon the approval of such application, the commissioner shall notify the town as to the total amount of state aid for such project and the provisions for repayment. No grant shall be approved after June 30, 2002. An application received by the commissioner prior to June 30, 1997 shall be deemed eligible for consideration and shall not require resubmission



by the town.

**SECTION 27.** Item 7462-7965 of section 2 of chapter 267 of the acts of 1995 is hereby amended by striking out the words "the University of Massachusetts at Boston is hereby authorized to borrow twenty-five million dollars" and inserting in place thereof the following words:- the University of Massachusetts at Boston may borrow an amount not greater than \$35,000,000.

**SECTION 27A.** Said item 7462-7965 of said section 2 of said chapter 267 is hereby further amended by adding the following words:- ; and provided further, that the university shall relocate the facility for contracted bus services from the Quinn building, so-called, to the center authorized by this item and shall include an indoor waiting area.

**SECTION 28.** The first sentence of section 1 of chapter 150 of the acts of 1996 is hereby amended by inserting after the word "separate" the following word:- trust.

**SECTION 28A.** Said section 1 of said chapter 150 is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The town may raise and appropriate additional monies for the fund which shall be transferred to said account and any interest earned therein shall be credited to said fund.

**SECTION 29.** Item 6033-9617 of section 2A of chapter 205 of the acts of 1996 is hereby amended by inserting after the words "costs and associated construction", the following words:- , including design costs.

**SECTION 30.** Section 2J of said chapter 205 is hereby amended by striking out item 6005-9684 and inserting in place there of the following item:-

6005-9684 For prototype development and research of mass producing transit buses powered by nonpolluting sources, including solar energy; provided, that \$100,000 shall immediately be provided to the University of Massachusetts at Lowell for a feasibility study to produce transit buses powered by non-polluting sources; and provided further, that the remaining funds authorized herein shall not be expended prior to the submission of the study and accompanying recommendations to the house and senate committees on ways and means and the joint committee on transportation . . . . . \$1,000,000

**SECTION 31.** Item 6033-9717 of said section 2B of said chapter 11 of the acts of 1997 is hereby further amended by inserting after the words "Learning lane" the following words:- , including design costs,.

**SECTION 32.** Subsection (a) of section 11 of chapter 294 of the acts of 1996 is hereby amended by inserting before the definition of "Blighted open area" the following definition:-

"Affected project area", real property situated within the project area which was acquired or rehabilitated by the commission or other party and made available by or through the commission or is subject to an agreement with the commission governing its disposition



or use.

**SECTION 33.** Said subsection (a) of said section 11 of said chapter 294 is hereby further amended by striking out the definition of "Plan" and inserting in place thereof the following definition:-

"Plan", the detailed plan, as it may exist from time to time, for the project which shall comply with all requirements prescribed by federal legislation in order to qualify the project for federal financial assistance. The plan shall describe: (a) the boundaries of the project area; (b) proposed land acquisition, demolition, removal, rehabilitation of structures, redevelopment and general public improvements within the project area; (c) land which is to be acquired or rehabilitated; and (d) zoning and planning changes, if any, and proposed land uses, maximum densities and building requirements. The plan shall provide for the assessment and collection of property taxes in accordance with the provisions of subsection (j) and shall describe the method for relocation of persons and organizations displaced by the project.

**SECTION 34.** Subsection (e) of said section 11 of said chapter 294 is hereby amended by inserting after the word "with", in line 5, the following words:- and the authority to delegate to.

**SECTION 35.** Subsection (f) of said section 11 of said chapter 294 is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

Unless otherwise provided in this section, the commission shall have the following powers:-

**SECTION 36.** Said subsection (f) of said section 11 of said chapter 294 is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) to receive loans, grants and annual or other contributions from the federal government or from any other source, public or private, and to establish and administer such programs within the project area or within a participating city as are necessary or desirable to qualify for, obtain or expend such loans, grants or other funding.

**SECTION 37.** Said subsection (f) of said section 11 of said chapter 294 is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) to take by eminent domain pursuant to chapter 79 or chapter 80A of the General Laws property which is in a blighted open or decadent area within a participating city which property has been designated as property to be taken under the plan, provided that the mayor of such participating city has authorized the commission to exercise such powers with respect to such property;.

**SECTION 38.** Said subsection (f) of said section 11 of said chapter 294 is hereby further amended by striking out clause (17) and inserting in place thereof the following clause:-

(17) to enforce restrictions and controls contained in the plan or any covenant or agreement contained in any contract, deed or lease by the commission or in any applicable activity and use limitation, as defined in section 2 of chapter 21E of the General Laws, notwithstanding that the commission may no longer have any title to or interest in the property to which such restrictions and controls apply or to any neighboring property;.

**SECTION 39.** Said subsection (f) of said section 11 of said chapter 294 is hereby further amended by striking out clause (20) and inserting in place thereof the following clause:-

(20) to implement, upon a majority vote of the commission, the assessing of the payments in lieu of property taxes, betterment assessments and other fees and charges provided for in subsection (j) with respect to the affected project area and to exercise such powers as may be granted to cities and towns under the General Laws to permit such cities and towns to collect such taxes, to enable the collection of such payments in lieu of taxes, assessments and other fees and charges; and.

**SECTION 40.** Subsection (g) of said section 11 of said chapter 294 is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) All ordinances and regulations of the participating cities in which a portion of the project lies relating to the construction of buildings, municipal planning and zoning and the protection of the public health shall apply to such portion of the project located in such city except that, in the event of a conflict between the plan and such ordinances or regulations, including, but not limited to, ordinances governing zoning and other land use, the provisions of the plan shall govern and the commission shall, with respect to the affected project area, have the exclusive right to exercise the powers of the permit granting authority and the special permit granting authority pursuant to chapter 40A of the General Laws and the planning board pursuant to sections 81K to 81GG, inclusive, of chapter 41 of the General Laws.

**SECTION 41.** Said section 11 of said chapter 294 is hereby further amended by striking out subsection (j) and inserting in place thereof the following subsection:-

(j) (1) The real property and tangible personal property of the commission shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation, betterments and special assessments and other fees and charges.

(2) (i) Subsequent to any portion of the affected project area having been leased by the commission as landlord, or sold by the commission, or having been rehabilitated by any person or entity with funds provided through the commission, such portion shall be exempted from taxation, as if such exemption was set forth in section 5 of chapter 59 of the General Laws, and from all betterments and special assessments but shall be subject to an agreement, hereinafter referred to as a pilot agreement, with the commission providing for an annual payment to the commission in lieu of taxes by the owner or lessee of such portion of the affected project area, which pilot agreement shall run with and be binding on the subject of real property. Such payment in lieu of taxes shall be in an amount equal to the product of the

"imposed rate", as hereinafter defined, and the value of the property as assessed by the commission from time to time pursuant to paragraph (3). Such tax exemption shall continue as long as such payments are made pursuant to the pilot agreement. For purposes of this subsection, "real property" shall include the buildings and other improvements located thereon and leasehold interests therein; "real estate taxes" shall include betterments and special assessments and the "imposed rate" shall be equal to the simple average of the rates imposed by the participating cities with respect to property used for purposes similar to the property being taxed; provided, however, that the imposed rate and the assessed value shall be calculated as of January 1 prior to the fiscal year for which such calculation is made. (ii) Monies received during the fiscal year by the commission other than bonds issued by the commission or from federal, state, or private funds designated for the acquisition of real property or for capital improvements to real property or for other specific commission activities shall be paid and applied by the commission in the following order:

(A) first to pay annual operating expenses of the commission, other than payments due on indebtedness of the commission, in accordance with the annual budget of the commission;

(B) then to the payment of amounts due and payable on outstanding indebtedness of the commission, if any;

(C) then to the repayment by the commission of any obligations to the commonwealth then due and repayable, if any;

(D) then to each participating city in an amount equal to the difference between: (i) the aggregate taxes due with respect to fiscal year 1999 on real property within such participating city which is designated in the plan to be acquired or rehabilitated; and (ii) the sum of real estate taxes assessed for the fiscal year for which the calculation is made on real property within such participating city and which is designated in the plan to be acquired or rehabilitated but which had not become part of the affected project area as of January first prior to the commencement of the fiscal year for which the calculation is made;

(E) then to each participating city in an amount equal to the product of the then remaining aggregate income and a fraction, the numerator of which is the number of square feet of land area within such participating city which is included in the affected project area and the denominator of which is the total number of square feet of land area included within the affected project area.

(3) The commission shall retain an independent assessing firm to appraise the affected project area once every three years.

**SECTION 42.** Paragraph (l) of subsection (p) of said section 11 of said chapter 294 is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, due notice shall be deemed to have been given if notice of the time and place of the public hearing relating to the plan is published in a newspaper of general circulation in each of the participating cities at least 14 days prior to the date of the hearing and such notice shall be posted in a conspicuous place in the city hall in each of the participating cities not less than

14 days before the day of the hearing. Notice of the hearing shall be sent by mail, postage prepaid, to the department of housing and community development, the executive office for administration and finance and to the planning board of each participating city.

**SECTION 43.** Subsection (q) of said section 11 of said chapter 294 is hereby amended by striking out the words "and (iii)" and inserting in place thereof the following words:- (iii) to abide by any activity and use limitation imposed on the property; and (iv).

**SECTION 44.** Paragraph (l) of subsection (v) of said section 11 of said chapter 294 is hereby amended by striking out the words "The commission may enter upon" and inserting in place thereof the following words:- In conjunction with any planned acquisition as provided in this section, the commission may enter upon.

**SECTION 45.** Said section 11 of said chapter 294 is hereby further amended by adding the following four subsections:-

(w) A permit to construct any building, structure or other improvement on land acquired or rehabilitated by the commission or by any other entity or party with funds made available by or through the commission shall be issued by a building inspector of a participating city only after the applicant for such permit shall have delivered to such building inspector a certificate from the commission stating that such building, structure or other improvement complies with the requirements of the land use regulations established under the plan.

(x) A person aggrieved by a decision of the commission with respect to the application of the land use regulations may appeal such decision in accordance with the provisions of section 17 of chapter 40A of the General Laws. A person shall not be considered to be an aggrieved party hereunder unless such person would have been considered to be an aggrieved party under similar circumstances pursuant to said chapter 40A.

(y) Any documentary materials or data whatsoever made or received by any member, agent or employee of the commission, by any mayor, member of the governing body, agent or employee of any participating municipality and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by: (i) an entity which has entered into agreements with the commission for the implementation of the plan for the project; or (ii) an applicant for or recipient of any form of assistance which the commission is empowered to render, or regarding the competitive position of such entity, applicant or recipient in a particular field of endeavor, shall not be deemed to be public records of the agency and, specifically, shall not be subject to the provisions of section 10 of chapter 66 of the General Laws. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the commission or such governing body, as the case may be, in executive sessions closed to the public, notwithstanding the provisions of section 11A½ of chapter 30A of the General Laws, but the purpose of such executive session shall be set forth in the official minutes of the commission or governing body, as the case may be, and no business which



is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

(z) The commission and the department of environmental protection may enter into a memorandum of agreement with respect to the timing of response actions under chapter 21E of the General Laws.

**SECTION 46.** Item 6034-9610 of said section 2A of said chapter 205 of the acts of 1996 as amended by section 41 of chapter 11 of the acts of 1997, is hereby further amended by striking out the figure "\$25,000,000", and inserting in place thereof the following figure:- \$50,000,000.

**SECTION 47.** Said item 6034-9610 of said section 2A of said chapter 205 is hereby further amended by inserting after the word "Weymouth", in line 5, the following words:- ; provided, further, that no more than \$2,000,000 shall be obligated to the south shore tri-town development corporation for the preparation and completion of an environmental impact report of the NAS South Weymouth Redevelopment Area, so-called, including the land to be acquired for the layout and construction of the roadway and related improvements to provide direct access between Route 3 and said area.

**SECTION 48.** Item 6033-9717 of section 2B of chapter 11 of the acts of 1997 is hereby amended by striking out the words "that \$100,000 shall be expended for the assistance on improvements to roads known as Glendale and Mill in the town of Hampden;" and inserting in place thereof the following words:- that \$100,000 shall be expended for assistance on improvements to the road known as South Monson road in the town of Hampden.

**SECTION 49.** Section 4 of said chapter 205 is hereby amended by striking out, in line 4, the word "sixty-one" and inserting in place thereof the following word:- eighty-six.

**SECTION 50.** The second sentence of the second paragraph of section 54 of chapter 11 of the acts of 1997 is hereby amended by striking out the figure "\$2,550,000,000", inserted by section 5 of chapter 53 of the acts of 1999, and inserting in place thereof the following figure:- \$2,700,000,000.

**SECTION 51.** Said chapter 11 is hereby further amended by striking out section 90 and inserting in place thereof the following section:-

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 the Housatonic Railroad Company shall be released by the executive office of transportation and construction until said railroad company and the Berkshire Scenic Railway have executed an agreement satisfactory to the executive office of transportation and construction that would permit the Berkshire Scenic Railway to operate passenger service on the Housatonic Railroad Track.

**SECTION 52.** Clause (1) of the second paragraph of section 12 of chapter 257 of the acts of 1998 is hereby amended by adding the following words:- ; provided, however, that such limitation shall not apply to loans provided for the creation of battered women's shelters

which loans may be provided in amounts up to 80 per cent of the financing of total development costs; and provided further, that such loans shall not exceed \$2,500,000 per project.

**SECTION 53.** Item 6036-9716 of section 2 of chapter 53 of the acts of 1999 is hereby amended by striking out the figure "\$1,625,000,000" and inserting in place thereof the following figure:- \$1,875,000,000.

**SECTION 54.** Section 3 of chapter 150 of the acts of 1999 is hereby amended by striking out the following words:- 6033-9669 6033-0031.

**SECTION 55.** In carrying out any or all aspects of projects pursuant to the provisions of sections 2, 2A, 2B and 2C, 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 may advance monies to such agencies or authorities, without prior expenditure by such agencies or authorities, and such agencies and authorities may 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 56.** The department of highways may expend the sums authorized in sections 2, 2A, 2B and 2C 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, 2A, 2B and 2C, 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 to give 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, 2A, 2B and 2C shall, except as otherwise specifically provided in this act, shall 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 such structures; provided, however, that no such construction or contractual agreement for construction shall begin prior to the review and approval of the inspector general. The inspector general shall file with the house and senate committees on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to the provisions of this paragraph.

In addition to the foregoing, the department may:

(1) 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 an individual;

(2) 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 laws and regulations, 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, nonprofit organizations or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities, nonprofit



organizations or political subdivisions may enter into such contracts or agreements with the department. In relation to such agreements, the department may advance to such agencies, organizations or authorities, without prior expenditure by such agencies, organizations or authorities, monies necessary to carry out such agreements; provided however, that the department shall certify 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 57.** To provide for the continued availability of certain capital spending authorizations which otherwise would expire on June 30, 2002, the unexpended balances of the following items are hereby extended through June 30, 2004, for the purposes of and subject to the conditions stated for said items in the original authorizations thereof and any amendments thereto: 6000-8969, 6000-9101, 6001-8835, 6001-9510, 6001-9605, 6001-9610, 6001-9645, 6001-9655, 6001-9657, 6001-9680, 6006-9500, 6006-9680, 6010-3950, 6010-7957, 6033-5965, 6033-8868, 6033-8878, 6033-9128, 6033-9198, 6033-9501, 6033-9515, 6033-9516, 6033-9524, 6033-9525, 6033-9526, 6033-9529, 6033-9530, 6033-9555, 6033-9559, 6033-9560, 6033-9577, 6033-9582, 6033-9592, 6033-9595, 6033-9603, 6033-9604, 6033-9616, 6033-9618, 6033-9620, 6033-9629, 6033-9630, 6033-9640, 6033-9641, 6033-9642, 6033-9643, 6033-9644, 6033-9645, 6033-9662, 6033-9663, 6033-9699, 6033-9702, 6033-9703, 6033-9709, 6033-9717, 6033-9718, 6033-9719, 6033-9720, 6033-9721, 6033-9722, 6033-9769, 6033-9798, 6033-9799, 6034-9605, 6034-9606, 6034-9610, 6034-9701, 6035-9559, 6035-9577, 6035-9716, 6035-9717, 6036-9669, and 6036-9716.

**SECTION 58.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with the provisions of Title 23 of the United States Code and section 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, the Transportation Equity Act for the 21st Century, PL 105-178, and any successor acts or reauthorizations of said acts, 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 a department, agency or other instrumentality of the commonwealth other than the department of highways, such other department, agency or instrumentality shall take such action.

In furtherance of the foregoing purposes, the department of highways, as appropriate, shall apply for and accept any federal funds available for projects authorized in sections 2



and 2A, and such federal funds when received shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by section 2 and 2A, there is hereby appropriated to the Federal Highway Construction Program Fund the sum of \$1,627,248,000 which shall be expended, subject to the limitations contained in Article LXXVIII of the Amendments to the Constitution 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, section 2 of chapter 205 of the acts of 1996 and section 2 of chapter 11 of the acts of 1997.

**SECTION 59.** 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, chapter 91, and section 40 of chapter 131 of the General Laws shall not apply to bridge projects of the department of highways and the Massachusetts Bay Transportation Authority 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 the 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 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/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 a railroad company, railway company or its assigns operating on the track of a necessary clearance between the 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, the railroad company, railway company or its assigns shall provide such flagman. For the purposes of this section and item 6033-9969 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 60.** All sums expended either pursuant to, or for which reimbursement is made under, this act for the purpose of acquiring, constructing or altering public transportation passenger vehicles or facilities, shall be expended in accordance with sections 12141 to 12150, inclusive, of Title 42 of the United States Code.

**SECTION 61.** For the purposes of this section the following words shall have the following meanings:-

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

"Minority business enterprise", any individual, business organization or nonprofit corporation which is certified as a minority business 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 said office.

Based upon the history of discrimination against minority and women business enterprises established by the results of the disparity study conducted pursuant to subsection (s) of section 3 of chapter 33 of the acts of 1991, and any other disparity studies thereafter conducted by the executive office of transportation and construction and its agencies, the executive office of transportation and construction, the Massachusetts Bay Transportation Authority, the department of highways or the Massachusetts aeronautics commission shall promote equality in the market and to that end, encourage full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction, design and goods and services. Each such agency, commission, authority and political subdivision shall implement a narrowly tailored affirmative market program as set forth in Executive Order 390 which shall include race and gender conscious contracting goals when necessary to eliminate disparity between minority and women owned businesses and other business entities in the relevant market. Each such agency, commission, authority and political subdivision shall develop a comprehensive five-year plan, to be updated and approved by the secretary of administration and finance on an annual basis, to encourage the participation of minority and women owned business enterprises in all aspects of public contracting within the commonwealth, whereby not less than \$3,000,000 annually shall be made available to create and support programs including, but not limited to, programs for building the capacity of minority and women owned business enterprises, programs for capturing information on Massachusetts businesses by industry and programs for implementing measures required to secure federal aid.

The secretary of transportation and construction and the executive officer of each such agency, commission, authority or political subdivision shall monitor the implementation of this section to ensure that the best efforts of each agency, commission, authority and political subdivision are utilized in the implementation of this section. Each such agency, commission and authority shall provide written quarterly reports to its respective secretary and to the secretary of administration and finance. Each such political subdivision shall provide written quarterly reports to the office granting or otherwise providing funds authorized in this act and to the secretary of administration and finance. The quarterly reports shall detail the total number of contracts entered into, the dollar value of each contract, the number of contracts entered into with minority and women owned business enterprises and the dollar value of each contract entered into with such enterprises.

Notwithstanding the provisions of any general or special law to the contrary, each executive office, agency, commission, authority or political subdivision may initiate state

office of minority and women business assistance certification of minority and women business enterprises in a manner consistent with the rules and regulations promulgated by said office. If an executive office, agency, commission, authority or political subdivision makes a referral that a business may be a minority or women owned 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 such office, which shall approve or disapprove said business within 25 business days. Upon the certification of a business as a minority or women owned business enterprise by said office, such certification shall be effective for all executive offices and agencies for the purposes of this section.

**SECTION 62.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall pursue to the greatest extent possible the use of recycled materials in highway construction including, but not limited to, the specifications of section 48 of chapter 205 of the acts of 1996. The department shall prepare a report on the use of recycled materials by the department and its contractors to be submitted to the clerk of the house of representatives, the clerk of the senate, the joint committee on transportation and the house and senate committees on ways and means not later than December 15, 2000.

**SECTION 63.** The commissioner of the division of capital asset management and maintenance, acting for and on behalf of the commonwealth, may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, transfer the care, custody and control of land or rights in said land within the parcels hereinafter described to the department of highways for highway purposes as part of the central artery/tunnel project.

The following parcels are located in the city of Boston and city of Cambridge and are shown on the location plan (sheet A) entitled: "The commonwealth of Massachusetts Plan of Land in the Cities of Boston and Cambridge, Suffolk County and Middlesex County, to be transferred to the department of highways for highway purposes dated: March 24, 1999; Scale: 200 Feet to the Inch" and prepared by Bechtel/Parsons Brinckerhoff. Individual parcels are shown on plan sheet numbers 1 to 15, inclusive, each dated March 24, 1999 with the scale as noted, and prepared by Bechtel/Parsons Brinckerhoff. Said location plan and plan sheets are to be filed with the chief engineer of the department of highways of the city of Boston.

Parcel No. 87-19, shown on plan sheet no. 1 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises of land located on the northerly side of Nashua street at Leverett circle. Said parcel of land contains approximately 2,000 square feet in area and is currently used as a parking lot and is intended to be used for the purpose of widening said Nashua street as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 87-DSSWM-4-BWSC, shown on plan sheet no. 2 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the northeasterly street line of Lowell street and occupied by the registry of motor vehicles building. Said par-



cel of land contains approximately 1,020 square feet in area and is currently used for the purposes, including subsurface utilities, associated with the operation of the registry of motor vehicles and other possible state agency office operations. Said parcel is intended for transfer to the Boston water and sewer commission under sections 40E to 40J, inclusive, of chapter 7 and section 7G of chapter 81 of the General Laws for the purposes of installation, operation, maintenance and repair of a combined sewer and water main, associated structures and related appurtenances resulting in the relocation of the Boston water and sewer commission's present systems as impacted by the construction of the artery/tunnel project.

Parcel No. 87-7, shown on plan sheet no. 3 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located adjacent to a portion of the northerly street line of Lomasney way near Leverett circle. Said parcel of land contains approximately 15,251 square feet in area and is currently used as a public vehicular passageway for traffic and is intended for the same purposes, improved through construction, associated with the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 87-8, shown on plan sheet no. 4 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 39,440 square feet in area and is currently used for purposes, including parking and subsurface utilities, associated with any other possible state agency office operations and is intended for purposes associated with the construction, operation and maintenance of the artery/tunnel project, including but not limited to surface, subsurface and elevated roadways and utilities relocations and all related appurtenances thereto.

Parcel No. 87-DSS-5-BWSC, shown on plan sheet no. 5 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 3,270 square feet in area and is currently used as a dirt buffer area between a concrete walk and said building for the purposes associated with the operation of the registry of motor vehicles and other possible state agency office operations. Said parcel is intended for transfer to the Boston water and sewer commission under sections 40E to 40J, inclusive, of chapter 7 and section 7G of chapter 81 of the General Laws for the purposes of the installation, operation, maintenance and repair of a combined sanitary sewer and associated structures and related appurtenances resulting in the relocation of the Boston water and sewer commission's combined sanitary sewer system as impacted by the construction of the artery/tunnel project.

Parcel No. 87-D-13, shown on plan sheet no. 5 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua



street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 940 square feet in area and is currently used as a driveway and dirt buffer area for purposes associated with the operation of the registry of motor vehicles and other possible state agency office operations. Said parcel is intended for the additional purpose of a subsurface drain easement for the purposes of installation, operation, maintenance and repair of a drainage system and associated structures and related appurtenances resulting from the necessary relocation of the drainage system needed for the construction of the artery/tunnel project.

Parcel No. 87-E-1, shown on plan sheet no. 5 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 8,490 square feet in area and is currently used for the purposes associated with the operation of the registry of motor vehicles and any other possible state agency office operations. Said parcel is intended to be a highway easement for purposes associated with the construction, operation and maintenance of the artery/tunnel project, including but not limited to surface, subsurface and elevated roadways and utilities relocations and all related appurtenances thereto.

Parcel No. 87-13, shown on plan sheet no. 5 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 20 square feet in area and is currently used for the concrete walkway associated with the operation of the registry of motor vehicles and any other possible state agency office operations. Said parcel is intended for purposes associated with the construction, operation and maintenance of the artery/tunnel project, including but not limited to surface, subsurface and elevated roadways and utilities relocations and all related appurtenances thereto.

Parcel No. 87-D-10, shown on plan sheet no. 5 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located adjacent to the southwesterly street line of Nashua street and occupied by the registry of motor vehicles building. Said parcel of land contains approximately 70 square feet in area and is currently used as a concrete walkway area for purposes associated with the operation of the registry of motor vehicles and other possible state agency office operations. Said parcel is intended for the additional use of a subsurface drain easement for the purposes of the installation, operation, maintenance and repair of a drainage system and associated structures and related appurtenances resulting from the necessary relocation of the drainage system needed for the construction of the aforementioned artery/tunnel project.

Parcel No. 86-E-4, shown on plan sheet no. 6 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, is located within the

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Charles river. Said parcel contains approximately 19,940 square feet in area and is currently used for recreational boating and water related activities. Said parcel is intended for the additional purpose of a highway easement for a bridge and necessary pier supports and related appurtenances as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 5-E-1, shown on plan sheet no. 7 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, is located within the Charles river. Said parcel of land contains approximately 19,860 square feet in area and is currently used for recreational boating and water related activities. Said parcel is intended for the additional purpose of construction of a bridge and necessary pier supports and related appurtenances as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 86-E-1, shown on plan sheet no. 8 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located adjacent to the Charles river on the southerly side, near to the Charles river locks. Said parcel of land contains approximately 25,210 square feet in area and currently used for parking, pedestrian recreational walkway purposes and water related activities for that portion of said parcel lying within the waters of the Charles river. Said parcel intended for the additional purpose of construction of a bridge and necessary pier supports and related appurtenances, for the re-building of the present seawall and for the relocation of subsurface utilities, if necessary; all as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 86-E-3, shown on plan sheet no. 9 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, and is located within the Charles river near to the Charles river locks. Said parcel of land contains approximately 124,710 square feet in area and is currently used for recreational boating and water related activities. Said parcel is intended for the additional purpose of construction of a bridge and necessary pier supports and all related appurtenances as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 86-WM-2-BWSC, shown on plan sheet no. 12 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, is located within the Charles river on the northwesterly side. Said parcel contains approximately 1,520 square feet in area and is currently used for recreational boating and water related activities. Said parcel is intended for transfer to the Boston water and sewer commission under sections 40E to 40J, inclusive, of chapter 7 and section 7G of chapter 81 of the General Laws for the purposes of the installation, operation, maintenance and repair of a water main system and related appurtenances resulting in the necessary relocation of the Boston water and sewer commission's present water main as impacted by the construction of the artery/tunnel project.

Parcel No. 49-14, shown on plan sheet no. 10 is supposed to owned by the commonwealth, comprises a portion of the Millers river, adjacent to interstate route 93 and

near the property of Boston Sand and Gravel Company. Said parcel of land contains approximately 62,080 square feet in area and is currently used as a collector for permitted discharge of drainage and as a storm water retention area. Said parcel is intended for additional purposes associated with the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 2-15, shown on plan sheet no. 10 and owned by the commonwealth, comprises a portion of the Millers river, adjacent to interstate highway route 93 and near the property of Boston Sand and Gravel Company. Said parcel of land contains approximately 47,950 square feet in area and is currently used as a collector for permitted discharge of drainage and as a storm water retention area. Said parcel is intended for additional purposes associated with the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 2-E-24, shown on plan sheet no. 11 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located northwesterly of Industrial Park road. Said parcel of land contains approximately 19,830 square feet in area and is currently used as a sidewalk and grass buffer adjacent to the Prison Point pumping station operated by the commonwealth through its Massachusetts Water Resource Authority for the treatment and chlorination of a combined storm sewer and sanitary sewer system and for eventual discharge into the Charles river. Said parcel is intended for the additional purpose of constructing an elevated roadway, necessary pier supports and related appurtenances and any necessary utilities relocations as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 70-4, shown on plan sheet no. 12 and owned by the commonwealth under the care, custody and control of its division of capital asset management and maintenance, comprises a portion of land located on the westerly side of interstate highway route 93 adjacent to the intersection of South Bay avenue and Moore street. Said parcel of land contains approximately 6,590 square feet in area and is currently used as a state highway, by a license granted to the department of highways by the division of capital asset management and maintenance. Said parcel is intended to be used for purposes associated with the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 87-18, shown on plan sheet no. 13 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located on the northerly side of Nashua street. Said parcel of land contains approximately 1,680 square feet in area and is currently used as a parking lot and heliport pad. Said parcel is intended for the purpose of widening said Nashua street as part of the construction, operation and maintenance of the artery/tunnel project.

Parcel No. 87-10-C, shown on plan sheet no. 13 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located on the northerly side of Nashua street. Said parcel of land contains approximately 1,860 square feet in area and is currently used as a parking lot. Said parcel is intended for transfer to the city of Boston under sections 40E to 40J, inclusive, of chapter 7 and section 7A of chapter 81 of the General Laws for the purpose of widening said Nashua



street as part of the construction of the artery/tunnel project.

Parcel No. 49-26, shown on plan sheet no. 14 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located on the southeasterly side of the John F. Gilmore bridge near the intersection with interstate highway route 93. Said parcel of land contains approximately 1,420 square feet in area and is currently used as an elevated bridge roadway containing the necessary pier supports and is intended for the same purposes associated with the construction of the artery/tunnel project.

Parcel No. 49-27, shown on plan sheet no. 14 and owned by the commonwealth under the care, custody and control of its metropolitan district commission, comprises a portion of land located on the southeasterly side of the John F. Gilmore bridge near the intersection with interstate highway route 93. Said parcel of land contains approximately 910 square feet in area and is currently used as an elevated bridge roadway containing the necessary pier supports. Said parcel is intended for the same purposes associated with the construction of the artery/tunnel project.

Parcel No. 75-D-4, shown on plan sheet no. 15 and owned by the commonwealth, comprises a portion of land east of Beverly street and located within the Charles river. Said parcel of land contains approximately 2,200 square feet in area and is currently used for recreational boating and water related activities. Said parcel is intended for additional purposes associated with the installation, operation and maintenance of a drainage outfall system and related appurtenances as part of the construction of the artery/tunnel project.

**SECTION 64.** The commissioner of the division of capital asset management and maintenance may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, acquire by eminent domain, purchase or otherwise, or transfer, as appropriate, certain parcels of land as hereinafter described. All parcels shall be diverted from their present use to a highway use.

A certain parcel in the town of Lancaster owned by the commonwealth and presently used by the department of youth services for correctional purposes. A parcel of land containing about 5,933 square meters situated on the southerly side of state highway route 2 in the town of Lancaster owned by the commonwealth and bounded southerly by land now or formerly of the United States Army in one course, 37.283 meters westerly by a line bearing north 48 degrees 24'33" west, 10.745 meters, and a curve to the left of 300 meter radius, 243.65 meters, northerly by the location line of the February 28, 1951 State Highway Layout of Route 2(LO 3830) 187.805 meters and easterly by the aforesaid layout 108.912 meters. This parcel is shown on a plan titled: "The Commonwealth of Massachusetts Plan of Road in the town of Lancaster Middlesex County Taken For Highway Purposes Department of Highways". This plan shall be kept on file by the chief engineer of the department of highways.

Certain parcels of land in the city of Woburn owned by the city of Boston and presently used for park land purposes. Said parcels are more particularly described as follows:



Parcel 10-1, situated on the southwesterly side of Cambridge street and the southerly side of the dividing line between the town of Burlington and city of Woburn. Said dividing line, also being the southerly layout line of South Bedford street in the town of Burlington, is bounded and described as follows:

Beginning at the point of intersection of the southwesterly layout line of Cambridge street and the southerly layout line of South Bedford street, said point also being an angle point in the dividing line between the town of Burlington and city of Woburn; thence south  $25^{\circ}56'-17''$  east by said southwesterly layout line of Cambridge street 156.93 feet to a point; thence leaving said layout line south  $58^{\circ}-54'-31''$  west by land now or formerly of Daniel P. Conway and Doreen M. Conway 10.04 feet to a point; thence north  $25^{\circ}-56'-17''$  west by other land of city of Boston parks and recreation department 158.38 feet to a point; thence north  $67^{\circ}-11'-34''$  east by the dividing line between the town of Burlington and city of Woburn, said dividing line also being the southerly layout line of South Bedford street, 10.01 feet to the point of beginning, said Parcel 10-1 containing about 1,580 square feet of land.

Parcel 10-1-C, situated on the southerly side of the dividing line between the town of Burlington and city of Woburn. Said dividing line, also being the southerly layout line of South Bedford street in the town of Burlington, is bounded and described as follows:

Beginning at a point on said dividing line and layout line, said point being south  $67^{\circ}-11'-34''$  west of and 412.88 feet distant from the point of beginning of Parcel 10-1 hereinbefore described; thence north  $67^{\circ}-11'-34''$  east by said dividing line and layout line 402.87 feet to a point; thence south  $25^{\circ}-56'-17''$  east by Parcel 10-1 hereinbefore described 45.47 feet to a point; thence by other land of city of Boston parks and recreation department on four courses as follows: northwesterly to westerly by a curve to left of 30.00 feet radius, 39.61 feet; westerly to southwesterly by a curve to the left of 620.00 feet radius, 119.11 feet; south  $67^{\circ}-24'-27''$  west, 194.64 feet; and south  $71^{\circ}-24'-39''$  west, 68.44 feet to the point of beginning, said Parcel 10-1-C containing about 2,925 square feet of land.

Parcels 10-1 and 10-1-C are shown on a plan entitled, "Plan of Land in the City of Woburn, Massachusetts, Middlesex County, Owned by the City of Boston Parks and Recreation Department and Required for Highway Purposes, Scale 1"= 40', February 25, 1994". Said plan shall be kept on file by the chief engineer of the department of highways.

Certain parcels of land in the town of Kingston supposed to be owned by the commonwealth under the supervision and control of the department of environmental management and presently used for environmental purposes. Said parcels are more particularly described as follows:

Parcel 6-6 located between interstate highway route 80 and Pratt Pond, and bounded as follows: northerly by land now or formerly of said commonwealth under the supervision and control of the department of environmental management about 1,761 feet; easterly by land now or formerly of the town of Kingston about 389 feet; southeasterly by land now or formerly of the Congregation of the Sisters of Divine Providence about 85 feet; southerly by

land now or formerly of said commonwealth under the supervision and control of the department of environmental management about 2,281 feet; northwesterly by land now or formerly of Lawrence W. and Paul W. Bernstein about 737 feet; containing about 18.87 acres.

Parcel 6-9 is a parcel of land supposed to be owned by the commonwealth under the supervision and control of the department of environmental management adjoining the easterly sideline of interstate highway route 80 and being about 5,000 feet northerly from the Sacred Heart school, and is bounded and described as follows:

southwesterly by said sideline of interstate highway route 80 in two courses 352.95 feet and about 169 feet; northwesterly, northeasterly and northwesterly by land now or formerly of said commonwealth under the supervision and control of the department of environmental management in three courses about 283 feet, about 144 feet and about 813 feet; northeasterly by land now or formerly of Lawrence W. and Paul W. Bernstein about 357 feet; southeasterly by land now or formerly of Reed F. Stewart, Helen P. Lincoln, Leona Asker, William S. Abbott and John W. Peirce Trustees of "Plymouth County Wildland Trust" about 191 feet; southerly by land now or formerly of said commonwealth under the supervision and control of the department of environmental management about 32 feet; containing about 13.79 acres.

Parcel 6-10 is a parcel of land supposed to be owned by the commonwealth under the supervision and control of the department of environmental management adjoining the westerly sideline of interstate highway route 80 and being about 5,000 feet northerly from the Sacred Heart school, and bounded as follows: northeasterly by said sideline of interstate highway route 80 in two courses about 35 feet and about 123 feet; southerly by land now or formerly of the commonwealth under the supervision and control of the department of highways about 283 feet; northwesterly by land now or formerly of the said commonwealth under the supervision and control of the department of environmental management about 288 feet; containing about 0.50 acres. Parcels 6-6, 6-9 and 6-10 are shown on a plan entitled "Carver-Plympton-Kingston Relocated Route 44, Preliminary Right of Way Plan". This plan shall be kept on file with the chief engineer of the department of highways.

A parcel of land owned by the commonwealth under the supervision and control of the department of environmental management, known as parcel 46221, and presently used for environmental purposes. The parcel is located on the westerly side of Millbury street in the city of Worcester and is bounded and described as follows:

southerly by the Millbury town line about 130 feet; westerly by land now or formerly of the commonwealth under the supervision and control of the department of environmental management by a curve to the right with a radius of about, 3,059 feet and a length of about 182 feet; northerly by the Blackstone river about 190 feet; easterly by land now or formerly of commonwealth under the supervision and control of the department of environmental management, by two curves. The first is a curve to the left with a radius of about 1,530 feet and a length of about 57 feet, the second is a curve to the left with a radius of about 2,390 feet with a length of about 293 feet. Said parcel contains about 31,130 square feet. Said par-

cel of land is shown on a plan entitled "Plan of land in the City of Worcester, Massachusetts", prepared by Bryant Associates, Incorporated, dated August 20, 1996. This plan shall be kept on file with the chief engineer of the department of highways.

**SECTION 65.** In consideration of the transfer of parcels of land pursuant to section 64, the commissioner of capital asset management and maintenance shall transfer the care, custody and control of certain parcels of land in the town of Kingston owned by the commonwealth under the care, custody and control of the department of highways to the department of environmental management. These parcels are more particularly described as follows:

Parcel 6-FRL-1, a parcel of land owned by the commonwealth, located about 2,200 feet east of state highway route 80 and about 1,000 feet west of Great Mink Hole, and bounded as follows:

Northerly by land formerly of Lawrence Bernstein and Paul W. Bernstein, Trustees of the Bernstein Realty Trust and Paul W. Bernstein and Marion J.S. Bernstein, Trustees of the Paul W. Bernstein Realty Trust about 26 feet; southeasterly by land now or formerly of the commonwealth of Massachusetts (department of environmental management) about 23 feet; southwesterly by land now or formerly of Reed F. Stewart, Helen P. Lincoln, Leona Asker, William S. Abbot and John W. Pierce, Trustees of Plymouth County Wildland Trust about 14 feet; containing about 157 square feet.

Parcel 6-FRL-2, a parcel of land owned by the commonwealth, adjoining the easterly sideline of state route 80 and being about 6,350 feet northerly from the Sacred Heart school, and bounded as follows:

Westerly by said sidelines of state highway route 80, 452.46 feet; northerly and westerly by land now or formerly of William E. and Ross A. Po and, in part, by land now or formerly of Indian Pond Cranberry Corporation in two courses 388.65 feet and 727.18 feet, respectively; northeasterly, northwesterly and northeasterly by land now or formerly of Frederick M. Tonsberg in three courses about 1,320 feet, 697.13 feet and about 495 feet, respectively; southeasterly and northeasterly by land now or formerly of the town of Kingston and in part now or formerly of Gerald V. and Marleen T. Sheehan in two courses 222.75 feet and about 1,270.5 feet, respectively; southeasterly by land now or formerly of the commonwealth under the supervision and control of the department of environmental management about 560 feet; southerly by land now or formerly of Lawrence Bernstein and Paul W. Bernstein, Trustees of the Bernstein Realty Trust and Paul W. Bernstein and Marion J.S. Bernstein, Trustees of the Paul Bernstein Realty Trust about 1,633 feet; southwesterly by land now or formerly of the commonwealth under the supervision and control of the department of environmental management and in part by land now or formerly of James W. and Ann Maria Whittier about 1,323.4 feet; containing about 72.58 acres.

Parcels 6-FRL-1 and 6-FRL-2 are shown on a plan entitled "The Commonwealth of Massachusetts plan of Land In The Town of Kingston, Plymouth County, Taken For Highway & Functional Replacement Purposes By The Department of Highways May 2, 1995".



This plan is on file in the Plymouth county registry of deeds, being recorded in connection with an order of taking recorded at book 13569, page 010.

**SECTION 66.** The commissioner of capital asset management and maintenance may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, acquire by eminent domain, purchase or otherwise, a parcel of land in the city of Attleboro. This parcel is owned by the city of Attleboro and is presently used for housing purposes. The parcel shall be diverted from the present use to highway use.

Parcel No. 20-6-C: A parcel of land owned by the Attleboro housing authority and described in deed book 1685 page 631 recorded at the Bristol county north registry of deeds bounded as follows:

Beginning at the point of intersection of the westerly line of Ellis street and the northerly line of former Olive or Maple street; thence  $N82^{\circ}-20'-37''W$  by said northerly for thirty and twenty hundredths meters (30.20 M.), being ninety-nine and zero tenths feet (99.0') to a corner; thence,  $N80^{\circ}-29'-2''E$  through land of the Attleboro Housing Authority for thirty and seventy-three hundredths meters (30.73M.), being one hundred and zero tenths feet (100.0') to a corner on said line of Ellis street; thence,  $S2^{\circ}-25'-5''W$  by said line of Ellis street for nine and eleven hundredths meters (9.11 M.), being thirty and zero tenths feet (30.0') to the point of beginning; containing one hundred thirty-seven square meters (137.S.M.), being one thousand four hundred seventy-five square feet (1,475 SF). This parcel is shown on a plan entitled: "The commonwealth of Massachusetts, Plan of Land in Attleboro, Ma. Showing Parcel Needed for City Highway Purposes Date: October 19, 1998; Scale: As Noted. This plan is on file with the chief engineer of the department of highways.

**SECTION 67.** The Mystic Valley Development Commission may receive funding pursuant to item 1100-9000 of section 2F for the Mystic Valley development project, known as Telecom city, but such authorization shall be subject to the following conditions:-

(a) the commission shall adopt a project budget subject to the approval of the secretary of administration and finance;

(b) the commission shall adopt revisions necessary for the implementation of the plan and such revisions shall be subject to the approval of the secretary of administration and finance;

(c) the commission shall enter into a contract with a master developer for the purpose of managing the project, but such contract shall be subject to approval by the secretary of administration and finance and such contract shall include provisions requiring said master developer to provide not less than \$14,000,000 in private capital for purpose of financing the project, at least \$1,000,000 of which shall be placed on deposit with the commission upon the execution of such contract and the balance then remaining shall be subject to such security requirements established by the secretary of administration and finance; and

(d) each participating city shall contribute \$1,000,000, in addition to the value of property contributed to the project.

**SECTION 68.** The Mystic Valley Development Commission may receive additional



funding for the purpose of completing the Mystic Valley development project, known as Telecom city, but such additional funding shall be contingent upon receipt of federal grants or private gifts in the aggregate of not less than \$13,000,000 but not less than \$2,000,000 shall be provided by federal agencies.

**SECTION 69.** Item 6033-9717 of section 2B of chapter 11 of the acts of 1997 is hereby amended by striking out the words "\$2,000,000 shall be expended for the design and construction of a truck bypass road in the East Boston section" and inserting in place thereof the following words:- \$10,000,000 shall be expended for the design and construction of a truck bypass road in the East Boston section.

**SECTION 70.** Notwithstanding the provisions of any general or special law to the contrary, including the provisions of any prior capital authorization act, the Massachusetts Port Authority shall expend not more than \$15,000,000 for the design, engineering, permitting and construction of a dedicated commercial freight corridor to preserve truck access between the Paul W. Conley Marine terminal in the South Boston section of the city of Boston over the reserve channel, so-called, to the existing port haul road connecting to the interstate highway system, including development of a cost estimate for acquiring a parallel rail easement to connect the Paul W. Conley terminal to the rail line that ends at the marine industrial park in the South Boston section of the city of Boston but not more than 15 per cent of the total appropriation herein shall be expended for the design of said freight corridor. Said authority shall consider the recommendations set forth in the feasibility study entitled "Conley Terminal Dedicated Truck Road Final Report," prepared for the authority by Earth Tech dated August 31, 1998. Said freight corridor shall be designed and constructed to handle the maximum allowable weight for trucks of 99,000 pounds. Said freight corridor shall include a buffer zone between the haul road and the nearby residential community which shall be designed in consultation with the neighborhood residents in order to minimize impact upon the neighborhood. The Massachusetts Port Authority shall file such designs, permits and cost estimates with the joint committee on transportation and the port competitive task force, so-called, prior to construction of the haul road and not later than April 1, 2001.

**SECTION 71.** Notwithstanding the provisions of any general or special law to the contrary, the executive office of transportation and construction shall grant to the Pioneer Valley Transit Authority not later than December 30, 2000 the funds appropriated in item 6033-9709 of section 2B of chapter 11 of the acts of 1997 for the Springfield Union Intermodal Station Project, so-called, in the city of Springfield. Said funds shall not be considered as the state match to any federal funds obtained for said project pursuant to the Transportation Equity Act for the 21st Century, PL 105-178 or any prior or subsequent federal act. No funds shall be expended from this item unless a federal commitment to this project is obtained in a minimum amount of \$15,000,000.

**SECTION 72.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Turnpike Authority shall conduct an investigation and feasibility study of constructing a monument to the Armenian Genocide of 1915-1922.

**SECTION 73.** A special commission is hereby established to develop a comprehensive, long-range, surface transportation finance plan for the commonwealth. In the course of its deliberations, the commission shall examine the transportation needs of the commonwealth for the next six federal fiscal years as identified in the state transportation improvement program, the program for mass transportation and other transportation needs as identified by the commission. The commission shall examine the projected federal funding projected state funding, and any other sources of projected funding to finance such transportation needs. The commission shall also examine the capital needs of the cities and towns to be financed under the chapter 90 program, so-called, and the funding available for said program for such period as can be practically examined. The commission shall also make a priority of examining the technical and financial feasibility of the public transit projects known as the "Urban Ring" and the "North/South Rail Link". Both projects shall be given serious consideration and shall be evaluated based on their possible economic and environmental benefits.

The commission shall develop a report detailing its findings relative to identified transportation needs and identified funding sources. The commission shall further develop recommendations as to what funding measures the commonwealth may pursue to satisfy any unmet funding needs identified by said commission. The commission shall file its plan with the governor, the speaker of the house of representatives and the president of the senate not later than December 31, 2000. The commission shall file an updated plan every year not later than December 31.

Said commission shall have 18 members and shall consist of the chairmen of the joint committee on transportation who shall serve as chairmen of the commission; the chairman of the house committee on ways and means; the chairman of the senate committee on ways and means; the chairman of the house committee on long term debt and capital expenditures; the secretary of administration and finance; the secretary of transportation and construction; the chairman of the Massachusetts Turnpike Authority; the chairman of the board of directors of the Massachusetts Bay Transportation Authority; three members, who shall not be members of the general court, to be appointed by the president of the senate to serve a term of two years; one member, who shall not be a member of the general court, to be appointed by the minority leader of the senate to serve a term of two years; two members, who shall not be members of the general court, to be appointed by the speaker of the house of representatives to serve a term of two years; one member, who shall not be a member of the general court, to be appointed by the minority leader of the house of representatives to serve a term of two years; and two members, who shall not be members of the executive branch, to be appointed by the governor to serve a term of two years. The members of the commission to be appointed by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, the minority leader of the house of representatives and the governor shall be experts in transportation planning, public finance or design and construction of transportation projects.

**SECTION 74.** There is hereby established a special commission on expenditures by the commonwealth for snow and ice operations. Such commission shall consist of four members of the house of representatives, three of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the house minority leader, three members of the senate, two of whom shall be appointed by the president of the senate and one of whom shall be appointed by the senate minority leader, the secretary of administration and finance or his designee and the commissioner of highways or his designee. Said commission shall conduct an analysis and review of the manner in which recommendations for changes in current policies and procedures are effected. Said commission shall conduct such analysis and review with the goal of improving timeliness of payments to vendors and contractors used by the commonwealth in snow and ice operations and improving the procedures employed by the Highway Fund to ensure the most cost-effective use of private vendors. The first meeting of the commission shall take place not later than 30 days after the effective date of this act. Said commission shall file a report of its findings and recommendations with the clerks of the house and senate, the joint committee on transportation and the senate and house committees on ways and means not later than December 1, 2000.

**SECTION 75.** There is hereby established a special commission to study issues pertaining to county ways in the abolished counties of the commonwealth. Said study shall include, but not be limited to, issues pertaining to the legal status, ownership, maintenance, repair, liability and governance of former county ways. Said commission shall present findings and recommendations for changes to the General Laws relative to county ways. Said commission shall be known as the special commission on county ways and shall consist of 12 members, consisting of the secretary of transportation and construction, or his designee, the secretary of administration and finance, or his designee, the commissioner of highways, or his designee, a representative of the Massachusetts Municipal Association, a representative of the Franklin Regional Council of Governments, a representative of the Hampshire Regional Council of Governments, three members of the house of representatives, to be appointed by the speaker, one of whom shall be a member of the joint committee on transportation, and three members of the senate, to be appointed by the senate president, one of whom shall be a member of the joint committee on transportation. Said commission shall report its findings and recommendations to the house and senate committees on ways and means and the joint committee on transportation by March 30, 2001.

**SECTION 76.** The director of the Massachusetts Port Authority and the chair of the Massachusetts Turnpike Authority shall establish a frequent commuter pass system for commuters traveling on the Tobin Bridge and the Massachusetts Turnpike. Said system shall take effect upon the implementation of the next fare adjustment in each respective authority.

**SECTION 77.** To facilitate the development of the Mystic Valley Development Project Area, the department of highways shall utilize up to \$12,623,607 of the funding authorized in section 2 or 2B to match the \$5,250,000 designated by the federal government



under the Transportation Equity Act for the Twenty-First Century (TEA-21) for the site acquisition and planning, engineering, design and construction of TeleCom boulevard, the major roadway system crossing the said project area via Commercial street and Corporation way to the west of Malden river and with access via Santilli highway to the east of the river in Everett, Medford, and Malden. Said department shall also utilize the up to \$5,400,000 of funding authorized in section 2 or 2B to fund the design of improvements to the state highway route 16 corridor and other roadway systems in close proximity to said project area. Failure of the commonwealth to complete projects in accordance with the plan, as defined in section 11 of chapter 294 of the acts of 1996, may make null and void the required capital commitment of the master developer specified in subsection (iii) of section 61.

**SECTION 78.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer to item 1102-8981 of section 2F an amount not to exceed \$6,000,000 in expenditures from allocation account 1102-9717 of item 6035-9717 of section 2B of chapter 11 of the acts of 1997 incurred by the department of highways for purposes of the registry of motor vehicles building demolition contract, pursuant to an interdepartmental service agreement between said department and the division of capital asset management and maintenance.

**SECTION 79.** Notwithstanding the provisions of any general or special law to the contrary, the bicycle path within Nickerson state park, which is separate and distinct from the Cape Cod Rail Trail, shall be deemed the Robert B. Hooper memorial bicycle path. The department of environmental management shall erect and maintain suitable markers bearing said designation in compliance with the standards of said department.

**SECTION 80.** Notwithstanding the provisions of any general or special law, the department of highways shall implement a pilot project allowing for the use of modified low volume and low speed design standards, which shall permit road widths of not more than 24 feet where appropriate, for certain rural projects, including the Buffam road reconstruction project in the town of Pelham and the Leverett, Cooleyville and Prescott roads reconstruction project in the town of Shutesbury. Said department shall submit a report on said pilot project to the joint committee on transportation not later than 60 days after the completion of said project.

**SECTION 81.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall, in consultation with local highway superintendents and other interested parties, formulate appropriate standards for the design of bridges serving connectors and local roads which meet low speed and low volume roadway criteria as defined in Section 8.2 of the department's design manual. The scale and materials for low speed and low volume design standards shall reflect the rural or local character of the roadways and communities they serve. The standards shall be made available for public review and comment and become the policy of the department not later than June 30, 2001.

**SECTION 82.** Notwithstanding the provisions of any general or special law to the



contrary, the department of highways, in furthering environmental protections, may implement a statewide corrosion mitigation program utilizing electrochemical corrosion passivation and chloride extraction treatment of steel reinforced concrete structures as a means of stopping existing corrosion and preventing the initiation of new corrosion. The electrochemical corrosion passivation and chloride extraction treatment method that shall be utilized, uses an anode system temporarily installed on the surface of the concrete, to facilitate the passing of a continuously monitored, and unequally adjusted, low voltage DC current to the steel reinforcement for the purpose of eliminating differentials in the surface potentials on the steel reinforcement.

Said department shall report to the joint committee on transportation and the chairman of the house and senate committees on ways and means on the program method's safety to structures and the environment, cost effectiveness, effectiveness in eliminating new corrosion, and effectiveness in stopping existing corrosion. Said report shall be due not later than June 1, 2001.

**SECTION 83.** Notwithstanding any general or special law to the contrary, the department of environmental protection shall conduct a study assessing the impact of the construction of the proposed Guilford Auto Unloading Facility in the town of Ayer on the drinking water supply of the towns of Ayer, Harvard and Littleton. The department shall report the results of said study by filing the same with the clerks of the towns of Ayer, Harvard and Littleton on or before December 1, 2000.

**SECTION 84.** Notwithstanding the provisions of section 15C of chapter 40 of the General Laws, state highway route 105 in the towns of Acushnet, Marion and Rochester is hereby designated as a scenic road. It shall be subject to all of the provisions of said section 15C of said chapter 40 for the purposes of repair, maintenance, reconstruction, or paving of said highway.

**SECTION 85.** Notwithstanding any provision of chapter 91 of the General Laws or any other general or special law, rule or regulation to the contrary, no waterways license pursuant to said chapter 91 shall be required for the construction of any structure on air rights, including necessary supports and foundations incidental thereto, adjacent to or over an intermodal transportation center, constructed on filled tidelands, which are more than 250 feet from the high water mark and any portion of such filled tidelands are separated from any flowed tidelands by a public way in existence at any time which was subsequently discontinued or abandoned and which way was used for the operations of any instrumentality of the United States, including any independent agency, establishment or department of any branch of government thereof. The chief planning agency in the city or town in which such intermodal transportation center is located and the regional transit authority shall work cooperatively to promote public access to flowed tidelands over and through any such intermodal transportation center.

**SECTION 86.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, an independent audit firm shall be retained for the purpose of conducting an independent audit of the Central Artery/Tunnel project, so-called. Said indepen-

dent audit shall review all aspects of the Central Artery/Tunnel project and set forth projections in connection with any additional projected cost increases of the project. Said audit shall also assess the risk of additional costs for the remainder of said project. The audit firm shall assume that the commonwealth will continue to implement an annual statewide road and bridge construction program totaling approximately \$400 million per year, when assessing the adequacy of the funding plan for said project. Said statewide construction program shall exclude spending on the Central Artery/Tunnel project and the Chapter 90 program, so-called. Selection of the audit firm shall be made jointly by the inspector general, attorney general, state auditor and state treasurer, not later than September 15, 2000. Said officials shall submit an appropriation request to the house and senate committees on ways and means to fund the cost of said audit. A final audit report with recommendations shall be submitted to the house and senate committees on ways and means on or before December 15, 2000.

**SECTION 87.** Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the bond funded authorizations which are listed herein shall cease to be available for expenditure on the effective date of this act: 6033-0011; 6035-0031.

**SECTION 88.** Notwithstanding sections 38C, 40A and 40B of chapter 7 of the General Laws, the department of highways shall have jurisdiction over the selection of designers performing design services in connection with the construction of tourist information and sanitary buildings adjacent to state highways, and shall construct, control and supervise such buildings or may enter into contracts for the construction of such buildings. This section shall not apply to the construction of such buildings estimated to cost in excess of \$1,000,000 per contract, and no construction or contractual agreement for construction shall begin prior to the review and approval of the inspector general.

**SECTION 89.** The Massachusetts highway department is hereby directed to establish a pilot program to mandate the use of HDPE plastic drainage pipe as an alternative to Reinforced Concrete Pipe on specific projects under the jurisdiction of MassHighway District 2 and MassHighway District 4 for the specific purpose of product-evaluation following the manufacturer's specifications. The total number of projects included in the HDPE pilot program should not exceed 25 per cent of the total number of contracts issued by MassHighway District 2 and MassHighway District 4 combined. The Massachusetts highway department shall report the results of said pilot program to the joint committee on transportation upon completion of the project.

**SECTION 90.** Notwithstanding the provisions of any general or special law to the contrary, as of the effective date of this act the regional transit authorities of the commonwealth established by chapters 161 and 161B of the General Laws are hereby authorized and directed to procure and finance all vehicles for their use in accordance with the provisions of this section.

Said authorities are hereby authorized to finance the purchase of such vehicles by means of lease financing contracts between said authorities and private financing entities.

The selection of said entities and the terms and conditions of said lease financing contracts shall be overseen by and subject to the approval of the secretaries of administration and finance and transportation and construction. The lease period specified in any such contract shall not exceed 12 years from the date on which the vehicles are acquired by the said authority which is a party to such contract. Each such contract, including the specific schedule of vehicles the acquisition of which is to be financed thereby, shall be subject to the approval of the secretary of transportation and construction. No such authority shall finance the purchase of any such vehicles by means other than said lease financing contracts unless it shall have demonstrated to the satisfaction of the secretaries of administration and finance and transportation and construction the necessity of an alternative financing method and received the prior written approval of said secretaries. Said authorities are hereby further authorized to finance the purchase of non-vehicle equipment by means of said lease financing contracts, consistent with regulations and guidelines promulgated by the secretaries of transportation and construction and administration and finance.

The secretary of transportation and construction is hereby authorized to enter into agreements with said authorities to assist them in their direct payment of lease financing obligations incurred under said lease financing contracts. The execution of any such agreement shall be contingent upon the demonstration by a regional transit authority to the satisfaction of the secretary of transportation and construction that: (1) not less than the maximum amount of federal capital grant assistance, as defined by the United States Department of Transportation Federal Transit Laws, as codified in 49 U.S.C. 5301 et seq., has been or will be approved for award from the Federal Transit Administration for the vehicles and other equipment being lease financed; and (2) said authorities have coordinated their vehicle procurement process so as to maximize economies through joint issuance of requests for bids from vendors, establishment of joint blanket contracts and price agreements, and such similar measures as may be appropriate. No said authority shall purchase any vehicle other than through such a coordinated vehicle procurement process unless it shall have demonstrated to the satisfaction of the secretary of transportation and construction the necessity of an alternative procurement method and received his prior written approval.

The secretaries of administration and finance and transportation and construction are hereby authorized to promulgate in a coordinated manner such regulations or guidelines with application to the regional transit authorities as they may determine are appropriate for the management of vehicle and non-vehicle equipment acquisition, lease financing contracts, and federal and commonwealth funding pursuant to the provisions of this section.

**SECTION 91.** Notwithstanding the provisions of any general or special law to the contrary, the pioneer valley transit authority may utilize a design-build, a fast-tracked or phased construction, an A+B, or an A-B procurement process for the reconstruction, rehabilitation and development of the Springfield union intermodal station project, so-called, in the city of Springfield, but such procurement process shall not require an alternative means of financing unless specifically authorized by the legislature.



The procurement process for said project shall be determined in consultation with the inspector general. The inspector general shall comment in writing on such procurement process and shall submit such comments to the authority, the joint committee on transportation and the house and senate committees on ways and means not less than 30 days before the authority begins the procurement of design and construction services.

In order to effectuate an open, competitive and fair procurement and an effective contracting process, the authority shall not less than 45 days prior to the advertisement of the invitation for competitive bids using said procurement process, submit to the inspector general all procedures and criteria developed for the implementation of said alternative method, including a description of the project, the construction bid package or packages and evaluation criteria. Said inspector general shall submit written comments on said procedures to the authority not less than 30 days prior to said advertisement. The authority shall submit said procedures and criteria and the comments of the inspector general to the joint committee on transportation and the house and senate committees on ways and means at least 15 days prior to said advertisement for any contract to be awarded on the basis of an alternative method. Such procedures and criteria shall be approved by a vote of the authority. Said authority shall submit to said committees a report of the results of such procurement. If the authority awards the contract to other than the lowest responsive bidder, the authority shall submit to said committees and to the inspector general a written justification describing in detail why such award is in the best interest of the authority.

Except as otherwise provided in this act, the procedures to be followed and the terms and conditions of such procurement process shall be determined by the authority upon consultation with the inspector general and subject to review by the inspector general as set forth above, including written procedures for the selection of construction, design and other professionals for the project and said procedures shall also be approved by the authority's board of directors. The authority may designate a project manager for the project to serve as the authority's agent and consultant during the planning, design and construction of the project. The project manager'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 project manager shall be selected pursuant to a publicly advertised request for qualifications, which shall include the entity's experience with the design and construction of similar projects, and performance on prior projects and such other factors as the authority deems appropriate.

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 contractor and all subcontracts awarded pursuant to this section.

The authority shall prepare quarterly reports on such project which shall include, but not be limited to: (i) the total amount 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; and (viii) the total number of employees working on the project, broken down by race, ethnicity and gender. Said quarterly reports shall be submitted to the secretary of administration and finance, the house and senate committees on ways and means, the house and senate clerks, the house committee on long term debt and capital expenditures, and the joint committee on transportation. The authority shall prepare a final report which shall evaluate the effectiveness of such procurement process in terms of time and cost savings, as well as the quality of services, impact on the public, and any other impacts of such procurement process and the authority shall file said report with the above-named officials and committees not later than six months from the completion of such project.

**SECTION 92.** Notwithstanding the provisions of section 15C of chapter 40 of the General Laws, that portion of the state highway route 47 and routes 63/10 in the towns of Sunderland, Montague, Erving and Northfield in the Franklin county area, hereinafter called the Connecticut River Scenic Farm Byway, are hereby designated as a scenic byway in the commonwealth.

The Connecticut River Scenic Farm Byway shall begin on routes 63/10 in the town of Northfield at the New Hampshire state line and proceed generally southward to the split of routes 63 and 10 and shall include route 63 in the towns of Northfield and Erving to the junction with route 47 in the town of Montague; route 47 through the towns of Montague and Sunderland; and shall end on route 47 at the town line of the town of Hadley.

The overall purpose of the scenic byway designation is to recognize the unique scenic, cultural and recreational resources along the byway. Specific purposes include the preservation of the rural scenic character of the corridor, improvement of highway safety features, expansion of economic opportunities for farm related business and development of a balanced tourism program.

**SECTION 93.** Notwithstanding any general or special law to the contrary, any contract with a private carrier to provide freight ferry service on behalf of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority between the port of New Bedford and the island of Martha's Vineyard shall be deemed a privatization contract as defined in section 53 of chapter 7 of the General Laws, and such contract shall be subject to the provisions of sections 52 to 55, inclusive, of said chapter 7.

**SECTION 94.** There is hereby established a special commission to examine the resolution of disputes between contractors and state and local agencies in public construction contracts. The special commission shall consist of the following members: the director of the executive office of transportation and construction or his designee who shall serve as chair; the director of the Massachusetts office on dispute resolution or her designee; the attorney general or his designee; the inspector general or his designee; the secretary of administration and finance or his designee; the director of the division of capital asset management and maintenance or his designee; the director of the division of highways or his designee; the chief justice for administration and management of the trial court, or her designee; and 4

members to be appointed by the Governor which shall include two representatives of the Construction Industries of Massachusetts and 2 representatives of municipalities.

The commission shall investigate and examine the current laws and procedures for dispute resolution between contractors and state and local agencies in public construction projects in Massachusetts; the current role of alternative dispute resolution in such disputes; the content of any successful models of alternative dispute resolution procedures used in public construction contract disputes in Massachusetts or other states; and the feasibility and desirability of establishing a comprehensive and uniform alternative dispute resolution procedure to resolve public construction contract disputes.

The commission shall report its findings and recommendations, including legislation necessary to carry out its recommendations, to the chairs of the joint committee on transportation and the joint committee on the judiciary on or before May 1, 2001.

**SECTION 95.** Notwithstanding any special or general law to the contrary, the Barnstable county commission shall form a special commission to develop a plan to improve the management of the Cape Cod Regional Transit Authority. Said plan, which shall be filed with the clerks of the house of representatives and the senate on or before March 31, 2000, shall consider alternative management structures for the Cape Cod Regional Transit Authority, including but not limited to the performance of said Authority's day-to-day administrative and management functions by the chartered regional government for the municipalities comprising said Authority. Said commission shall consist of one representative of the Barnstable county commissioners, who shall be the chair, one representative of the Barnstable county assembly of delegates, one representative of the advisory board of the Cape Cod Regional Transit Authority, one representative of the Barnstable County Selectmen's Association and one representative of the Cape Cod commission.

**SECTION 96.** (a) The commissioner of the division of capital asset management and maintenance shall determine the full and fair market value of the site of the former registry of motor vehicles building located at 100 Nashua street in the city of Boston and the adjacent property formerly owned by Trigen-Boston Energy Corporation, including the full and fair market value of any portion of the building or site that may be transferred or conveyed. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and file said report with the secretary of administration and finance and the commissioner and for submission to the house and senate committees on ways and means and the joint committee on state administration.

(b) If the secretary of administration and finance, after receipt and review of said appraisal and the report of the inspector general and written comments of the commissioner and the attorney general, determines in specific written findings that it is in the best interest of the commonwealth to do so, the commissioner may, notwithstanding the provisions of sections 40E to 40I of chapter 7 of the General Laws, convey any or all of the building at 100

Nashua street and the adjacent property formerly owned by Trigen-Boston Energy Corporation to the Spaulding Rehabilitation Hospital Corporation, as part of a settlement of land damage, relocation, and mitigation claims made by the Spaulding Rehabilitation Hospital Corporation against the commonwealth.

(c) If said property is not transferred pursuant to paragraph (b), the commissioner may, subject to the provisions of sections 40E to 40J of chapter 7 of the General Laws, transfer said property to a public agency for a public purpose, or sell and convey the property by deed or lease for a term not to exceed 99 years, including extensions.

(d) If said property is sold pursuant to paragraph (b), the sale price shall be the full and fair market value as determined by the appraisal completed pursuant to paragraph (a).

(e) The party to which the deed or lease for said property is conveyed shall be responsible for any cost of appraisals, surveys, and other expenses relating to the transfer of said property and for any costs, liabilities and expense of any nature and kind for the development, maintenance and operation of said property.

(f) The commissioner shall 30 days before the execution of any agreement authorized by this section, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general and the attorney general for their 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 amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration at least 15 days prior to execution.

**SECTION 97.** The department of highways may acquire, on behalf of the city of Quincy, town of Milton, or the metropolitan district commission, as appropriate, subject to chapters 79 and 81 of the General Laws, land or rights in land as shown in the Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways, as necessary for the construction, operation, and maintenance, of drainage improvements for Furnace and Cunningham brooks, in Milton and Quincy. To the extent any of said land is not presently used for drainage purposes, said land shall be diverted from its present use to a drainage use.

**SECTION 98.** For the purpose of construction, operation and maintenance of drainage improvements for Furnace and Cunningham brooks, in Milton and Quincy, the division of capital asset management and maintenance may, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, transfer the care, custody, and control of land or rights in parcels D-52, D-54, D-55, D-56, D-57, D-58 and D-59 described herein, from the metropolitan district commission to the department of highways or convey any or all interests in parcels D-52, D-54, D-55, D-56, D-57, D-58 and D-59 to the city of Quincy or town of Milton, as appropriate or, subject to chapters 79 and 81, acquire any or all interests in parcels D-53 and D-55 described herein. Said land or rights in land in the parcels of land described herein shall consist of permanent drainage easements for purposes of maintaining and operating public a drainage system in the town of Milton and



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the city of Quincy. To the extent any of said land is not presently used for drainage purposes, said land shall be diverted from its present use to a drainage use.

Parcels D-52, D-53, D-54, D-55, D-56, D-57, D-58 and D-59 are described as follows:

### Parcel D-52

A certain parcel of land, consisting of approximately 36, 987 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and adjacent open space purposes. Said parcel is shown as Parcel No. D-52 on Sheet No. 7 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;

### Parcel D-53

A certain parcel of land, consisting of approximately 9417 s.f. + / -, presently owned by the city of Quincy, and used for school purposes. Said parcel is shown as Parcel No. D-53 on Sheet No. 7 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;

### Parcel D-54

A certain parcel of land, consisting of approximately 9457 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and/or drainage purposes. Said parcel is shown as Parcel No. D-54 on Sheet No. 8 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;

### Parcel D-55

A certain parcel of land, consisting of approximately 39,575 s.f. + / -, presently owned by city of Quincy, and used for school/drainage purposes. Said parcel is shown as Parcel No. D-55 on Sheet No. 8 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;

### Parcel D-56

A certain parcel of land, consisting of approximately 21,889 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and adjacent open space purposes. Said parcel is shown as Parcel No. D-56 on Sheet No. 10 and 14 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;

### Parcel D-57

A certain parcel of land, consisting of approximately 6207 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and drainage purposes. Said parcel is shown as Parcel No. D-57 on Sheet No. II of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways;



**Parcel D-58**

A certain parcel of land, consisting of approximately 16,831 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and adjacent open space purposes. Said parcel is shown as Parcel No. D-58 on Sheet No. 11 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the department of highways; and

**Parcel D-59**

A certain parcel of land, consisting of approximately 9730 s.f. + / -, presently owned by the commonwealth of Massachusetts under the care and control of its metropolitan district commission, and used for roadway and adjacent open space purposes. Said parcel is shown as Parcel No. D-59 on Sheet No. 13 of Preliminary Right of Way Plans, prepared by ASEC Corporation, dated January 20, 2000, and on file with the chief engineer of the Department of Highways.

**SECTION 99.** Notwithstanding the provisions of any general or special law to the contrary, the department of telecommunications and energy in conjunction with the executive office of transportation and construction shall hold a public hearing within 120 days of the effective date of this act regarding the closure or discontinuation of the service provided by the railway carrier known as the Springfield Terminal Railway Company and its affiliates, subsidiaries and related entities on the line of trackage running approximately from the junction known as Boston and Maine Railroad Company Willimansett junction in the town of Chicopee to Airpark West within the present or former Westover Air Force Base premises in the town of Chicopee.

**SECTION 100.** The state highway known as Boston Road in the town of Westford shall be designated and known as the Pat Bradley Highway. The department of public works shall erect suitable markers along said highway bearing said designation, in compliance with the standards of said department. This designation is to recognize Pat Bradley's membership in the Professional Golfers Association Hall of Fame.

**SECTION 101.** The Massachusetts highway department is hereby directed to commence construction of the improvements to Route 2 at Crosby Corners in Lincoln and Concord and to the rotary at the prison in Concord on or before April 1, 2001.

**SECTION 102.** The Massachusetts highway department, in conjunction with the executive office of environmental affairs, is hereby authorized/directed to conduct a study to provide storm water runoff remediation at the following locations: Route 132 and Route 6A, in the village of West Barnstable in the town of Barnstable.

**SECTION 103.** (a) 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.

(b) Whenever the department determines it is necessary that any utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facility shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth shall reimburse the owner of such utility or utility facility for the cost of relocation subject to the limitations in paragraph (f) and in accordance with the following formula:

(1) for any utility facility, as defined under federal law, which is to be reimbursed federally in whole or in part, the department shall reimburse the utility to the extent that the cost of relocating the utility facility is reimbursed by the federal government;

(2) for the relocation of any utility facility over \$50,000 that does not qualify for federal reimbursement, the department shall reimburse the utility in accordance with the utility's performance in meeting the following schedule:

(i) if the utility completes the relocation in a manner consistent with the department's policies and on or before the target date established by the department for the project, the department shall reimburse the utility at least 50 per cent and not more than 75 per cent of the costs of relocating the utility facility;

(c) the department shall promulgate policies for the calculation of reimbursable expenditures, determination of target dates and requirements for notice to utilities, extent of consultation with utilities regarding design criteria for a relocation, calculation of completion times, and to implement the provisions of this section. The department shall consult with the utilities, construction industry representatives, labor representatives, consumer representatives and other relevant and appropriate parties in the development of such policies, and shall forward such policies to the chairs of the house and senate committees on ways and means, the joint committee on transportation and the joint committee on government regulations.

(d) 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.

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

(f) The total cost to the commonwealth for reimbursements for utility relocations under this section that are not reimbursed federally in whole or in part, shall not exceed \$10 million annually, and shall not be credited toward meeting the requirements of a four hundred million dollar annual statewide road and bridge program as defined in chapter 87 of the acts of 2000.

**SECTION 104.** (a) Notwithstanding the provisions of section 6 of chapter 33 of the acts of 1991 or any other general or special law to the contrary, the commonwealth, through the department of highways, may reimburse the owner of an underground utility or utility facility as defined under federal law whenever such underground utility or utility facility has been relocated because of construction of a project which is to be reimbursed federally in whole or in part. The provisions of this section shall apply to an underground utility or utility location project eligible for federal reimbursement having commenced on or after January 1, 1984, and the reimbursement authorized herein shall be to the extent that that the cost of relocating the facility is reimbursed by the federal government.

(b) Notwithstanding paragraph (a), the department of highways shall, in consultation with utility representatives, construction industry representatives, labor representatives, consumer representatives and other interested and appropriate parties, formulate recommendations for the general court on the feasibility of reimbursement for underground utility relocation projects that are not eligible for federal reimbursement on construction projects that are to be reimbursed federally in whole or in part. Such recommendations shall be forwarded to the chairs of the house and senate committees on ways and means, the joint committee on transportation and the joint committee on government regulations on or before May 1, 2001.

**SECTION 105.** The commissioner of revenue shall promulgate such regulations as are necessary to implement the provisions of section 16.

**SECTION 106.** Section 16 shall take effect on November 1, 2000.

**SECTION 107.** Except as otherwise provided, the provisions of this act shall take effect on June 30, 2000.

*This bill was returned on August 10, 2000, by the Governor to the Senate, the branch in which said bill was originated, with his objections in writing to the following items therein:*

*Items Disapproved: Sections 20, 21, 54, 70, 73, 74, 75, 76, 80, 81, 82, 86, 89, 90, 91, 93, 101, 103*

**SECTION 2B** *Items disapproved by striking the wording:*

Item	Wording Stricken
6037-0019	“; and provided further, that said funds shall be used to support a \$150,000,000 annual program”

*Pursuant to Article 56 of the Amendments to the Constitution, Section 25, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

*The remainder of the bill was approved by the Governor on August 10, 2000 at five o'clock and fifty minutes, P.M.*

**Chapter 236. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2000 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 make certain supplemental appropriations forthwith for the fiscal year ending June 30, 2000, each of which is 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 2000, 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, 2000, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**SECTION 2.**

**JUDICIARY.**

0321-2000 .....	\$3,200
0332-3900 .....	\$51,211

**DISTRICT ATTORNEYS.**  
*Hampden District Attorney.*

0340-0500 .....	\$98,983
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*Norfolk District Attorney.*

0340-0700 .....	\$287,896
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*Massachusetts Cultural Council.*

0640-0300 .....	\$280,000
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**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
*Office of the Secretary.*

1100-1100 .....	\$300,000
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*Department of Veterans' Services.*

1410-0400 .....	\$100,000
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**Chap. 236***Reserves.*

1599-0036 .....	\$1,246,436
1599-3384 .....	\$1,650,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.***Department of Fisheries, Wildlife, and Environmental Law Enforcement.*

2350-0100 .....	\$25,000
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**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.***Division of Medical Assistance.*

4000-0320 .....	\$5,000,000
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*Department of Social Services.*

4800-0031 .....	\$486,000
4800-0041 .....	\$2,085,023

*Department of Mental Health.*

5046-0000 .....	\$225,000
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*Department of Housing and Community Development.*

7004-0200 .....	\$400,000
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**OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.***Division of Insurance.*

7006-0020 .....	\$1,200,000
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**OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.***Department of Economic Development.*

7007-0400 .....	\$100,000
7007-0950 .....	\$65,000
7007-0960 .....	\$259,406
7007-1000 .....	\$123,218
7007-1300 .....	\$19,455

*Department of Education.*

7061-0012 .....	\$4,269,240
7061-9010 .....	\$5,826,790
7061-9400 .....	\$2,582,813
7066-0009 .....	\$387,000

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*Community Colleges.*

7514-0100 ..... \$20,000

*Board of Higher Education.*

7520-0424 ..... \$88,894

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of State Police.*

8100-9999 ..... \$497,270

*Sheriffs.*

8910-0105 ..... \$474,000

8910-0145 ..... \$2,000,000

*Parole Board.*

8950-0001 ..... \$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 herein, 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, 2000, and provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**JUDICIARY.**

*Committee for Public Counsel Services.*

0321-1528 For fees and court costs and compensation of private counsel, as appropriated in section 2 in items 0321-1510, 0321-1512, and 0321-1520 of chapter 127 of the acts of 1999; provided that funds shall be expended for the payment of fiscal year 2000 and prior year bills ..... \$5,482,000

*Trial Court.*

0330-2203 For the fiscal year 1999 and 2000 costs of the energy improvements contract, so-called, between the former Hampden county and Citicorp Real Estate, Inc. .... \$719,440

SECRETARY OF STATE.

0511-0250 For the costs of chilled water services supplied by the University of Massachusetts for the purposes of the Massachusetts archives building ..... \$26,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

*Veterans' Affairs.*

1410-0017 For the commonwealth's contribution to the national world war II memorial, provided that the amount appropriated shall represent a \$1 contribution for each Massachusetts resident who served in said war ..... \$569,000

*Reserves.*

1599-0006 For a reserve for reimbursement to the city of Boston for interest on bonds notes in anticipation thereof issued under authority of section 7 of chapter 152 of the acts of 1997 ..... \$1,759,823  
Boston Convention Center Fund ..... 100.0%

1599-0050 For a reserve for payment of interest on debts incurred to finance the design or construction of the route 3 north project, so-called, pursuant to section 6 of chapter 53 of the acts of 1999 ..... \$14,000,000

1599-0051 For grants for costs associated with the preservation of certain historical properties; provided, that not less than \$55,624 shall be made available for the Massachusetts Historical Society; provided further, that not less than \$64,349 shall be made available for the Gropius House, so-called, located in the town of Lincoln; provided further, that not less than \$119,849 shall be made available for the Chesterwood, so-called, located in the town of Stockbridge; provided further, that not less than \$300,000 shall be made available for the Longfellow House, so-called, located in the city of Cambridge; and provided further, that not less than \$1,460,178 shall be made available for the Mount, so-called, located in the town of Lenox ..... \$2,000,000

1599-3942 For a reserve to meet the fiscal years 1998, 1999 and 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and International Brotherhood of Police Officers Local 432, Units A and B; provided, that the secretary of administration and finance may transfer

	from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2000 such amounts as are necessary to meet said costs, 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 no funds appropriated herein shall be expended for career incentive payments . . . . .	\$399,000
1599-3948 For	a reserve to meet the fiscal year 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Hampden County Superior Correctional Officers Association, and to meet the fiscal year 2000 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary, to meet said costs 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 . . . . .	\$351,000
1599-3949 For	a reserve to meet the fiscal year 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Non-Uniformed Correctional Association, and to meet the fiscal year 2000 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjust-	



	ments 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means . . . . .	\$1,243,000
1599-3955 For	a reserve to meet the fiscal year 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Graduate Employee Organization, Local 2322/UAW, and to meet the fiscal year 2000 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 . . . . .	\$945,000
1599-3956 For	a reserve to meet the commonwealth's obligations for fiscal years 2000 and 2001 pursuant to the provisions of article 24 of the collective bargaining agreement between the University of Massachusetts and the Graduate Employee Organization, Local 2322/UAW, regarding professional growth and development; provided, that the secretary of administration and finance may allocate during said fiscal years from the sum appropriated herein such amounts as are necessary to	

	meet the cost of said obligations; and provided further, that this appropriation shall expire on June 30, 2001 . . . . .	\$372,000
1599-3959 For	a reserve to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Service Employees International Union, Local 509, Unit B, and to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal years such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 . . . . .	\$161,000
1599-3960 For	a reserve to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Service Employees International Union, Local 285, Unit B, and to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; pro-	

	vided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal years 2000 and 2001 such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 .....	\$89,000
1599-3961 For	a reserve to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Graduate Employee Organization, Local 1596 UAW, and to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal years such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 .....	\$456,000
1599-3962 For	a reserve to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Office and Professional Employees International Union, Local 6, for the Hampden registry of deeds, and to meet the fiscal years 1999, 2000, and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits	

to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 ..... \$393,000

1599-3963 For a reserve to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the American Federation of State, County, and Municipal Employees, Council 93, Local 414, for the Middlesex south registry of deeds, and to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 ..... \$539,000

1599-3964 For a reserve to meet the fiscal years 1999, 2000 and 2001 costs



of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Office and Professional Employees International Union, Local 6, for the Middlesex north and south registry of deeds, and to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . . \$398,000

1599-3965 For a reserve to meet the fiscal years 1999, 2000 and 2001 costs of salary adjustments required by the reclassification of certain management positions in the department of correction; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . . \$938,000

1599-3966 For a reserve to meet the costs in fiscal year 2000 of salary increases, benefit adjustments and other employee economic benefits authorized for employees of the supreme judicial court, the appeals court and the trial court that are covered by the collective bargaining agreements between the trial court of the commonwealth and the Office and Professional

Employees International Union Local 6 (AFL-CIO), professional and clerical units; provided, that the secretary may make allocations from this item to meet the costs of salary adjustments and other economic benefits to personnel of the trial court employed in confidential, so-called, positions who would otherwise be covered by collective-bargaining agreements in effect for fiscal year 2000 and to meet the costs of providing equal salary adjustments and other economic benefits to employees who are not otherwise classified in any such collective bargaining unit of the trial court, the mental health legal advisors committee, the board of bar examiners and the commission on judicial conduct; provided further, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2000 such 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 . . . . . \$1,680,048

1599-396 For a reserve to meet the fiscal year 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of higher education and the Massachusetts Teachers Association/Massachusetts Community College Council, and to meet the fiscal year 2000 costs of salary adjustments and benefits to employees employed in confidential positions, so-called, which otherwise would be covered by said agreement; provided, that the personal administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . . \$3,973,000

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1599-9719	For a reserve for payment of certain expenses associated with the abolition of county governments, including costs of Berkshire County .....	\$300,000
1599-9953	For the purpose of a central artery/third harbor tunnel mitigation program; provided, that the amount authorized herein shall be expended according to a spending plan submitted jointly by the North End Community Health Center, the North End/West End Neighborhood Service Center, and the Nazzaro Recreational Center to the secretary of transportation and construction and the secretary of administration and finance; and provided further, that the department of highways shall seek additional federal funding for said mitigation program .....	\$757,709
1599-9954	For the costs of repairs to the Saw Mill Lane bridge over Mother Brook in the town of Dedham and the city of Boston .....	\$250,000

*Human Resources Division.*

1750-3829	For the state-wide labor/management committee pursuant to the provisions of article 25 of the collective bargaining agreement between the commonwealth and the Alliance, AFSCME/SEIU, AFL-CIO (Units 8 and 10); provided, that this appropriation shall expire on June 30, 2001 .....	\$91,000
1750-3876	For the alternative dispute resolution and statewide training and career ladders programs pursuant to the provisions of articles 25 and 30, respectively, of the collective bargaining agreement between the commonwealth and the Massachusetts Nurses Association (Unit 7); provided, that this appropriation shall expire on June 30, 2001 .....	\$114,000
1750-3897	For the wellness program pursuant to the provisions of the memorandum of understanding dated October 7, 1998, between the commonwealth and the Massachusetts Correction Officers Federated Union (Unit 4); provided, that this appropriation shall expire on June 30, 2001 .....	\$25,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2000-0104	For the operational costs of certain environmental affairs agencies during Sail Boston 2000, so-called; provided, that the secretary of environmental affairs shall allocate funds	
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appropriated herein to those agencies with direct responsibilities for environmental safety and law enforcement at said event and its related activities . . . . . \$300,000

*Department of Environmental Management.*

2100-1123 For matching grants for the costs of design and planning associated with the rehabilitation, enhancement and upgrade of a department of environmental management parcel of property within the city of Holyoke surrounded by the Community Field/Scott Tower Public Park; provided, that funds appropriated herein shall be contingent upon a match of \$1 in local or private funds for every dollar in state funds . . . . . \$200,000

*Metropolitan District Commission.*

2443-2010 For the Commonwealth Zoological Corporation; provided, that said corporation shall report to the house and senate committees on ways and means no later than March 31, 2001 on the status and amounts of private fundraising as identified in the draft Zoo New England 2000 capital plan . . . . . \$5,000,000

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

*Division of Medical Assistance.*

4000-0304 For disproportionate share hospital payment adjustments for inpatient services provided at pediatric specialty hospitals . . . \$6,250,000  
4000-0305 For the payment of certain rate settlements owed for rate years 1994 to 2000, inclusive, pursuant to sections 84, 85 and 86 of this act and for the purpose of making a non-recurring Medicaid payment of \$4,500,000 to the Carney hospital in the city of Boston for disproportionate share costs, so-called . . . . . \$9,000,000

*Division of Health Care Finance and Policy.*

4100-0066 For the purpose of awarding one-time grants in fiscal year 2001 to qualifying community health centers located in communities with demonstrated significant barriers to care or serving patients with unusually high acuity, notwithstanding the provisions of any general or special law to the contrary; provided, that criteria established by the division for the award of such grants shall be based on barriers to care in a community including, but not limited to, language,



ethnicity, race, financial status, insurance status and patient acuity factors including, but not limited to, multi-system failures, psycho-social needs, endemic incidence of substance abuse and nutritional and dietary deficiencies underlying the disease process; provided further, that any documentation requested by the division to substantiate grant applications shall be made available by an applicant including, but not limited to, information about patient volume and demographics and the cost and types of services provided to patients; provided further, that such grants shall be awarded consistent with the recommendations of an advisory council consisting of the commissioner of the division of health care finance and policy, the commissioner of medical assistance, the commissioner of public health, the executive director of the Massachusetts League of Community Health Centers, the executive director of Health Care for All, and the secretary of health and human services or the designees of any such member thereof; provided further, that said advisory group shall recommend to the division not later than September 1, 2000 the most efficacious means of awarding the grants authorized herein consistent with the provisions of this item; provided further, that said secretary shall chair the advisory group; and provided further that not more than \$100,000 of the amount appropriated herein shall be expended by the division for the purposes of assisting centers applying for said grants or to pursue available federal technical assistance funding . . . . \$7,000,000

4100-0067 For the purpose of awarding one-time grants to non-profit providers of elder care such as aging service access points, nursing facilities, home care providers, councils on aging, home health providers, adult day care providers, dementia-specific adult day care providers, and other charitable organizations for the elderly for equipment upgrades that directly improve patient care, and for the conversion or renovation of existing space or acquisition and construction costs of new physical plant space for the development of new programs, which support the continuum of care for the elderly, notwithstanding the provisions of any general or special law to the contrary; provided that such programs shall include, but not be limited to, assisted

living facilities, congregate or shared housing facilities, shelters for abused or homeless elders, day care facilities, night care facilities, medical clinics, mental health or substance abuse clinics, geriatric psychiatry units, elder-to-work and teen-elder partnership cooperatives and respite care clinics; provided, that said grants shall be used for conversion or start-up costs rather than ordinary operating expenses; provided further, that preference among all applicants will be given to those serving low-income, under-served elderly populations; provided further, that preference on equipment purchase grants shall be given for the purchase of medical equipment; provided further, that grant awards shall not exceed the amount of \$1,000,000 per recipient; provided further, that all applicants shall provide documentation requested by the division of health care finance and policy to substantiate requests for such grants including, but not limited to, information on the number of patients served and the cost and types of services provided to said patients, a detailed plan of expenditure uses, an overview of existing resources and projected revenue collections resulting from expansion; provided further, that an advisory group consisting of the secretary of health and human services, who shall chair the group, the commissioner of medical assistance, the commissioner of public health, the secretary of elder affairs, the executive director of the Massachusetts Extended Care Federation, the executive director of Mass Aging, Inc., the executive director of the Alzheimer's Association, the executive director of Mass Home Care, the executive director of Massachusetts Senior Action Council, Inc., the executive director of Health Care for All, the executive director of the American Association of Retired Persons, the executive director of the Home and Health Care Association of Massachusetts, and the executive director of the Massachusetts Assisted Living Facilities Association, or the designees of any such member, shall recommend to the commissioner of health care finance and policy not later than 30 days after the effective date of this act the most efficacious means of awarding said grants, consistent with the provisions of this item; and provided further, that said commissioner shall establish award criteria for said grants

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consistent with the provisions of this item and the  
recommendations of said advisory group ..... \$8,000,000

*Department of Transitional Assistance.*

4405-2010 For payment of prior fiscal year expenses for special grant  
recipients of the state supplemental security income pro-  
gram 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 194 of 1998 ..... \$250,000

*Department of Social Services.*

4800-0049 For the payment of group care prior year bills ..... \$270,995

*Department of Economic Development.*

7007-0350 For manufacturing assistance services to be administered by the  
Massachusetts office of business development; provided,  
that said funds shall be expended to assist manufacturing  
extension services, alternative deployment pilot projects,  
total quality management projects, technology access pro-  
grams, shop floor management projects, provided further,  
that said services shall include the operation of the  
Massachusetts manufacturing partnership ..... \$875,000

*Department of Education.*

7061-9405 For the development of certificates of occupational proficiency  
for vocational school students ..... \$100,000

*University of Massachusetts.*

7100-0201 For the purpose of providing permanent or temporary public  
safety and security enhancements to the University of  
Massachusetts' Boston campus in preparation for its  
housing of the 2000 Presidential Debate including, but not  
limited to, various infrastructure repairs and improvements,  
the purchase or rental of equipment to provide additional  
power and cooling for the debate site and any other  
expenditure intended to preserve the health and safety of a  
large crowd; provided, that all expenditures from this item  
shall be subject to the prior approval of the Vice Chancellor  
for Administration and Finance on the Boston campus; and  
provided further, that appropriations made herein shall  
expire on June 30, 2001 ..... \$900,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

*Office of the Secretary.*

8000-0005	For the costs of establishing a law enforcement memorial and a firefighters memorial; provided, that an amount not to exceed \$250,000 shall be made available to the Massachusetts Law Enforcement Memorial Foundation, Inc., for the design, construction and maintenance of a memorial to law enforcement personnel killed in the line of duty as defined in section 100 of chapter 32 of the General Laws; and provided further, that an amount not to exceed \$250,000 shall be allocated to the division of capital asset management and maintenance for the design, construction and maintenance of a memorial to firefighters killed in the line of duty . . . . .	\$500,000
8000-0017	For the operational costs of certain state public safety agencies during Sail Boston 2000, so-called; provided, that the secretary of public safety shall allocate funds appropriated herein to those state agencies with direct responsibilities for public safety and law enforcement at said event and its related activities . . . . .	\$779,072

*Massachusetts Emergency Management Agency.*

8800-2000	For a reserve payment to the cities and towns which sustained severe damage during tropical storm Floyd; provided, that all expenditures made from this item shall be certified and disbursed by the Massachusetts Emergency Management Agency . . . . .	\$2,230,000
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LEGISLATURE.

*Joint Legislature.*

9750-0100	For the purposes of establishing an advisory committee to hire an independent consultant to evaluate the feasibility and fiscal implications of establishing a system of consolidated health care financing and streamlined health care delivery model accessible to every resident of the commonwealth, pursuant to section 32 of chapter 141 of the acts of 2000 . . . . .	\$250,000
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NO SECTION 2B.



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**SECTION 2C.I.** For the purpose of making available in fiscal year 2001 balances of appropriations which otherwise would revert on June 30, 2000, 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 chapter 159 of the acts of 2000; provided, however, that for items which do not appear in said section 2 of said chapter 159, 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 fund or funds designated for the corresponding item in said section 2 of said chapter 159; provided, however, that for items which do not appear in said section 2 of said chapter 159, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section 2 or 2A or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

**JUDICIARY.**

0321-1500 .....	\$651,933
0332-3900 .....	\$51,211
0339-2100 .....	\$130,000

*District Attorneys.*

0340-0700 .....	\$287,896
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**SECRETARY OF STATE.**

0526-0102 .....	\$540,000
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**TREASURER AND RECEIVER-GENERAL.***Massachusetts Cultural Council.*

0640-0300 .....	\$280,000
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*Debt Service.*

0699-9101 .....	\$28,750,000
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**STATE ETHICS COMMISSION.**

0900-0100 .....	\$75,000
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**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.***Office of the Secretary.*

1100-1100 .....	\$300,000
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*Division of Capital Asset Management and Maintenance.*

1102-3204	.....	\$8,353,680
1102-3206	.....	\$400,000

*Massachusetts Commission Against Discrimination.*

1150-5100	.....	\$450,000
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*Department of Veterans' Services.*

1410-0017	.....	\$569,000
1410-8999	.....	\$900,000

*Reserves.*

1599-0006	.....	\$1,759,823
1599-0033	.....	\$3,000,000
1599-0036	.....	\$1,246,436
1599-0050	.....	\$14,000,000
1599-0051	.....	\$2,000,000
1599-3384	.....	\$1,650,000
1599-3845	.....	\$1,821,864
1599-3942	.....	\$399,000
1599-3948	.....	\$351,000
1599-3949	.....	\$1,243,000
1599-3955	.....	\$945,000
1599-3956	.....	\$372,000
1599-3959	.....	\$161,000
1599-3960	.....	\$89,000
1599-3961	.....	\$456,000
1599-3962	.....	\$393,000
1599-3963	.....	\$539,000
1599-3964	.....	\$398,000
1599-3965	.....	\$938,000
1599-3966	.....	\$1,680,048
1599-3967	.....	\$3,973,000
1599-9150	.....	\$6,800,000
1599-9719	.....	\$300,000
1599-9953	.....	\$757,709
1599-9954	.....	\$250,000

*Human Resources Division.*

1750-0200	.....	\$200,000
1750-3829	.....	\$91,000

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1750-3876 .....	\$114,000
1750-3897 .....	\$25,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

2000-0104 .....	\$300,000
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*Department of Environmental Management.*

2100-0005 .....	\$1,430,639
2100-1123 .....	\$200,000

*Department of Environmental Protection.*

2200-0100 .....	\$50,000
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*Department of Fisheries, Wildlife and Environmental Law Enforcement.*

2320-0200 .....	\$992,000
2350-0100 .....	\$25,000

*Metropolitan District Commission.*

2440-0010 .....	\$3,026,673
2440-0501 .....	\$1,562,803
2443-2010 .....	\$5,000,000

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.***Office of the Secretary.*

4000-0107 .....	\$113,460
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*Division of Medical Assistance.*

4000-0304 .....	\$6,250,000
4000-0305 .....	\$9,000,000

*Division of Health Care Finance and Policy.*

4100-0066 .....	\$7,000,000
4100-0067 .....	\$8,000,000

*Department of Public Health.*

4590-0914 .....	\$789,100
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*Department of Social Services.*

4800-0015 .....	\$294,000
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*Department of Mental Health.*

5011-1102 .....	\$3,800,000
5046-0000 .....	\$225,000

*Department of Mental Retardation.*

5911-1102 .....	\$1,808,489
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**OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.**

*Department of Labor and Workforce Development.*

7002-9500 .....	\$100,000
7003-0700 .....	\$225,000
7003-0701 .....	\$10,319,832
7003-2000 .....	\$100,000

*Department of Housing and Community Development.*

7004-0089 .....	\$2,688,250
7004-0200 .....	\$400,000

*Division of Insurance.*

7006-0020 .....	\$1,200,000
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*Board of Registration in Medicine.*

7006-0130 .....	\$200,000
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**DEPARTMENT OF ECONOMIC DEVELOPMENT.**

7007-0350 .....	\$875,000
7007-0400 .....	\$100,000
7007-0920 .....	\$664,652
7007-0950 .....	\$65,000
7007-0960 .....	\$259,406
7007-1000 .....	\$123,218
7007-1300 .....	\$19,455

*Department of Education.*

7061-9405 .....	\$100,000
7066-0009 .....	\$387,000

*Board of Higher Education.*

7077-2000 .....	\$499,434
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*University of Massachusetts.*

7100-0201 ..... \$900,000

*Community Colleges.*

7514-0100 ..... \$20,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Office of the Secretary.*

8000-0005 ..... \$500,000

8000-0017 ..... \$779,072

8001-1900 ..... \$1,955,000

*Department of State Police.*

8100-0063 ..... \$2,405,199

*Massachusetts Emergency Management Agency.*

8800-2000 ..... \$2,230,000

*Department of Correction.*

8900-0019 ..... \$920,000

*Sheriffs.*

8910-0105 ..... \$474,000

8910-0107 ..... \$353,594

8910-0110 ..... \$231,000

8910-0145 ..... \$2,000,000

*Parole Board.*

8950-0001 ..... \$600,000

**LEGISLATURE.**

*Joint Legislature.*

9750-0100 ..... \$250,000

**NO SECTION 2D.**

**SECTION 2E.** To provide for certain unanticipated obligations of the commonwealth, to provide for certain other activities and projects and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the Capital Improvement and Investment Trust Fund for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds; provided,

that notwithstanding the provisions of any general or special law to the contrary, appropriations made herein shall expire on June 30, 2003.

**SECRETARY OF STATE.**

0511-0251	For the costs associated with installation of a new air cooling system in the Massachusetts Archives Building . . . . .	\$265,000
0526-0103	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 chair of the Massachusetts historical commission; and provided further, that said regulations shall include preferences for historic properties, landscapes, and sites registered under the state register of historic places, as described pursuant to section 26C of chapter 9 of the General Laws . . . . .	\$5,000,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Division of Capital Asset Management and Maintenance.*

1102-0048	For the demolition and remediation of certain properties in the commonwealth . . . . .	\$5,000,000
1102-0049	For the demolition and remediation of Aztec Industries, so-called . . . . .	\$481,000

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

*Reserves.*

1599-0052	For a 20 per cent matching grant for construction costs of the Berkshire South Regional Community Center . . . . .	\$1,000,000
1599-7102	For a reserve for transfer to the University of Massachusetts Building Authority to be expended, in conjunction with other funds of the authority or any other source, for the design and construction of an integrated science facility at the University of Massachusetts, Amherst or on behalf of a University affiliate in the city of Springfield, a life science research facility, as part of the pioneer valley life sciences initiative; provided further, that not less than 90 days prior to the expenditure of any funds from this item, said authority shall submit to the house and senate committees on ways and means a report detailing the total project cost	

and a financing plan which shall detail the matching funds committed from federal, local and private sources; provided further, that said report shall include a memorandum of agreement between the University of Massachusetts, local medical research centers and other public or private entities in which all parties commit to a long-term plan for the operation of such facilities; and provided further, that said memorandum shall include, but not be limited to, provisions addressing the respective intellectual and other property rights and interests of the parties, the disbursement and assignment of profits, royalties and other benefits, and ethical rules and disclosure requirements of the public and private employees ..... \$5,000,000

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

- 2000-1997 For the dredging of lakes, ponds, rivers and other waterways located within the commonwealth ..... \$10,000,000
- 2000-2120 For the maintenance, repair and beautification of the recreational assets in the commonwealth; provided, that grants from this item may be made to municipalities and non-profit organizations for the improvement of municipally-owned parks and playgrounds; provided further, that any such grants to municipalities or non-profits shall require matching funds of not less than 100 per cent ..... \$4,433,334

*Department of Environmental Management.*

- 2100-1122 For the costs of design, engineering and permitting for the restoration and rehabilitation of the Muddy river, so-called ..... \$1,000,000
- 2100-3333 For the acquisition of property to preserve valuable shoreline and to protect undeveloped land located in the city of Beverly; provided, that funds shall be expended for the acquisition of the 12.3 acre Green Hill's property, so-called, which are adjacent to the Ayers Ryal Side Elementary school including property along the Bass River; and provided further, that funds be expended for the acquisition of the 14.5 acre Hill properties, so-called, which are adjacent to Sally Milligan Park and the Santin properties ..... \$1,200,000
- 2120-7998 For repairs and improvements to the Falls dam in the town of North Attleborough ..... \$250,000

*Department of Environmental Protection.*

2200-0003 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 payments will be consistent with a payment schedule provided by the department of environmental protection . . . . . \$4,090,360

*Metropolitan District Commission.*

2420-1420 For costs associated with the master plan for the Lower Neponset River; provided, that \$550,000 shall be expended for Pope John Paul park phase II improvements; provided further, that \$950,000 shall be expended for Park House improvements; provided further, that \$950,000 shall be expended for the fishing pier, so-called; provided further, that \$6,500,000 shall be expended for building demolition, soil remediation, landscaping and related design costs of the T and Schlager property, so-called; and provided further, that \$7,500,000 shall be expended for the acquisition of the Sax Parcel, so-called . . . . . \$15,955,000

*Department of Food and Agriculture.*

2511-0110 For a reserve to reimburse cities and towns for the costs of acquisition of open space land for the purposes of conservation and recreation; provided, that each such reimbursement shall represent the commonwealth's total commitment in such acquisitions; and provided further that all expenditures for the agricultural preservation restrictions program be made pursuant to sections 11A to 11D, inclusive, of chapter 132A of the General Laws . . . . . \$2,000,000

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

*Massachusetts Soldiers' Home.*

4180-0013 For the installation of an automated sprinkler system in the Quigley building at the Massachusetts soldiers' home . . . . . \$3,000,000



*Department of Public Health.*

- 4510-0120 For the start-up costs of new oral health clinics; provided, that the amount appropriated herein shall be made available as grants to community health centers that the department has identified to be in greatest need of such services; provided further, that each grant shall be of an amount sufficient to fully fund the start-up costs of a dental health program . . . . . \$1,000,000
- 4590-0919 For the purchase, repair and maintenance of medical equipment at hospitals owned and operated by the department of public health; provided, that funds appropriated herein shall be made be available to the Soldiers' Home located in the city of Chelsea and the Soldiers' Home located in the town of Holyoke; provided further, that amounts funded in this item shall be one-time, non-recurring expenditures . . . . . \$7,000,000

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

- 6005-0021 For a one-time payment to the Martha's Vineyard Regional Transit Authority for the purchase of common carrier service rights of Island Transport, Inc. and Gay Head Sightseeing Co., Inc. . . . . \$1,800,000

*Board of Library Commissioners.*

- 7000-9995 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 such grants shall only be awarded for projects which have commenced after April 10, 1996 . . . . . \$12,000,000

**EXECUTIVE OFFICE F PUBLIC SAFETY.**

- 8000-0019 For a program of bulletproof vest reimbursement grants to be administered by the secretary of public safety; provided, that said program shall provide not less than 50 per cent reimbursement for the cost of bulletproof vests purchased on or after July 1, 2000, for police officers, full-time sworn personnel of the department of state police, and certain personnel of other agencies within the executive office of public safety as determined by said secretary; provided further, that all applicants for grants under this item shall

submit documentation as required by said secretary as a condition of reimbursement; provided further, that funds awarded under said program may be used as state or local matching funds for the purpose of application for additional reimbursement under the federal Bulletproof Vest Partnership Grant Act of 1998; and provided further, that the award of funds under this item shall be contingent upon the recipient having applied for reimbursement under said federal act ..... \$5,000,000

*Department of Fire Services.*

8324-1009 For the purchase of equipment and materials for the hazardous material emergency response program ..... \$1,400,000

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, an additional \$87,700,000 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 has occurred for the fiscal year ending June 30, 2000, if actual state lottery funds revenue growth exceeds the additional \$87,700,000 distributed to cities and towns in accordance with the schedule listed below, such excess funds shall be carried forward into fiscal year 2001 and final adjustments of lottery distribution to cities and towns shall be made by the state treasurer by adjusting upward the second quarterly payment of fiscal year 2001, through the lottery formula, so-called, so as to distribute the excess. If actual state lottery fund growth falls short of the additional \$87,700,000 distributed to cities and towns in accordance with the schedule listed below, final adjustments of lottery distribution to cities and towns shall be made by the state treasurer by adjusting downward the second quarterly payment of fiscal year 2001, through the lottery formula, so-called, so as to apportion the shortfall.

ABINGTON	217,592	ATHOL	269,975
ACTON	145,715	ATTLEBORO	665,211
ACUSHNET	163,424	AUBURN	185,952
ADAMS	192,190	AVON	37,487
AGAWAM	371,542	AYER	73,144
ALFORD	1,379	BARNSTABLE	282,819
AMESBURY	221,995	BARRE	91,480
AMHERST	880,477	BECKET	7,861
ANDOVER	207,344	BEDFORD	101,490
ARLINGTON	458,756	BELCHERTOWN	173,275
ASHBURNHAM	86,018	BELLINGHAM	176,140
ASHBY	47,439	BELMONT	174,308
ASHFIELD	20,280	BERKLEY	69,511
ASHLAND	132,871	BERLIN	18,266

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BERNARDSTON	30,844	DALTON	106,401
BEVERLY	436,034	DANVERS	211,507
BILLERICA	483,020	DARTMOUTH	282,434
BLACKSTONE	144,778	DEDHAM	228,034
BLANDFORD	12,391	DEERFIELD	52,784
BOLTON	18,709	DENNIS	70,092
BOSTON	6,659,579	DIGHTON	77,874
BOURNE	152,533	DOUGLAS	79,330
BOXBOROUGH	26,526	DOVER	21,974
BOXFORD	62,961	DRACUT	460,098
BOYLSTON	38,754	DUDLEY	182,447
BRAINTREE	339,326	DUNSTABLE	23,854
BREWSTER	54,748	DUXBURY	109,309
BRIDGEWATER	399,862	EAST BRIDGEWATER	173,836
BRIMFIELD	40,884	EAST BROOKFIELD	26,605
BROCKTON	2,256,009	EAST LONGMEADOW	146,439
BROOKFIELD	54,531	EASTHAM	20,541
BROOKLINE	398,040	EASTHAMPTON	286,243
BUCKLAND	28,683	EASTON	246,737
BURLINGTON	180,522	EDGARTOWN	6,571
CAMBRIDGE	785,412	EGREMONT	5,686
CANTON	167,940	ERVING	10,306
CARLISLE	25,084	ESSEX	25,688
CARVER	182,011	EVERETT	430,302
CHARLEMONT	17,679	FAIRHAVEN	210,251
CHARLTON	140,175	FALL RIVER	2,161,134
CHATHAM	20,286	FALMOUTH	184,196
CHELMSFORD	373,688	FITCHBURG	1,031,455
CHELSEA	695,774	FLORIDA	7,451
CHESHIRE	59,009	FOXBOROUGH	165,138
CHESTER	17,910	FRAMINGHAM	753,442
CHESTERFIELD	14,305	FRANKLIN	267,391
CHICOPEE	1,129,255	FREETOWN	118,233
CHILMARK	497	GARDNER	504,256
CLARKSBURG	34,544	AQUINNAH	214
CLINTON	262,306	GEORGETOWN	71,303
COHASSET	41,796	GILL	25,674
COLRAIN	29,029	GLOUCESTER	300,522
CONCORD	99,485	GOSHEN	8,583
CONWAY	17,803	GOSNOLD	77
CUMMINGTON	7,563	GRAFTON	179,114

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GRANBY	89,570	LENOX	39,738
GRANVILLE	15,091	LEOMINSTER	683,762
GREAT BARRINGTON	81,854	LEVERETT	22,850
GREENFIELD	346,727	LEXINGTON	165,198
GROTON	84,821	LEYDEN	9,667
GROVELAND	63,187	LINCOLN	47,510
HADLEY	35,754	LITTLETON	65,376
HALIFAX	99,466	LONGMEADOW	139,031
HAMILTON	63,267	LOWELL	2,878,388
HAMPDEN	61,977	LUDLOW	286,342
HANCOCK	3,125	LUNENBURG	121,884
HANOVER	117,775	LYNN	2,005,469
HANSON	133,238	LYNNFIELD	83,995
HARDWICK	41,726	MALDEN	997,634
HARVARD	183,020	MANCHESTER	22,052
HARWICH	55,440	MANSFIELD	184,073
HATFIELD	28,517	MARBLEHEAD	127,895
HAVERHILL	959,928	MARION	28,771
HAWLEY	3,645	MARLBOROUGH	349,144
HEATH	9,227	MARSHFIELD	227,135
HINGHAM	143,668	MASHPEE	42,706
HINSDALE	23,934	MATTAPOISETT	48,272
HOLBROOK	179,596	MAYNARD	128,462
HOLDEN	191,589	MEDFIELD	88,113
HOLLAND	21,759	MEDFORD	796,714
HOLLISTON	135,870	MEDWAY	123,999
HOLYOKE	1,047,741	MELROSE	338,695
HOPEDALE	82,720	MENDON	44,365
HOPKINTON	73,884	MERRIMAC	76,958
HUBBARDSTON	49,060	METHUEN	658,219
HUDSON	226,616	MIDDLEBOROUGH	283,432
HULL	124,772	MIDDLEFIELD	4,677
HUNTINGTON	35,152	MIDDLETON	38,200
IPSWICH	104,941	MILFORD	335,618
KINGSTON	109,304	MILLBURY	203,008
LAKEVILLE	89,544	MILLIS	96,360
LANCASTER	94,030	MILLVILLE	38,154
LANESBOROUGH	30,267	MILTON	268,399
LAWRENCE	3,025,963	MONROE	495
LEE	57,723	MONSON	125,343
LEICESTER	196,848	MONTEREY	2,940



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MONTGOMERY	9,093	PETERSHAM	13,390
MOUNT WASHINGTON	382	PHILLIPSTON	25,121
NAHANT	34,294	PITTSFIELD	802,865
NANTUCKET	8,642	PLAINFIELD	5,494
NATICK	238,440	PLAINVILLE	93,772
NEEDHAM	174,694	PLYMOUTH	511,177
NEW ASHFORD	1,248	PLYMPTON	30,279
NEW BEDFORD	2,542,973	PRINCETON	34,852
NEW BRAINTREE	13,525	PROVINCETOWN	14,437
NEW MARLBOROUGH	6,768	QUINCY	1,201,994
NEW SALEM	9,755	RANDOLPH	483,184
NEWBURY	49,685	RAYNHAM	111,557
NEWBURYPORT	157,147	READING	218,394
NEWTON	497,280	REHOBOTH	99,900
NORFOLK	123,309	REVERE	764,512
NORTH ADAMS	453,192	RICHMOND	11,208
NORTH ANDOVER	202,975	ROCHESTER	48,324
NORTH ATTLEBOROUGH	319,325	ROCKLAND	266,855
NORTH BROOKFIELD	94,573	ROCKPORT	54,345
NORTH READING	111,827	ROWE	711
NORTHAMPTON	400,318	ROWLEY	54,067
NORTHBOROUGH	115,782	ROYALSTON	19,024
NORTHBRIDGE	241,907	RUSSELL	25,262
NORTHFIELD	37,772	RUTLAND*	77,090
NORTON	221,133	SALEM	508,925
NORWELL	67,986	SALISBURY	68,453
NORWOOD	293,108	SANDISFIELD	2,705
OAK BLUFFS	9,407	SANDWICH	148,321
OAKHAM	22,625	SAUGUS	264,767
ORANGE	176,777	SAVOY	9,662
ORLEANS	22,349	SCITUATE	141,164
OTIS	3,159	SEEKONK	128,511
OXFORD	233,544	SHARON	153,956
PALMER	190,069	SHEFFIELD	24,156
PAXTON	52,636	SHELBURNE	26,493
PEABODY	507,133	SHERBORN	20,053
PELHAM	18,370	SHIRLEY	163,761
PEMBROKE	185,998	SHREWSBURY	275,198
PEPPERELL	148,320	SHUTESBURY	19,713
PERU	10,703	SOMERSET	167,154

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SOMERVILLE	1,335,716	WASHINGTON	7,239
SOUTH HADLEY	281,668	WATERTOWN	341,047
SOUTHAMPTON	62,041	WAYLAND	70,219
SOUTHBOROUGH	42,493	WEBSTER	281,293
SOUTHBRIDGE	421,942	WELLESLEY	128,752
SOUTHWICK	102,701	WELLFLEET	7,383
SPENCER	227,846	WENDELL	17,031
SPRINGFIELD	4,379,085	WENHAM	39,500
STERLING	79,830	WEST BOYLSTON	81,284
STOCKBRIDGE	11,206	WEST BRIDGEWATER	67,645
STONEHAM	247,239	WEST BROOKFIELD	51,189
STOUGHTON	363,884	WEST NEWBURY	29,922
STOW	50,001	WEST SPRINGFIELD	386,949
STURBRIDGE	96,520	WEST STOCKBRIDGE	10,395
SUDBURY	89,271	WEST TISBURY	5,580
SUNDERLAND	54,442	WESTBOROUGH	103,460
SUTTON	83,174	WESTFIELD	627,985
SWAMPSCOTT	117,128	WESTFORD	156,249
SWANSEA	186,317	WESTHAMPTON	16,442
TAUNTON	865,876	WESTMINSTER	80,286
TEMPLETON	137,656	WESTON	36,916
TEWKSBURY	315,415	WESTPORT	127,523
TISBURY	12,148	WESTWOOD	74,841
TOLLAND	707	WEYMOUTH	812,166
TOPSFIELD	45,742	WHATELY	13,357
TOWNSEND	144,851	WHITMAN	250,177
TRURO	3,539	WILBRAHAM	134,261
TYNGSBOROUGH	117,214	WILLIAMSBURG	32,021
TYRINGHAM	1,296	WILLIAMSTOWN	93,877
UPTON	50,671	WILMINGTON	176,121
UXBRIDGE	155,090	WINCHENDON	186,987
WAKEFIELD	250,805	WINCHESTER	129,639
WALES	23,207	WINDSOR	7,647
WALPOLE	221,865	WINTHROP	278,016
WALTHAM	596,649	WOBURN	376,945
WARE	185,106	WORCESTER	3,829,027
WAREHAM	232,429	WORTHINGTON	13,158
WARREN	76,822	WRENTHAM	98,475
WARWICK	11,614	YARMOUTH	166,006

**SECTION 4.** Subsection (d) of section 16D of chapter 6A of the General Laws, in-

serted by section 1 of chapter 141 of the acts of 2000, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:-

The committee shall consist of one person who shall represent Health Care for All; one person who shall represent the Massachusetts Medical Society; one person who shall represent the Massachusetts Association of Health Maintenance Organizations; one person who shall represent Blue Cross Blue Shield of Massachusetts; one person who shall represent the Associated Industries of Massachusetts; one person who shall represent the Massachusetts Nurses Association; one person who shall represent the Massachusetts Hospital Association; one person who shall represent the Ad Hoc Committee to Defend Health Care; and seven members to be appointed by the board, one of whom shall represent a mental health consumer advocacy organization; one of whom shall represent a senior citizen organization; one of whom shall represent an organization representing the disabled and chronically ill; one of whom shall represent community health centers; one of whom shall represent the Massachusetts Healthcare purchaser group; one of whom shall represent the Life Insurance Association of Massachusetts; and one of whom shall represent a utilization review organization not otherwise represented.

**SECTION 5.** Chapter 10 of the General Laws is hereby amended by striking out section 35S, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 35S. There shall be established and set up on the books of the commonwealth a separate fund, to be administered by the commissioner of education, which shall be known as the Teacher, Principal and Superintendent Quality Endowment Fund. The fund shall consist of all revenues from public and private sources as appropriations, gifts, grants and donations and from the federal government as reimbursements, grants-in-aid or other receipts to further the purposes of the fund in accordance with sections 19B, 19C and 19E of chapter 15A. All revenues credited to the fund under this section shall remain in the fund and shall be expended without further appropriation for applications pursuant to said sections 19B, 19C and 19E of said chapter 15A. The state treasurer shall deposit and invest monies in said fund in accordance with sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund. The fund shall be expended only for the purposes stated in said sections 19B, 19C and 19E of said chapter 15A at the direction of the commissioner. The state treasurer shall structure expenditures from the fund to ensure that not less than \$70,000,000 or the total dollar value of funds appropriated or transferred into the fund by the general court, whichever is greater, remains in the fund at all times. On February 1 of each year, the state treasurer shall notify the commissioner of the projected investment earnings available for expenditure from the fund for the upcoming fiscal year. Not more than 42 per cent of the projected investment earnings of the fund shall be expended for the purposes stated in said section 19C of said chapter 15A in each fiscal year, and not more than 15 per cent shall be expended for the purposes stated in said section 19E of said chapter 15A.

**SECTION 6.** Chapter 10 of the General Laws is hereby amended by inserting after section 35T the following section:-

Section 35U. There shall be established and set up on the books of the commonwealth a separate fund to be known as the MBTA Infrastructure Renovation Fund for the purpose of supplementing amounts available to the Massachusetts Bay Transportation Authority for infrastructure improvements. There shall be credited to said fund amounts appropriated to or otherwise transferred to said fund and any interest earned thereon which shall be made available by the state treasurer to said authority without further appropriation. The monies shall be expended exclusively by said authority for the costs of design, acquisition, renovation, construction, reconstruction, and other improvements necessary for public safety and convenience. The monies shall be expended exclusively on improvements to facilities and transit lines not included in the five-year capital spending plan of the authority in effect on July 1, 2000 including, but not limited to, platform reconstruction, efforts to ensure compliance with the American with Disabilities Act, elevators, escalators, waterproofing, fare gates, signage, lighting and other major structural improvements, but shall not be expended for operating and maintenance costs nor for the acquisition of rolling stock. Any unexpended balance in said fund on said June 30, 2005 shall be transferred to the general fund.

**SECTION 7.** Chapter 15A of the General Laws is hereby amended by inserting after section 19D the following section:-

Section 19E. There shall be a principal and superintendent recruitment program for recruiting and training as principals and superintendents in public schools individuals from other professions who have the skills, experience and talent to be outstanding school principals and superintendents, but who do not meet the existing statutory and regulatory requirements to serve as principals and superintendents. The program shall include the use of financial incentives and other methods for recruiting candidates and innovative methods for providing the necessary training.

The board of education shall promulgate regulations, where necessary, for the effective implementation of the program. The board shall establish standards that individuals who participate in the program shall meet to be authorized to serve as principals or superintendents. If the board determines that existing statutory or regulatory requirements for such service interfere with attracting highly qualified individuals from other professions who meet the standards established by the board, it may exempt such individuals from such requirements.

**SECTION 8.** Section 2C of chapter 29 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out in lines 35 to 38, inclusive, the words "; and for the payment of amounts appropriated for the commonwealth's cost of net county court costs in accordance with the provisions of chapter twenty-nine A".

**SECTION 9.** Section 34 of said chapter 29, as so appearing, is hereby amended by striking out, in line 8, the words "descriptive rating of (c) or (d)" and inserting in place thereof the following words:- descriptive rating of (d) or (e).



**SECTION 10.** Section 34A of said chapter 29, as so appearing, is hereby amended by striking out, in line 12, the words "descriptive rating of (c) or (d)" and inserting in place thereof the following words:- descriptive rating of (d) or (e).

**SECTION 11.** Section 6 of chapter 29C of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the figure "\$20,000,000" and inserting in place thereof the following figure:- \$45,000,000.

**SECTION 12.** Section 18 of said chapter 29C, as so appearing, is hereby amended by striking out, in line 129, the figure "\$9,000,000" and inserting in place thereof the following figure:- \$17,000,000.

**SECTION 13.** Subparagraph (a) of paragraph (2) of subsection (c) of section 2 of chapter 62 of the General Laws, as appearing in section 64 of chapter 127 of the acts of 1999, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- For purposes of this subsection, any Part A net capital loss shall first be applied to any Class B net capital gain, then to any Class C net capital gain, then to any Class D net capital gain, then to any Class E net capital gain, then to any Class F net capital gain and then to any Class G net capital gain.

**SECTION 14.** Subparagraph (b) of said paragraph (2) of said subsection (c) of said section 2 of said chapter 62, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- For purposes of this subsection, any Part A net capital gain shall first be offset by any Class B net capital loss, then by any Class C net capital loss, then by any Class D net capital loss, then by any Class E net capital loss, then by any Class F net capital loss and then by any Class G net capital loss.

**SECTION 15.** Paragraph (1) of subsection (e) of said section 2 of said chapter 62, inserted by section 67 of said chapter 127, is hereby amended by striking out subparagraph (1) and inserting in place thereof the following subparagraph:-

(1) Each class of net capital loss for the year shall be applied against the other class's net capital gains included in Part C gross income in the following order: Class B net capital gain shall first be offset by any Class C net capital loss, then by any Class D net capital loss, then by any Class E net capital loss, then by any Class F net capital loss and then by any Class G net capital loss. Class C net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss, then by the remainder of any Class F net capital loss and then by the remainder of any Class G net capital loss. Class D net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class E net capital loss, then by the remainder of any Class F net capital loss and then by the remainder of any Class G net capital loss. Class E net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class F net capital loss and then by the remainder of any Class G net capital loss. Class F net capital gain shall first be offset by the

remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss and then by the remainder of any Class G net capital loss. Class G net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss and then by the remainder of any Class F net capital loss. The amount of any class of net capital loss that remains after the foregoing offsets, reduced by the amount of such loss that is deducted under subparagraph (b) of paragraph (2) of subsection (c), shall be Part C capital loss within the same class in the succeeding taxable year.

**SECTION 16.** Subparagraph (2) of said paragraph (I) of said subsection (e) of said section 2 of said chapter 62, as so inserted, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

Class B, C, D, E, F and G net gains shall be reduced by any remaining excess of the deductions allowable under subsection (d) over the Part B gross income, after applying the excess of each class's net capital loss against other class's net capital gains in accordance with subparagraph (1) of paragraph (I) and after applying such excess Part B deductions against Part A gross income in accordance with paragraph (1) of subsection (c).

**SECTION 17.** Chapter 120 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out section 23 and inserting in place thereof the following section:-

Section 23. The department may act as guardian for a child under 18 years of age in its charge who has neither parent living, or of whom neither parent can be located, and for whom no guardian has been appointed. In such instances, the department may act with all the power and authority conferred by chapter 201, except that once a guardian is appointed, the powers herein conferred shall cease. The department may, without need for parent or guardian approval, serve as the fully authorized representative of a child in its charge not living with his parents or guardian for the purpose of completing and submitting an application on the child's behalf to the division of medical assistance for benefits or assistance under chapter 118E or to the department of transitional assistance for benefits or assistance which said department is authorized to provide under chapter 18.

**SECTION 18.** Paragraph (9) of section 129B of chapter 140 of the General Laws as appearing in the 1998 Official Edition is hereby amended by striking out the second sentence.

**SECTION 19.** Said section 129B of said chapter 140, as so appearing, is hereby further amended by striking out, in line 174, the words "to an applicant born".

**SECTION 20.** Chapter 149 of the General Laws is hereby amended by striking section 44E½, inserted by section 143 of chapter 127 of the acts of 1999, and inserting in place thereof the following section:-

Section 44E½. The commissioner of capital asset management and maintenance may procure construction contracts for the renovation or repair of the state house and the historic Suffolk County courthouse in accordance with the provisions of this section.

The procurement of a contract for the renovation or repair of the state house or the historic Suffolk County courthouse shall be deemed a building project for purposes of section 39A of chapter 7.

When the commissioner procures a contract for the renovation or repair of the state house or the historic Suffolk County courthouse as authorized by this section, the commissioner shall solicit competitive sealed proposals through issuance of a request for proposals. The request shall include:

(1) the time and date by which proposals shall be received, the address of the office to which the proposals shall be delivered and the maximum time for proposal acceptance by the division;

(2) the purchase description and all criteria that shall be utilized in evaluating proposals;

(3) all contractual terms and conditions applicable to the procurement but the contract may incorporate by reference a plan submitted by the selected offeror for renovating or repairing the state house or the historic Suffolk County courthouse;

(4) a notice stating that every proposal shall be accompanied by a copy of an appropriate certificate of eligibility issued by the commissioner pursuant to section 44D, together with an update statement; and

(5) a notice stating that every proposal shall be accompanied by a certification that the offeror is able to furnish labor that can work in concert with all other elements of labor employed or to be employed at the state house or the historic Suffolk County courthouse.

The request for proposals may incorporate documents by reference so long as the request for proposals specifies where prospective offerors may obtain such documents. The request for proposals shall provide for the separate submission of a price proposal and shall indicate when and how an offeror shall submit the price proposal. The division shall make copies of the request for proposals available to all persons on an equal basis.

Public notice of the request for proposals for the renovation or repair of the state house or the historic Suffolk County courthouse shall be published in accordance with the provisions of section 44J.

The division shall not open the proposals publicly, but shall open them in the presence of at least one witness at the time specified in the request for proposals. Notwithstanding section 7 of chapter 4, until the completion of the evaluation 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 division shall prepare a register of proposals. The register of proposals shall be open for public inspection. The division shall open the price proposals at a later time and shall open the price proposals in a manner that ensures that the content of the price proposals is not disclosed to the individuals evaluating the proposals on the basis of criteria other than price.

The division 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 shall be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose, and shall also include all other measures that shall be utilized. The evaluations shall specify in writing:

- (1) for each 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) recommendations for revisions, if any, to each proposed plan for the renovation or repair of the state house or the historic Suffolk County courthouse which shall be obtained by negotiation prior to awarding the contract to the offeror of the proposal.

The division shall unconditionally accept a proposal except as provided by this paragraph. An offeror may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the opening of proposals. After such opening, an offeror may not change the price or any other provisions of the proposal in a manner prejudicial to the interests of the division or fair competition. The division shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended offer are clearly evident on the face of the document, the division shall correct the mistake to reflect the intended correct offer and so notify the offeror in writing, and the offeror may not withdraw the offer. The division may permit an offeror to withdraw an offer if a mistake is clearly evident on the face of the document but the intended correct offer is not similarly evident.

Taking into consideration price and the evaluation criteria set forth in the request for proposals, the commissioner shall determine the most advantageous proposal from a responsible, responsive and eligible offeror. If a responsible, responsive and eligible offeror submits the lowest price and has received a composite rating of highly advantageous on the basis of criteria other than price, then the commissioner shall determine that offeror's proposal to be the most advantageous proposal. If the offeror who submits the lowest price has not received a composite rating of highly advantageous on the basis of criteria other than price, then the commissioner may, but shall not be required to, determine that the lowest price proposal from among those proposals that have received a composite rating of highly advantageous on the basis of criteria other than price, is the most advantageous proposal. The commissioner may condition an award on successful negotiation of any revisions recommended in the evaluation and shall explain in writing the reasons for omitting any such revisions from the contract. The division 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.

If the commissioner awards the contract to an offeror who did not submit the lowest price, the commissioner shall explain the reasons for the award in writing, specifying in reasonable detail the basis for determining that the anticipated performance of the selected offeror justifies the additional cost, and the division shall maintain such explanation in its



files for at least six years from the date of final payment under the contract.

Prior to execution of a contract pursuant to this section, the selected offeror shall furnish to the division a payment bond and a performance bond of a surety company qualified to issue bonds in the commonwealth and satisfactory to the division each in the sum of the contract price.

**SECTION 20A.** Clause 3 of subsection (d) of section 14 of chapter 151A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following sentence:- Benefits shall not be charged to the employer's account and shall be charged to the solvency account if an individual receives unemployment benefits under section 24B.

**SECTION 20B.** Said chapter 151A is hereby further amended by inserting after section 24A the following:-

Section 24B. (a) An individual who is on a leave of absence from his employer or who left employment to be with the individual's child during the first year of life or during the first year following placement of the child with the individual for adoption shall be eligible to receive unemployment benefits under this section, shall not be denied unemployment benefits under paragraphs (c) and (e) of section 25 for refusing suitable work or for voluntarily leaving employment and shall be deemed to have met the requirements of clause (b) of the first paragraph of section 24. In order to collect unemployment benefits beyond the amount set forth in subsection (b) of this section, the individual shall not be subject to disqualification under paragraphs (c) and (e) of section 25 and shall meet the requirements of said clause (b) of said first paragraph of said section 24.

(b) Benefits payable to an individual under this section shall be paid for each week of leave or unemployment in an amount not to exceed 12 times the weekly benefit rate plus dependency benefits payable under section 29. Benefits payable to an individual under this section shall be deducted from the total benefits payable to such individual in the same benefit year under subsection (a) of section 30. The receipt of benefits under this section shall toll the application period for approved benefits during training under subsection (c) of said section 30.

(c) The following payments shall cause a reduction, in the same amount as the payments, to the total amount of unemployment benefits for which the individual is otherwise eligible under this section:

(1) any payment from the employer resulting from a birth or adoption described in subsection (a) of this section; and

(2) any payment resulting from a birth or adoption described in subsection (a) of this section from a disability insurance plan contributed to by the individual's employer, in proportion to the employer's contribution to such plan.

(d) Nothing stated herein shall interfere with any greater rights or benefits under the terms of a collective bargaining agreement or other employment agreement between the employee and the employing unit, nor shall the payment of unemployment benefits under this

section require an employer not covered under 29 U.S.C. { 2601 or under 105D of chapter 149 to provide a job-protected leave.

**SECTION 20C.** Subsection (g) of section 62A of said chapter 151A, as appearing in the 1998 Official Edition, is amended by striking out the first sentence and inserting in place thereof the following sentence:- Each employer shall post at each site operated by the employer, in a conspicuous place accessible to all employees, the following information: the name and mailing 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 located nearest to the work site, the telephone number of the teleclaim information line and a description of the availability of unemployment benefits under section 24B.

**SECTION 20D.** Said subsection (g) of said section 62A of said chapter 151A, as so appearing, is hereby further amended by adding the following sentence:- Each employer shall provide to each employee at the beginning of employment and whenever an employee requests a leave for birth or for adoption a form provided by the deputy director describing the availability of unemployment benefits under section 24B.

**SECTION 21.** Chapter 180 of the General Laws is hereby amended by inserting after section 17J the following section:-

Section 17K. Deductions on payroll schedules may be made from the salary of a state employee for the payment of the cost of near-site parking fees for state employees whose work location lacks adequate public transportation, for on-site state employer-provided day care fees and for other state employer-provided benefits. Any categories of payroll deductions established under this section for such other state employer-provided benefits shall be approved by the comptroller as appropriate payroll deductions. The state treasurer, the common paymaster as defined in section 133 of chapter 175, shall deduct from the salary of state employees the full amount for such near-site parking fees, on-site day care fees and fees for any such other state employer-provided benefits as are established pursuant to this section.

**SECTION 22.** Section 3 of chapter 209A of the General Laws, as appearing in section 155 of chapter 127 of the acts of 1999, is hereby amended by striking out clause (g) and inserting in place thereof, the following clause:-

(g) ordering information in the case record to be impounded in accordance with court rule;.

**SECTION 23.** Clause (i) of said section 3 of said chapter 209A, as appearing in the 1998 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof, the following paragraph:-

The court may modify its order at any subsequent time upon motion by either party. When the plaintiff's address is inaccessible to the defendant as provided in section 8 of this chapter and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

**SECTION 24.** Section 8 of chapter 209A of the General Laws, as most recently amended by section 156 of chapter 127 of the acts of 1999, is hereby amended by striking out the first and third paragraphs and adding the following paragraph:-

The plaintiff's residential address, residential telephone number and workplace name, address and telephone number, contained within the court records of cases arising out of an action brought by a plaintiff under the provisions of this chapter, shall be confidential and withheld from public inspection, except by order of the court, except that the plaintiff's residential address and workplace address shall appear on the court order and accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order. All confidential portions of the records shall be accessible at all reasonable times to the plaintiff and plaintiff's attorney, to others specifically authorized by the plaintiff to obtain such information, and to prosecutors, victim-witness advocates as defined in section 1 of chapter 258B, domestic violence victim's counselors as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of chapter 233, and law enforcement officers, if such access is necessary in the performance of their duties. The provisions of this paragraph shall apply to any protection order issued by another jurisdiction, as defined in section 1, that is filed with a court of the commonwealth pursuant to section 5A. Such confidential portions of the court records shall not be deemed to be public records under the provisions of clause twenty-sixth of section 7 of chapter 4.

**SECTION 25.** Section 10 of chapter 218 of the General Laws, as appearing in section 268 of chapter 159 of the acts of 2000, is hereby amended by striking out, after the words "second district court of Bristol;" the following words:- district court of Lowell.

**SECTION 25A.** Said section 10 of said chapter 218, as so appearing, is hereby further amended by inserting after the words "fourth district court of Plymouth," the following words:- district court of Lowell.

**SECTION 26.** Item 7220-0961 in section 2 of chapter 267 of the acts of 1995, as amended by Section 21 of Chapter 55 of the Acts of 1999, is hereby amended by striking out the figure "\$9,000,000" and inserting in place thereof the figure "\$13,000,000".

**SECTION 27.** Section 2 of chapter 189 of the acts of 1998 is hereby amended by striking out item number "0330-2207" and inserting in place thereof the following item number:- 0330-2204.

**SECTION 28.** The second sentence of section 1 of chapter 289 of the acts of 1998 is hereby amended by striking out the figure "2000" and inserting in place thereof the following figure:- 2003.

**SECTION 29.** Item 7007-0210 of section 2A of chapter 297 of the acts of 1998 is hereby amended by striking out the figure "\$30,000,000" and inserting in place thereof the following figure:- \$30,409,610.

**SECTION 30.** Section 2A of chapter 55 of the acts of 1999 is hereby amended by striking out the item number "0511-0250" and inserting in place thereof the following item number:- 0511-0251.

**SECTION 31.** Said section 2A of said chapter 55 is hereby further amended by striking out the item number "1100-1400" and inserting in place thereof the following item number:- 1100-1401.

**SECTION 32.** Said section 2A of said chapter 55 is hereby further amended by striking out the item number "1102-3204" and inserting in place thereof the following item number:- 1102-3203.

**SECTION 33.** Item 7000-3993 of said section 2A of said chapter 55 is hereby amended by adding the following words:- ; and provided further, that not more than \$32,500 of the sum appropriated herein may be expended by the board for administrative costs attributable to planning and design and construction application grant rounds for the Massachusetts public library construction program, including the costs of temporary personnel.

**SECTION 34.** Said section 2A of said chapter 55 is hereby further amended by striking out the item number "7066-0011" and inserting in place thereof the following item number:- 7066-0013.

**SECTION 35.** Section 2E of said chapter 55 is hereby amended by striking out the item number "8100-0001" and inserting in place thereof the following item number:- 8100-0021.

**SECTION 36.** Section 2A of chapter 68 of the acts of 1999 is hereby amended by striking out the item number "8910-0106" and inserting in place thereof the following item number:- 8910-0160.

**SECTION 37.** Section 2C.II of said chapter 68 is hereby amended by striking out the item number "8910-0106" and inserting in place thereof the following item number:- 8910-0160.

**SECTION 38.** Section 2 of chapter 127 of the acts of 1999 is hereby amended by striking out the item number "0526-0101" and inserting in place thereof the following item number:- 0526-0102.

**SECTION 39.** Item 0526-0102 of said section 2 of said chapter 127, as amended by section 138, is hereby amended by adding the following words:- and, notwithstanding any general or special law to the contrary, all in-kind contributions made to the Stetson Hall project, on or after January 1, 1998, shall be included as part of the matching funds provided by the town of Randolph for said project.

**SECTION 40.** Said section 2 of said chapter 127 is hereby further amended by striking out the item number "1410-8998" and inserting in place thereof the following item number:- 1410-8999.

**SECTION 41.** Item 4000-0310 of said section 2 of said chapter 127 is hereby amended by adding the following words:- ; provided further, that the federal financial participation received from claims filed by the division, pursuant to an agreement specifically referencing this line item language, for the costs of outreach and eligibility activities performed by certain hospitals or by community health centers which are funded in part or



in whole by federally permissible in-kind services or provider donations from said hospitals or health centers, shall be credited to this item and may be expended without further appropriation, in an amount specified in said agreement between the division and each donating provider hospital or health center; and provided further, that the federal financial participation received from claims filed by the division based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the auspices of the so-called "covering kids initiative" and in accordance with the federal revenue criteria set forth in 45 CFR 74.23 or any other federal regulation which provides a basis for federal financial participation, shall be credited to this item and may be expended, without further appropriation, on administrative services including those covered under an agreement between the division and the organizations participating in said initiative.

**SECTION 42.** Said section 2 of said chapter 127 is hereby further amended by striking out item 4000-0320 and inserting in place thereof the following item:-

4000-0320 The division of medical assistance may expend an amount not to exceed \$75,000,000 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, provider overpayment recoveries, bankruptcy settlements, 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, 4000-0308, 4000-0309, 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; and 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 ..... \$75,000,000

**SECTION 43.** Item 4400-1000 of said section 2 of said chapter 127 is hereby amended by striking out the words

"General Fund . . . . . 66.0%  
Transitional Aid to Needy Families Fund . . 34.0%"

and inserting in place thereof the following words:-

General Fund . . . . . 83.0%  
Transitional Aid to Needy Families Fund . . 17.0%.

**SECTION 44.** Item 4400-1100 of said section 2 of said chapter 127 is hereby amended by striking out the words

"General Fund . . . . . 66.0%  
Transitional Aid to Needy Families Fund . . 34.0%"

and inserting in place thereof the following words:-

General Fund . . . . . 83.0%  
Transitional Aid to Needy Families Fund . . 17.0%.

**SECTION 45.** Item 4400-9999 of said section 2 of said chapter 127 is hereby amended by striking out the words

"General Fund . . . . . 66.0%  
Transitional Aid to Needy Families Fund . . 34.0%"

and inserting in place thereof the following words:-

General Fund . . . . . 83.0%  
Transitional Aid to Needy Families Fund . . 17.0%.

**SECTION 46.** Item 4403-2110 of said section 2 of said chapter 127 is hereby amended by striking out the words

"Transitional Aid to Needy Families Fund . . . 80.0%  
General Fund . . . . . 20.0%"

and inserting in place thereof the following words:-

Transitional Aid to Needy Families Fund . . . 65.0%  
General Fund . . . . . 35.0%.

**SECTION 47.** Item 4403-2120 of said section 2 of said chapter 127 is hereby amended by striking out the words

"Transitional Aid to Needy Families Fund . . . 57.0%  
General Fund . . . . . 43.0%"

and inserting in place thereof the following words:-

Transitional Aid to Needy Families Fund . . . 55.0%  
General Fund . . . . . 45.0%.

**SECTION 48.** Item 5046-0000 of said section 2 of said chapter 127 is hereby amended by inserting after the words "December 1, 1999" the following words:- ; provided further, that an additional \$225,000 shall be expended for Dimock community health center's transitions of Boston clubhouse program, so-called.

**SECTION 49.** Said section 2 of said chapter 127 is hereby further amended by striking out the item number "6037-0010" and inserting in place thereof the following item number:- 6037-0011.

**SECTION 50.** Item 7004-0089 of said section 2 of said chapter 127 is hereby amended by inserting after the words "in the town of Framingham" the following words:- for expenses incurred in fiscal year 1999 and fiscal year 2000.

**SECTION 51.** Item 7007-0400 of said section 2 of said chapter 127 is hereby amended by striking out the words "provided further, that not less than \$200,000 shall be expended for the Massachusetts venture corporation in the Pioneer Valley region" and inserting in place thereof the following words:- provided further, that not less than \$300,000 shall be expended for the Massachusetts venture corporation in the Pioneer Valley region.

**SECTION 52.** Item 7007-1300 of said section 2 of said chapter 127 is hereby amended by striking out the following words:- ; provided further, that said grant shall be subject to 100 per cent match funds, of which not less than 50 per cent shall be in the form of cash.

**SECTION 53.** Section 2B of said chapter 127 is hereby amended by striking out the item number "7053-2101" and inserting in place thereof the following item number:- 7053-2121.

**SECTION 54.** Section 2D of said chapter 127 is hereby amended by striking out the item number "7027-9124" and inserting in place thereof the following item number:- 7027-9125.

**SECTION 55.** Said section 2D of said chapter 127 is hereby further amended by striking out the item number "7027-9732" and inserting in place thereof the following item number:- 7010-9732.

**SECTION 56.** The first sentence of section 250 of said chapter 127 is hereby amended by striking out the figure "\$32,000,000" and inserting in place thereof the following figure:- \$104,000,000.

**SECTION 56A.** Said first sentence of said section 25 of said chapter 127 is hereby further amended by inserting after the words "disproportionate share payments" the following words:- and service rate payments.

**SECTION 57.** Said chapter 127 is hereby further amended by inserting after section 271 the following section:-

Section 271A. Notwithstanding any special or general law to the contrary, the division of medical assistance may pay to the publicly owned and operated nursing facility located in the city of Cambridge, an amount up to \$670,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for the intergovernmental transfer component of medicaid payments to the facility. Such medicaid payment shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the medicaid state plan, and the terms and conditions of an agreement reached with the division. Such payment shall

be for unique and extraordinary mandated costs of the facility. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer to the division for deposit into said medical assistance intergovernmental transfer account in an amount specified in an agreement with such entity which amount shall not be less than 50 per cent of the amount of payments made pursuant to the provisions of this section. All revenues generated pursuant to the provisions of this section shall be credited to said medical assistance intergovernmental transfer account. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means.

**SECTION 58.** Item 0332-3900 in section 2 of chapter 159 of the acts of 2000 is hereby amended by striking out the words "one additional assistant clerk" and inserting in place thereof the following words:- two additional assistant clerks.

**SECTION 59.** Item 0332-7500 in said section 2 of said chapter 159 is hereby amended by striking out the words "an assistant chief probation officer" and inserting in place thereof the following words:- an additional probation officer.

**SECTION 60.** Said item 0332-7500 in said section 2 of said chapter 159 is hereby further amended by striking out the figure "785,329" and inserting in place thereof the following figure:- 776,629.

**SECTION 61.** Item 2350-0100 of said section 2 of said chapter 159 is hereby amended by inserting after the words "Cape Ann Dive Team;" the following words:- provided further, that not more than \$25,000 shall be made available for the Beverly Dive Team;.

**SECTION 62.** Item 4000-0300 of said section 2 of said chapter 159 is hereby amended by adding the following proviso:-

; and provided further, that the division may expend an amount not to exceed \$3,000,000 for the purpose of enhancing outreach efforts to uninsured families and children as provided under the federal Personal Responsibility and Work Opportunity Act of 1996, by entering into contracts with the Massachusetts Hospital Association and the League of Community Health Centers, or their members, for the purpose of providing such outreach, and may retain and expend for purposes of this item all federal revenues received as a result of expenditures under such contracts.

**SECTION 63.** Said section 2 of said chapter 159 is hereby further amended by striking out item 4000-1000 and inserting in place thereof the following item:-

4000-1000 For the purpose, notwithstanding the provisions of any general or special law to the contrary, of making non-recurring payments to acute care hospitals for inpatient and outpatient services; provided, that of the amount appropriated herein, not less than \$15,000,000 shall be paid for said purpose, not more than \$10,000,000 may be made available for non-recurring payments to financially distressed hospitals; provided further, that the division shall collaborate with the



division of health care finance and policy and the department of public health to determine the methodology by which to make such payments; provided further, that said division shall make such payments in a manner designed to achieve the greatest possible gains in patient care and public health, while maximizing federal financial participation; provided further, that said methodology shall take into account such factors as negative operating margins, insufficient cash flow and the likelihood of closure or loss of critical community services in identifying financially distressed hospitals; provided further, that said payments shall commence for the hospital fiscal year beginning October 1, 2000 and shall be completely payable within state fiscal year 2001; provided further, that said division shall file a report not later than September 1, 2000 with the house and senate committees on ways and means detailing: (i) the methodology used to determine such payments; (ii) the amount projected to be paid to each such acute care hospital in state fiscal year 2001; and (iii) the projected impact of such payments on patient care and the promotion of public health at each such facility; provided further, that any and all federal financial participation generated by said payments shall be credited by the comptroller to the Medical Security Trust Fund, established pursuant to subsection (k) of section 14G of chapter 151A of the General Laws; provided further, that an independent consultant, appointed and approved by the speaker of the house of representatives, the president of the senate, and the governor, shall conduct a study of medicaid reimbursement rates paid to acute hospitals, non-acute hospitals and community health centers licensed by the department of public health; provided further, that said study shall include (i) a review of medicaid reimbursement rates to said hospitals and health centers from fiscal years 1992 to 2001, inclusive; (ii) a comparison of said rates to said hospitals and health centers in relation to the costs said hospitals incur in delivering services to medicaid beneficiaries; (iii) an evaluation of the adequacy of changes in such rates during said fiscal years compared with inflation in the costs of delivering care incurred by said hospitals and health centers, and other economic factors which may impact said

hospital's operating margins; and (iv) a review and analysis of medicaid reimbursement rates to said hospitals and health centers compared to medicaid payment rates to such facilities made by other states; provided further, that said independent consultant shall not have a financial interest in the hospitals or health centers under review; provided further, that said independent consultant shall consult with the division of medical assistance and the division of health care finance and policy and various health care providers and advocacy organizations in conducting said study; provided further, that said independent consultant shall file the initial findings of said study, which shall include an estimate of the aggregate cost of any recommended funding enhancements, with the secretary of administration and finance, the clerks of the house of representatives and the senate, and the senate and house committees on ways and means on or before October 15, 2000; provided further, that said secretary shall submit a plan detailing the process for implementing the findings of said study with the senate and house committees on ways and means on or before December 15, 2000; and provided further, that said independent consultant shall be funded from this item . . . . \$25,000,000

**SECTION 64.** Item 7004-0200 of said section 2 of said chapter 159 is hereby amended by inserting after the words "Duxbury and Pembroke," the following words:- provided further, that a \$200,000 grant shall be provided to the town of Adams; provided further, that a \$200,000 grant shall be provided to the town of Hanson;.

**SECTION 65.** Said section 2 of said chapter 159 is hereby amended by striking out item 7004-9108 and inserting in place thereof the following item:-  
7004-9108 For urban revitalization and development projects authorized pursuant to section 54 of chapter 121B of the General Laws; provided, that notwithstanding the provisions of sections 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 notwithstanding the provisions the sections 55 or 57 of said chapter 121B, not more than \$700,000 shall be expended for a matching grant to the city of Fitchburg for the urban renewal program; provided further, that notwithstanding the provisions the sections 55 or 57 of said chapter 121B, not more than \$500,000 shall be expended for a grant to the Acre Urban Revitalization and

Development Project, so-called, in the city of Lowell for redevelopment and infrastructure costs; and provided further, that no new commitments shall be entered into during fiscal year 2001, except as otherwise provided herein

.....	\$3,641,500
Local Aid Fund .....	100.0%

**SECTION 66.** Item 7007-0950 of said section 2 of said chapter 159 is hereby amended by inserting after the words "tribal museum in Mashpee;" the following words:- provided further, that not more than \$65,000 shall be expended as a grant for memorial park in the historic Native American district in the town of Mashpee;.

**SECTION 67.** Item 7061-0019 of said section 2 of said chapter 159 is hereby amended by adding the following words:- district in cycles of not less than three years.

**SECTION 68.** Item 7514-0100 of said section 2 of said chapter 159 is hereby amended by inserting after the words "Springboard Technology, Inc. within the Digital property, so-called" the following words:- ; provided further, that \$20,000 shall be expended for repairs to the Springfield armory museum.

**SECTION 69.** Item 8324-1500 of said section 2 of said chapter 159 is hereby amended by inserting after the words "Fall River area" the following words:- ; provided further, that not more than \$750,000 shall be provided as a matching grant to the city of Springfield for the purchase and construction of a rescuer series burn building and tower, so-called at the Norris J. Quinn Fire Training Center.

**SECTION 70.** Said item 8324-1500 of said section 2 of said chapter 159 is hereby further amended by striking out the figure "\$3,455.115" and inserting in place thereof the following figure:- \$4,195.115.

**SECTION 71.** Section 2D of said chapter 159 is hereby amended by inserting after item 7002-6627 the following two items:-

7002-6628 For the purposes of a federally funded grant entitled, Federal Disabled Veterans Outreach .....	\$2,051,161
7002-6629 For the purposes of a federally funded grant entitled, Bureau of Labor Statistics Administration .....	\$1,832.631

**SECTION 72.** Said section 2D of said chapter 159 is hereby amended by striking out item 7003-9006.

**SECTION 73.** Section 3 of said chapter 159 is hereby amended, in the chapter 70 allocation due to the municipality of Essex, by striking out the figure "771.504".

**SECTION 74.** Said section 3 of said chapter 159 is hereby further amended, in the chapter 70 allocation due to the municipality of Manchester, by striking out the figure "808,298".

**SECTION 75.** Said section 3 of said chapter 159 is hereby further amended by striking out, after the words "Total Aid to Regional Schools", the figure "498.078.046" and inserting in place thereof the following figure:- 499.657.848.

**SECTION 76.** Said section 3 of said chapter 159 is hereby further amended by inserting after the words

"LINCOLN SUDBURY 1,979,352-"

the following sentence:-

MANCHESTER ESSEX 1,579,802-.

**SECTION 77.** Said section 3 of said chapter 159 is hereby further amended by striking out, after the words "Regional Total", the figure "498,078,046" and inserting in place thereof the following figure:- 499,657,848.

**SECTION 78.** Notwithstanding the provisions of any general or special law to the contrary, as of the effective date of this act the state treasurer shall credit and transfer \$10,000,000 from the general fund to the Teacher, Principal and Superintendent Quality Endowment Fund established pursuant to the provisions of section 35S of chapter 10 of the General Laws.

**SECTION 79.** Notwithstanding the provisions of any general or special law to the contrary, prior to certifying the consolidated net surplus in accordance with section 5C of chapter 29 of the General Laws, the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund balances from any other fund contributing to the surplus.

**SECTION 80.** Notwithstanding the provisions of any general or special law to the contrary, the advisory council on Alzheimer's disease and related disorders, as established in the office of the governor by section 379 of chapter 194 of the acts of 1998, shall continue during fiscal years 2001 and 2002. Said advisory council shall advise state agencies on matters of the policy, programs, services and information affecting residents of the commonwealth with dementia-related illnesses and their caregivers. Said advisory council shall have the following goals: (1) to recommend the delivery of services in the most effective and efficient manner possible, including identifying means of coordination and cooperation among different state agencies in order to achieve cost savings and to facilitate meeting the needs of people with dementia and their caregivers; (2) to identify additional sources of federal and private sector funding with which the commonwealth may provide additional services and programs for people with dementia and their caregivers; (3) to promote public and professional awareness and education relative to dementia and access to dementia services and programs; (4) to identify service delivery mechanisms that enhance the quality of life for people with dementia and their caregivers; (5) and to evaluate and coordinate implementation of recommendations made in 1994 by the governor's conference on Alzheimer's disease. Said advisory council shall consist of 17 persons, five of whom shall be appointed by the governor, five of whom shall be appointed by the speaker of the house of representatives, five of whom shall be appointed by the president of the senate, one of whom shall be appointed by the minority leader of the house of representatives and one of whom shall be appointed by the minority leader of the senate. The persons so appointed to said advisory council shall be representatives of state agencies, consumers, medical research and provider communities, and representatives of the Massachusetts chapters on Alzheimer's



disease and related disorders associations. Members of said advisory council duly appointed to the council and serving on June 30, 2000 shall serve without reappointment during fiscal years 2001 and 2002. Said council shall meet not less than quarterly and shall prepare an annual report of its activities and recommendations that shall be filed with the house and senate committees on ways and means and the joint committee on human services and elderly affairs.

**SECTION 81.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, not later than ten days after the effective date of this act, to the Capital Improvement and Investment Trust Fund established pursuant to section 19 of chapter 289 of the acts of 1998, the amount of \$86,874,694 from the general fund. The purpose of said amounts so transferred shall be to finance the appropriations in section 2E.

**SECTION 82.** Notwithstanding section 230 of chapter 127 of the acts of 1999 or any other general or special law to the contrary and at the direction of the secretary of administration and finance, the comptroller may allocate monies from the Maximization Fund to the executive office of elder affairs regardless of whether said office collects net additional nontax revenues in excess of the amounts estimated in section 1B of said chapter 127; provided, that all other provisions of said section 230 shall apply to any such allocations.

**SECTION 83.** Notwithstanding the provisions of any general or special law to the contrary, including chapter 34B of the General Laws, the administrative office of the trial court shall be responsible for the costs of the energy improvements contract, so-called, between the former Hampden county and Citicorp Real Estate, Inc.

**SECTION 84.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary and to the extent permitted by federal law, the division of health care finance and policy shall use the depreciation schedule for the physical plant of the Farren Care Center in the town of Turners Falls, that was in effect and incorporated into the March 1990 agreement between the department of public welfare and the Farren Care Center, Inc. and used for the rate years 1991 to 1993 inclusive, for purposes of calculating the rate of medicaid payments made by the division to the Farren Care Center pursuant to chapter 118G of the General Laws, for the year 2000. The division shall also recalculate the rate of medicaid payments made by the division to the Farren Care Center for the years 1994 to 1999, inclusive, using said 1990 depreciation schedule, and shall pay to the Farren Care Center the difference between the actual rate of Medicaid payments made by the division to the Center and the recalculated rate of medicaid payments based on said depreciation schedule for such years. Payments for the provisions included herein shall be made from item 4000-0305 of section 2A.

**SECTION 85.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary and to the extent permitted by federal law, the division of health care finance and policy shall not, in calculating the rate of medicaid payments to the Farren

Care Center in the town of Turners Falls, pursuant to chapter 118G of the General Laws, make such payments to said center in any given year that are lower than the total medicaid reimbursement payments made to said Center in the immediately preceding year. To the extent the division made medicaid payments in any given year below the level of such payments in the immediately preceding year to the Farren Care Center, the division shall pay to said center the difference between the actual medicaid payments made and the payment level of the immediately preceding year to the extent that it was higher than the payment level of the subsequent year. The division shall also not impose a cap on the rate of medicaid payments to the Farren Care Center for the year 2000. Payments for the provisions included herein shall be made from item 4000-0305 of section 2A.

**SECTION 86.** Notwithstanding the provisions of any general or special law or rule or regulation to the contrary and to the extent permitted by federal law, the division of health care finance and policy shall, in calculating the rate of medicaid payments to the Center for Rehabilitation and Nursing Care in the town of West Springfield for the year 1995, retrospectively apply the rate for "a new facility", and shall pay to said Center the difference between the rate of medicaid payments under the new facility standard and the rate of medicaid payments actually made pursuant to the 1992 cost report of said center's predecessor, the West Springfield Nursing Home. The division shall retrospectively apply the 1995 cost report for purposes of calculating the rate of medicaid payments by the division to the Center for Rehabilitation and Nursing Care for the years 1995 to 1997, inclusive, and shall pay to said center the difference between the 1995-cost-report-based rate and the actual rate used by the division to determine medicaid payment levels for the years 1995 to 1997, inclusive. Further, the division shall recalculate the rates for the years 1998 to 2000, inclusive, to the extent that changes to the rates for 1995 to 1997, inclusive, alter the rates for the years 1998 to 2000, inclusive. For purposes of calculating the rate of medicaid payments to the Center for Rehabilitation and Nursing Care for the year 2000, the division shall not impose a cap on the rate of medicaid payments to the Center for Rehabilitation and Nursing, for the year 2000. Payments for the provisions included herein shall be made from item 4000-0305 of section 2A of this act.

**SECTION 87.** Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may enter into contracts with certain home health agencies to provide home health services to medical assistance recipients. The division may enter into such contracts with only those home health agencies that: (1) are organized as not-for-profit entities; (2) in fiscal year 1999, delivered more than 10 per cent of all MassHealth reimbursed skilled nursing visits and more than 15 per cent of all MassHealth reimbursed home health aide services; and (3) in the determination of the division, provide services that are essential to ensure access to home health services for medical assistance recipients. The division shall ensure that any home health agency that is a party to any such contract shall comply with any performance measures, outcome goals, cost-effectiveness standards and other terms and conditions established by the division. In defining a prospective payment amount under the system under this subsection the division shall consider

an appropriate unit of service and the number, type and duration of visits provided within that unit and a general system design that provides for continued access to quality services through appropriate adjustments based upon a clinical assessment of each patient's needs. In addition, the department of public health shall establish procedures to ensure appropriate access and quality of services provided under this system. The department shall conduct an assessment of this demonstration after six months and shall report the findings to the house and senate committees on ways and means.

**SECTION 88.** The commonwealth, a county, a municipality, a political subdivision or a trust may agree with any employee, by contract or collective bargaining agreement, to remit payments for deposit into the Trust through payroll deductions. Such payments into the trust shall be treated as all other deposits to the trust.

**SECTION 89.** Notwithstanding the provisions of any general or special law to the contrary, the department of highways shall notify each city and town not later than August 15, 2000, of the apportionment of each city's and town's share of an amount not less than \$150,000,000 in new chapter 90 authorizations, so-called that shall be available for use beginning in fiscal year 2001.

**SECTION 90.** Notwithstanding section 29A or 29B of chapter 29 of the General Laws or any other general or special law to the contrary, the comptroller may approve payments for certain contracted services of the department of youth services rendered in fiscal year 1999 and prior fiscal years for which certain regulations and procedures adopted under the authority of said section 29A or 29B or any other general or special law were not properly followed. The head of such department and the secretary of health and human services shall certify in writing that such services actually were performed and shall explain to the satisfaction of the comptroller the circumstances which led to the failure to properly follow applicable regulations and procedures. Such payments shall be based on schedules filed by such department with the comptroller and with the house and senate committees on ways and means. Such payments shall be charged to the appropriate item in fiscal year 2001 in accordance with procedures established by the comptroller for the payment of prior year deficiencies.

**SECTION 91.** Notwithstanding the provisions of any general or special law to the contrary, Worcester State College may borrow an amount not to exceed \$14,000,000 through the Massachusetts Health and Educational Facilities Authority for the planning, design, repair, renovation and deferred maintenance to campus facilities, including the Sullivan Academic Center, the administration building and the gymnasium building.

**SECTION 92.** Notwithstanding the provisions of any general or special law to the contrary, no expenditures shall be made from item 2410-1000 of section 2 of chapter 159 of the acts of 2000 after September 30, 2000 until the improvements authorized for Abigail Adams state park by item 2440-7958 of section 2 of chapter 85 of the acts of 1994 is complete.



**SECTION 93.** Notwithstanding the provisions of any general or special law to the contrary, the attorney general shall submit a report to the general court addressing whether there exists, in the form of unfair or anti-competitive practices, improper or unsound uses of the assets of a public charity, or otherwise, any barriers to open accessibility in the health care delivery system in the city of Springfield. The attorney general shall detail in the report the existing relationships between health insurers, health maintenance organizations, hospitals and other providers in the health care market and whether any such relationships impact upon any issues of open accessibility, including the availability of emergency care services. The attorney general shall submit the report, along with any recommendations for legislative or other action, to the clerks of the house of representatives and of the senate on or before December 31, 2000.

**SECTION 94.** Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy shall reimburse any facility that is owned by the city of Haverhill and provides specialized care to Alzheimer patients, whose employees belong to the public employees retirement administrative commission pension system, the base year costs of all pension contributions beginning in rate year 2000 without subject to ceilings or standards established by the division of health care finance and policy.

**SECTION 95.** Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall negotiate and implement an intergovernmental transfer agreement for hospital fiscal years 2000 and 2001 with the Hale Hospital in the city of Haverhill. Pursuant to the agreement, the division may expend an amount not to exceed \$2,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for the intergovernmental funds transfer component of disproportionate share payments and service rate payments, as established in accordance with Title XIX of the federal Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the medicaid state plan and the terms and conditions of agreements reached with the division for such transfer payments. No funds shall be expended unless said hospital is legally obligated to make an intergovernmental funds transfer to the division for deposit into said medical assistance intergovernmental transfer account in an amount specified in the agreement which amount shall be not less than 50 per cent of the amount of the intergovernmental funds transfer. All revenues generated pursuant to the provisions of this section shall be credited to said medical assistance intergovernmental transfer account. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means.

**SECTION 96.** Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall charge the Social Services Program Fund that percentage of fiscal year 2000 expenditures in items 4800-0014, 4800-0015, 4800-0018, 4800-0031, 4800-0036, 4800-0041, 4800-1100 and 4800-1400 of section 2 of chapter 127 of the acts of 1999 that is consistent with maximizing the federal Social Services Block Grant. Such charges to said fund shall be based upon certification by the department of social services that such charges reflect the appropriate distribution of actual expenditures. The charges shall



be subject to the approval of the secretary of administration and finance and shall be made by the comptroller in August, 2000. The comptroller shall report such charges to the house and senate committees on ways and means not later than ten days after making them.

**SECTION 97.** The comptroller shall transfer as of June 30, 2000, \$66,612,774 from the general fund to the MBTA Infrastructure Renovation Fund.

**SECTION 98.** Section 35U of chapter 10 of the General Laws is hereby repealed.

**SECTION 99.** Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority is hereby authorized and directed to expend \$66,612,774 from the MBTA Infrastructure Renovation Fund, established pursuant to section 35U of chapter 10 of the General Laws, for the design, permitting, construction and other associated costs related to the restoration of the Old Colony rail line extension on the Greenbush line so-called; and for the design, renovation and reconstruction of necessary station improvements upon the core transit red line operation.

**SECTION 100.** Sections 22, 23 and 24 shall apply to complaints filed pursuant to chapter 209A of the General Laws, on or after 90 days following enactment.

**SECTION 101.** Sections 22, 23 and 24 shall take effect 90 days after enactment.

**SECTION 102.** Sections 13, 14, 15 and 16, inclusive, shall apply to taxable years beginning on or after January 1, 1996.

**SECTION 103.** Section 98 shall take effect on July 1, 2005.

**SECTION 103A.** (a) Two years following the effective date of sections 20A to 20D, inclusive, the deputy director of employment and training shall issue a report to the chairs of the joint committee on commerce and labor of the general court evaluating the effectiveness of the payment of benefits under said sections 20A to 20D, inclusive.

(b) Sections 20A to 20D, inclusive, shall be applied in accordance with the regulations of the United States Secretary of Labor.

(c) Sections 20A to 20D, inclusive, shall be in effect as a pilot program for three years from the effective date of its implementation if the pilot program conforms and its practices substantially comply with the requirements of the Federal Unemployment Tax Act, 26 U.S.C. sections 3301-3311, and Title III of the Social Security Act, 42 U.S.C. sections 501-504.

**SECTION 103B.** Notwithstanding the provisions of any special or general law to the contrary, sections 99A to 99D, inclusive, shall not take effect until such time as the division of employment and training has furnished a study of the impact on the state's economy and the revenue cost to the commonwealth including, but not limited to, an analysis showing the impact on employers of varying sizes, the current practice of other states, any anticipated change in employment, unemployment rates and ancillary economic activity to the general courts joint committee on commerce and labor and to the house and senate committees on ways and means.

**SECTION 104.** Except as otherwise provided, this act shall take effect as of June 30, 2000.

Chap. 236

*This bill was returned on August 10, 2000, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:*

*Items Disapproved:*

**SECTION 2E**

1102-0048      1599-7102      2000-2120      2100-3333      4510-0120

**SECTIONS 59, 60, 67, 89, 92, 94**

**SECTION 2E** *Items reduced in amount*

Item	Reduce by	Reduce to
4590-0919	3,500,000	3,500,000

*Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
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Section 81	20,133,334	66,741,360	Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, not later than ten days after the effective date of this act, to the Capital Improvement and Investment Trust Fund established pursuant to section 19 of chapter 289 of the acts of 1998, the amount of \$86,874,694 from the general fund. The purpose of said amounts so transferred shall be to finance the appropriations in section 2E.
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*Wording Inserted*

Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, not later than ten days after the effective date of this act, to the Capital Improvement and Investment Trust Fund established pursuant to section 19 of chapter 289 of the acts of 1998, the amount of \$66,741,360 from the general fund. The purpose of said amounts so transferred shall be to finance the appropriations in section 2E.

*Pursuant to Article 56 of the Amendments to the Constitution, Sections 20A, 20B, 20C, 20D, 103A and 103B the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

*The remainder of the bill was approved by the Governor on August 10, 2000 at five o'clock and fifty-five minutes, P.M.*

**Chapter 237. AN ACT RELATIVE TO COMPLIANCE WITH LIFE SAFETY CODES, REMEDIATION OF ENVIRONMENTAL HAZARDS AND THE PRESERVATION AND MANAGEMENT OF THE COMMONWEALTH'S REAL PROPERTY ASSETS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for management of certain real property assets of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** To provide for construction, renovation, reconstruction, alteration, improvement, demolition, expansion, studies, preparation of plans and specifications, preservation and management of the commonwealth's real property assets, compliance with life safety codes, remediation of environmental hazards and repair, including furnishings and equipment, of state-owned property, the commissioner of the division of capital management and maintenance may spend the sums set forth in this act for the several purposes of this act, subject to the provisions of law regulating the disbursement of public funds and the approval thereof.

**SECTION 2.**  
**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
*Division of Capital Management and Maintenance.*

1102-7943	For the removal or encapsulation of asbestos materials, or both, in state-owned buildings, including, if necessary, studies and the preparation of plans .....	\$15,000,000
1102-7944	For renovations, reconstruction, alterations and improvements to state-owned buildings for compliance with the Americans with Disabilities Act, to make the facilities functional for the physically handicapped in accordance with the provisions of section 13A of chapter 22 of the General Laws and other applicable laws and regulations .....	\$5,000,000
1102-7947	For project programming, studies and environmental impact reports, including cost estimates, for state agencies, excluding counties .....	\$5,000,000
1102-7948	For the purpose of appropriate asset management and disposition of state-owned property including, but not limited to, repairs, renovations, construction and removal of environmental hazards, demolition, maintenance and, if necessary, studies and the preparation of plans .....	\$15,000,000

SECTION 3.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

*Division of Capital Asset Management and Maintenance.*

1102-8940	For the installation of sprinkler systems at facilities throughout the commonwealth to achieve compliance with section 200 of chapter 6 and chapter 148 of the General Laws including, if necessary, studies and the preparations of plans and other costs reasonably related thereto . . . . .	\$10,000,000
1102-8944	For the relocation, repair, reconfiguration and restoration of walls, partitions, ceilings and flooring, including relocation and protection of utilities and, if necessary, studies and the preparation of plans to achieve the consolidation and appropriate use and disposition of state-owned office space at various institutions of the commonwealth . . . . .	\$2,000,000
1102-8945	For the purpose of complying with environmental laws and regulations applicable to state facilities, implementing sound environmental practices at the facilities, remediating conditions which constitute threats to public health or the environment including, but not limited to, costs related to the environmental remediation projects undertaken by state agencies pursuant to executive order 350, the governor's clean state initiative, so-called, and the removal or replacement, or both, of underground storage tanks and the remediation of environmental damage related thereto . . . . .	\$38,000,000
1102-8947	For the costs of emergency repairs, to capital assets requiring immediate attention as identified by the engineering survey required by item 1102-1991 in section 2A of chapter 55 of the acts of 1999; provided, that the division shall submit to the house and senate committees on ways and means quarterly reports of all such planned repairs . . . . .	\$27,000,000

**SECTION 4.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purposes of meeting payments authorized by sections 2 and 3 and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution, but the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2005. Notes and interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.



**SECTION 5.** To meet 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 specified by the governor from time to time, but not exceeding, in the aggregate, the sum of \$40,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Capital Outlay Loan, Act of 2000, and shall be issued for such maximum terms 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, but all such bonds shall be payable not later than June 30, 2021. Bonds and interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 6.** To meet the expenditures necessary in carrying out the provisions of section 3, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time but not exceeding, in the aggregate, the sum of \$77,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Capital Outlay Repair Loan, Act of 2000, 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, but all such bonds shall be payable not later than June 30, 2011. Bonds and interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 7.** Section 38G of chapter 7 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after subsection (c) the following two subsections:-

(d) Notwithstanding the provisions of any general or special law to the contrary, all public entities within the commonwealth, agencies and authorities of the commonwealth and municipal entities within the commonwealth, including departments, boards, committees or commissions shall be entitled to withhold up to 5 per cent of contract fees earned and invoiced as part of professional service contracts, during the life of the contract. Withheld fees shall be held for not longer than two invoice periods when the contractor is permitted to invoice monthly, or until successful completion of the next contract phase or stage when the contractor is permitted to invoice by project phase or stage. When the work covered by the contract is completed, all remaining withheld fees shall be paid to the contractor within two months from the date of completion. If the withholdings are not paid to the contractor within the stipulated time limit, the amount of the withholding in arrears shall be increased at a 12 per cent annual rate.

(e) Notwithstanding the provisions of any general or special law to the contrary, agencies and authorities of the commonwealth and municipal entities within the commonwealth, including departments, boards, committees or commissions, shall pay all outstanding withheld fees on professional service contracts, when the withholding has been held for longer than two invoice periods for active contracts, or that remains withheld on contracts which have been completed, or for which the work of the contractor has been completed.

**SECTION 8.** Section 40G of said chapter 7, as so appearing, is hereby amended by striking out, in line 12 the word "five" and inserting in place thereof the following word:- ten.

**SECTION 9.** Said section 40G of said chapter 7, as so appearing, is hereby further amended by striking out the third paragraph.

**SECTION 10.** Item 1100-7985 of section 1B of chapter 152 of the acts of 1997 is hereby amended by inserting after the words "October 31, 1998", the following words:- "; provided further that not less than \$1,630,000 of said \$25,000,000 shall be expended for renovation and reconstruction of certain portions of the Elm street municipal garage in the city of New Bedford in order to provide the infrastructure necessary to accommodate a hotel facility and conference center at the site of the municipal garage".

**SECTION 11.** Notwithstanding the provisions of any general or special law to the contrary, the entire gross square footage of a building or structure owned by the commonwealth and subject to the provisions of section 26A½ of chapter 148 of the General Laws shall comply with the provisions of said section 26A½ not later than December 31, 2002.

**SECTION 12.** Notwithstanding the provisions of any general or special law to the contrary, the unexpended balances of the following bond-funded authorizations shall cease to be available for expenditure on the effective date of this act: 5095-8874 and 8200-8842.

**SECTION 13.** The commissioner of capital asset management and maintenance may, notwithstanding chapter 7 of the General Laws, grant easements for drainage, access, utilities and other purposes, as deemed necessary by the commissioner to carry out the purposes of this act.

**SECTION 14.** The commissioner of capital asset management and maintenance may acquire by purchase, or by eminent domain pursuant to chapter 79 of the General Laws, or otherwise, any and all interests in land and buildings deemed necessary by said commissioner to carry out the purposes of this act including, but not limited to, easements for drainage, access, utilities and environmental mitigation.

**SECTION 15.** The city of Everett may use a certain portion of land consisting of 4.8 acres conveyed to the city for park and recreation purposes for the construction, maintenance and use of schools and educational facilities, facilities for athletic, sports and community programs and activities, and for general recreational uses. Said parcel is shown on the city of Everett assessor's records as Parcel N4-44-02 (Glendale Park). The change in use of said portions of said park is contingent upon suitable replacement park lands being provided, as approved by the secretary of environmental affairs and the National Park Service.

**SECTION 16.** It is hereby found and declared (1) that the reuse and renovation of the Leverett Saltonstall state office building property located at 100 Cambridge Street in the city of Boston, as outlined in this section and sections 17 to 26, inclusive, is beneficial for the economic development of the commonwealth, the general welfare of its citizens and in furtherance of a public purpose; (2) that the secretary of administration and finance conducted a public solicitation of interest from public and private entities in accordance with section 55 of chapter 68 of the acts of 1999; (3) that said secretary has recommended that,

based on the proposal submitted by the Massachusetts Development Finance Agency created pursuant to chapter 23G of the General Laws, said agency is best suited to undertake the redevelopment of the Saltonstall building property, including use of portions thereof for private purposes notwithstanding the prior public use thereof; and (4) that the designation of said agency as the developer of the project pursuant to the terms hereof is in the best interests of the commonwealth.

**SECTION 17.** As used in sections 16 to 26, inclusive, the following words shall have the following meanings unless the context clearly requires otherwise:

"Agency", the Massachusetts Development Finance Agency or, if the agency shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given to the agency in sections 17 to 26, inclusive, shall be given by law.

"City", the city of Boston.

"Commissioner", the commissioner of capital asset management and maintenance.

"Commonwealth", the commonwealth of Massachusetts.

"Developer", the agency or, if so designated by the agency and the commissioner, the Subsidiary created in section 23.

"Development team", the professionals, contractors and other persons so designated by the developer to proceed with and complete the project chosen and retained by the developer both prior to the effective date of this section and sections 17 to 26, inclusive.

"Project", the planning, design, acquisition, purchase, ownership, lease, use, reuse, rehabilitation, renovation, improvement, furnishing, equipping, construction, reconstruction, operation, development, mortgaging and sale, to the extent such sale may be permitted by section 18, or any combination of the foregoing, of the Saltonstall building and project-related buildings in furtherance of the redevelopment of the Saltonstall building, and any components thereof in accordance with the terms hereof. "Project" shall include the construction of a public memorial garden in honor of the victims of violent crimes. Whenever appropriate, the terms shall also mean all lands, buildings, structures, parking and appurtenances.

"Project-related buildings", lands and buildings within the commonwealth owned by the commonwealth, the agency or the developer which are designated by the commonwealth, acting by and through the commissioner, and the agency as "project-related buildings" and which will be used to provide sufficient amounts of office space for the commonwealth, as mutually determined by the commissioner and the developer, to accommodate state offices.

"Proposal", the proposal submitted by the agency to the secretary pursuant to section 55 of chapter 68 of the acts of 1999, as the same may be modified from time to time so long as any such modifications are not fundamentally inconsistent with the originally submitted proposal as determined in the reasonable judgment of the commissioner and the agency.

"Saltonstall building", the Leverett Saltonstall state office building located at 100 Cambridge Street in the city of Boston, together with the land on which the building is lo-



cated, its parking and surrounding land, as more specifically identified in the proposal, and utilities, improvements and appurtenant rights and easements related thereto.

"Secretary", the secretary of administration and finance.

"Subsidiary", the MassDevelopment/Saltonstall Building Redevelopment Corporation created in section 23.

**SECTION 18.** For purposes of the project, the commonwealth, acting by and through the commissioner, may convey to the developer, and the developer may acquire, in that part of the Saltonstall building or project-related buildings which is to be used for residential housing, by purchase, and in all other parts of the Saltonstall building or project-related buildings by lease, as further described below, all lands, properties, rights, air rights, sub-surface rights, easements and other interests of any kind or nature, without limitation, in and to the Saltonstall building or project-related buildings in order to develop, sell, 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 sections 16 to 26, inclusive. The term of such lease shall be not longer than 50 years with extension terms the aggregate of which shall not exceed 30 years. Without limiting the foregoing, the conveyance and acquisition authorized for such portion of the project as shall consist of housing may be by means of condominium units whereby, subject to a declaration of condominium which the commonwealth may in such case make, portions are conveyed in fee and portions are leased as aforesaid. No member of the development team shall be precluded by section 7 of chapter 268A of the General Laws from participating by contract in the activities of the agency or the developer with regard to the project solely by reason of a financial interest, directly or indirectly, in any contract or extension thereof for services with respect to the preparation of the proposal prior to the effective date of sections 16 to 26, inclusive, but this exemption shall not apply to an employee or member of the board of the agency or subsidiary.

**SECTION 19.** Notwithstanding the provisions of any general or special law or rule or regulation or ordinance 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 or any part thereof 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 any local zoning code, including the city's zoning code, and any regulations promulgated thereunder. The developer shall subject the project to large project review by the Boston Redevelopment Authority as set forth in subsections 1-5 of section 80B-3 of the city's zoning code, and the developer shall, prior to the commencement of any renovation or construction related to the project, enter into a cooperation agreement with the Boston Redevelopment Authority which agreement shall: (1) establish the terms for the review by the Boston Redevelopment Authority of the project under said subsections 1-5 of said section 80B-3, of the city's zoning code; (2) provide for



review and approval by the Boston Redevelopment Authority of schematic design plans, design development plans and contract documents for the project; (3) establish the developer's acceptance of the city's goals and objectives for affordable housing with respect to the residential component of the project; and (4) require the developer to submit to the Boston Redevelopment Authority a fair housing marketing plan with respect to the residential component of the project.

**SECTION 20.** In order to effectuate the purposes of sections 16 to 26, inclusive, and notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the developer may utilize alternative methods for the procurement of design and construction services including, but not limited to, construction management, design-build, fast track or phased construction. The project shall be exempt from the provisions of sections 38A to 38O, inclusive, of chapter 7 of the General Laws, sections 44A to 44M, inclusive, of chapter 149 of the General Laws, section 39M of chapter 30 of the General Laws and any other general or special law or rule or regulation providing for the advertising, bidding or awarding of contracts for planning, design, construction, reconstruction or improvements to or the disposition or acquisition of real property, but the provisions of sections 26 to 27F, inclusive, of said chapter 149 shall apply to the project and section 29 of said chapter 149 shall apply to the project. No person, party or entity shall have any rights in and to the Saltonstall building under chapter 254 of the General Laws. The developer may enter into labor agreements concerning the project.

Notwithstanding such exemptions, the procedures to be followed and the terms and conditions of such procurement process, including written procedures for the selection of construction, design and other professionals for the project, shall be determined by the developer in consultation with and subject to review by the inspector general as set forth in this section, and the procedures shall also be approved by the board of directors of the agency. The inspector general shall comment in writing on such procurement process and shall submit such comments to the developer, the joint committee on state administration and the house and senate committees on ways and means not less than 30 days before the developer begins the procurement of design and construction services.

In order to effectuate an open, competitive and fair procurement and an effective contracting process, the developer shall not less than 45 days prior to the advertisement of the invitation for competitive bids using the procurement process, submit to the inspector general all procedures and criteria developed for the implementation of the alternative method, including a description of the project, the construction bid package and evaluation criteria. The inspector general shall submit written comments on the procedures to the developer not less than 30 days prior to the advertisement. The developer shall submit the procedures and criteria and the comments of the inspector general to the joint committee on state administration and the house and senate committees on ways and means at least 15 days prior to the advertisement for any contract to be awarded on the basis of an alternative method. Such procedures and criteria shall be approved by a vote of the board of directors

of the agency. The developer shall submit to the committees a report of the results of such procurement. If the developer awards the contract to other than the lowest responsive bidder, the developer shall submit to said committees and to the inspector general a written justification describing in detail why such award is in the best interests of the developer.

The developer may designate a project manager for the project to serve as the developer's agent and consultant during the planning, design and construction of the project. The project manager'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 and construction and the selection, negotiation with and oversight of a designer and a construction manager for the project. The project manager shall be selected pursuant to a publicly-advertised request for qualifications, which shall include the entity's experience with the design and construction of similar projects, its performance on prior projects and such other factors as the developer deems appropriate.

The developer shall prepare a final report which shall evaluate the effectiveness of such procurement process in terms of time and cost savings, as well as the quality of services, impact on the public, and any other impacts of such procurement process and the developer shall file his report with the joint committee on state administration and the house and senate committees on ways and means not later than six months from the completion of such project. Notwithstanding this section or the provisions of any special or general law to the contrary, the developer and the agency may bring the project, excluding the project-related buildings, to completion using the services of the development team in accordance with the terms of sections 16 to 26, inclusive. The developer may change any member of the development team in accordance with this section.

**SECTION 21.** In undertaking the project, the developer shall: (i) take all steps legally allowable 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 (ii) 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 developer shall comply with provisions of the Executive Order 390 of 1996 to the same extent as a state agency, but nothing in this section shall be construed to restrict the developer's authority to contract with a private party by lease, sublease, mortgage or contract for the sale of real estate. In meeting the requirements of the preceding sentence, the developer shall consult with the executive director of the office of minority and women business assistance in the executive office for administration and finance.

**SECTION 22.** The commissioner may, notwithstanding the provisions of any general or special law or rule or regulation to the contrary, enter into one or more leases with the developer for office space in the Saltonstall building and project-related buildings upon such terms and conditions as the commissioner and the developer shall deem appropriate, for the leasing of space in 50 per cent of the office space and related parking area to be redeveloped

in the Saltonstall building and such other space as the commissioner shall determine with respect to the project-related buildings. The term of such lease shall be not more than 50 years with extension terms the aggregate of which shall not exceed 30 years, but shall not extend beyond the term of any lease of such portion of the improvements from the commonwealth to the developer entered into pursuant to section 18.

**SECTION 23.** There is hereby created a body politic and corporate to be known as the MassDevelopment/Saltonstall Building Redevelopment Corporation, hereinafter referred to as the "subsidiary". The subsidiary is hereby constituted a public instrumentality and the exercise by the subsidiary of the powers conferred by sections 16 to 26, inclusive, shall be deemed to be the performance of an essential governmental function. The subsidiary is hereby placed within and under the control and supervision of the agency and, except as otherwise specifically set forth herein, shall be treated in all respects as a wholly-owned subsidiary of the agency. The subsidiary shall be governed and its corporate powers exercised by the board of directors of the agency. The agency shall have the power to supervise, control, direct and otherwise administer all of the affairs and activities of the subsidiary. The subsidiary shall have no employees or assets other than as expressly set forth herein. The subsidiary shall continue in existence for so long as it shall have outstanding obligations hereunder and until its existence has been terminated by law or by the agency. Upon the termination of the existence of the subsidiary, all of its rights, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be performed by the agency.

**SECTION 24.** If so designated by the agency and the commissioner, the subsidiary shall have the powers to be the developer hereunder as well as those powers necessary or convenient to carry out and effectuate the purposes of sections 16 to 26, inclusive, including, without limitation, in addition to any other powers conferred hereunder, any and all of the powers of the agency under section 3 of chapter 23G of the General Laws for purposes of implementing sections 16 to 26, inclusive. The provisions of clauses (d), (f) to (i) inclusive and (l) of section 2 of chapter 23G shall apply as well to the subsidiary.

**SECTION 25.** The subsidiary shall be a separate and distinct legal entity from the agency. Notwithstanding any other term contained in sections 16 to 26, inclusive, or any general or special law or rule or regulation, unless expressly otherwise agreed to by the agency in writing, the agency shall not be liable or held legally responsible in any way for any of the actions, activities, property, assets or other liabilities or obligations of the subsidiary. The obligations of the subsidiary, including any obligations in respect to any bonds issued by the agency for the subsidiary's benefit under said sections 16 to 26, inclusive, shall not be a general obligation of either the agency or the commonwealth or a pledge of the faith and credit of either the agency or the commonwealth. Further, any bonds issued by the agency hereunder shall not constitute a debt or a pledge of the faith and credit of the commonwealth, but shall be payable solely from the revenues provided for under the relevant financing documents in connection therewith. All such bonds issued by the agency shall state



that the bonds are not an obligation of the commonwealth but are payable solely from the funds specifically pledged for their payment.

**SECTION 26.** In addition to the powers granted to the agency under chapter 23G of the General Laws, the agency may issue bonds for the purposes of financing any costs related to the project including, without limitation any amounts paid or payable by the agency or the subsidiary with respect to the project or the financing thereof, the establishment and funding of any reserve funds, the payment of interest on bonds during any construction period and any other time and all costs of issuance of the bonds, and may lend the proceeds to the subsidiary, all in accordance with and subject to the provisions of section 8 of said chapter 23G to the extent not inconsistent with sections 16 to 26, inclusive. The last two paragraphs of subsection (a) of said section 8 of said chapter 23G and the second sentence of subsection (b) of said section 8 of said chapter 23G shall not apply to any such financing or bonds issued. For purposes of such bonds, the project may be deemed to constitute either an "industrial development facility", "economic development project" or a loan to a public body under subsection (c) of said section 8 of said chapter 23G or any combination of the foregoing.

**SECTION 27.** Within six months of the effective date of the act, all public entities within the commonwealth shall submit a detailed report to the executive office for administration and finance specifying the total amount of retainage currently being held against professional service contracts under the provisions of subsection (d) of section 38G of chapter 7 of the General Laws.

All fee withholding withheld under the provisions of said subsection (d) of said section 38G of said chapter 7 shall be paid to contractors within three years of the effective date of this act. Amounts withheld for contractors not paid within six months of the effective date of this act shall increase at a 12 per cent annual rate. Public entities may submit requests to the executive office of administration and finance for reimbursement of withheld fees paid to contractors under said section 386.

*This bill was returned on August 10, 2000, 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 12 and 27.**

*The remainder of the bill was approved by the Governor on August 10, 2000 at five o'clock and fifty-eight minutes, P.M.*

## **Chapter 238. AN ACT PROVIDING FOR THE EMERGENCY MAINTENANCE OF ENVIRONMENTAL ASSETS OF THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide for emergency maintenance of environmental assets of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preser-



vation of the public convenience.

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

**SECTION 1.** To provide for a capital outlay program for the emergency maintenance of environmental assets of the commonwealth, the sums set forth in section 2, for the several purposes and subject to the conditions specified in said section 2, are hereby made available from the General Capital Projects Fund, subject to the provisions of law regulating the disbursement of public funds.

**SECTION 2.**

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Office of the Secretary.*

2000-7991	For a reserve for the payment of claims resulting from court judgments and settlements, including legal fees, arising from eminent domain takings in connection with capital projects of departments within the executive office of environmental affairs . . . . .	\$28,000,000
2000-7992	For the support of the commonwealth's watersheds and associated natural resources including, but not limited to, restoration and preservation of land and water resources, research, assessment, planning, environmental and recreational improvements, education, public awareness and participation and coordination of state action; provided, that the secretary may allocate funds from this item and may award grants to public and nonpublic entities to carry out the purposes of this item . . . . .	\$6,000,000
2000-7993	For the acquisition of land, easements or other interests therein, including rights in development, and associated costs, for properties within watersheds as determined by the secretary of environmental affairs for the protection of water resources . . . . .	\$12,000,000

*Department of Environmental Management.*

2100-7991	For a program of capital improvements to the commonwealth's state forest and parks system, including the design, repair, construction and reconstruction of buildings and properties owned by the department of environmental management including, but not limited to, state forests, parks, reservations, beaches, trails and other properties and facilities . . . .	\$23,040,000
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2100-7992 For	a program of repairs to swimming pools operated by the department including, but not limited to, study, design, repair, construction and reconstruction of buildings, properties, mechanical systems, and site work . . . . .	\$2,400,000
2100-7993 For	a program of repairs to skating rinks operated by the department including, but not limited to, study, design, repair, construction and reconstruction of buildings, properties, ice slabs, roofs, mechanical systems and site work . . . . .	\$2,400,000
2100-7994 For	ongoing studies, for the preparation of plans, if necessary, and for the ongoing repair, construction, reconstruction and improvement of dams and flood control projects of the department; provided, that said department shall give priority to dams and flood control projects which pose the greatest risk to public health and safety . . . . .	\$4,800,000

*Department of Environmental Protection.*

2200-7991 For	the modernization of the Senator William X. Wall experimental station in the city of Lawrence including, but not limited to, the repair and rehabilitation of the building and grounds . . . . .	\$2,000,000
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*Department of Fisheries, Wildlife and Environmental Law Enforcement.*

2300-7991 For	the costs of the planning, engineering, design and replacement of the heating, ventilation and air conditioning systems at the division of marine fisheries' Annisquam river marine fisheries station in the city of Gloucester and for other repairs, renovations and equipment necessary for the maintenance of the station . . . . .	\$480,000
2300-7992 For	the riverways protection and restoration program within the department of fisheries, wildlife and environmental law enforcement; provided, that funds shall be used for grants to municipalities and environmental organizations, natural resource surveys and river restoration projects that will lead to protection of river ecosystems and watersheds and provided further, that the director may award grants to public and nonpublic entities, to carry out the purposes of this item . . . . .	\$500,000

*Metropolitan District Commission.*

2440-7991 For	a study, for the preparation of plans, if necessary, and for	
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	improvements or replacements to the facilities, holdings and infrastructure of the commission; provided, that such improvements or replacements shall include, but not be limited to, buildings, equipment, picnic areas, visitor centers and other interpretive structures, structures that improve or enhance the viability of an ecosystem, signs, roads, paths, bridges, piers, vehicles and vessels, water purification systems and site clearance, including demolition of structures, and preparation, relocation, reclamation and other developments; and provided further, that the commission shall use as many recycled products and materials as possible for all improvement projects funded by this item . . . . .	\$11,520,000
2440-7992 For	the study, design, renovation, repair, improvement and construction of skating rinks, swimming pools, golf courses and other properties of the commission, including the costs of the acquisition of land and buildings or the demolition of buildings, where necessary . . . . .	\$2,880,000
2440-7993 For	the study, design, general rehabilitation and reconstruction of flood control facilities, including dams, locks and draws, seawalls and seawall-related appurtenances and infrastructure of the metropolitan district commission . . . . .	\$9,600,000
2440-7994 For	costs related to environmental remediation projects of the commission pursuant to executive order 350, the governor's clean state initiative . . . . .	\$7,680,000

*Department of Food and Agriculture.*

2530-7991 For	a program to acquire agricultural preservation restrictions pursuant to sections 11A to 11D, inclusive, of chapter 132A of the General Laws; provided, that any person or entity that receives funds from this item shall be encouraged to participate in programs of the department as may be suggested by the commissioner; provided further, that the programs may include, but shall not be limited to, integrated pest management, pesticide regulation and reduction, and agri-composting; provided further, that the agricultural lands preservation committee shall prioritize the allocation of funds awarded pursuant to this item for the acquisition of agricultural preservation restrictions on those lands deemed to be of significance to the protection and preservation of the commonwealth's agricultural base; provided further, that
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not less than \$2,400,000 shall be expended for the purposes of developing and implementing farm viability plans to enhance the economic and environmental viability of farms, to provide for shorter term land covenants and for undertaking feasibility studies of markets for agricultural products to assist in agricultural business enhancement and transition . . . . . \$12,800,000

**SECTION 3.** The state treasurer shall transfer the sum of \$19,000,000 to the water pollution abatement trust established in section 2 of chapter 29C of the General Laws for deposit in the Water Pollution Abatement Revolving Fund established pursuant to the provisions of section 2L of chapter 29 of the General Laws for application by the trust to the purposes specified in section 5 of said chapter 29C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under Title VI of the federal Clean Water Act.

**SECTION 4.** To meet the expenditures necessary in carrying out the provisions of section 3, 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 \$19,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Local Water Pollution Control and Grant Assistance, Act of 2000, and shall be issued for a maximum term of years, not to exceed 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal of such obligation shall be payable from the Local Aid Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 5.** To meet the expenditures necessary in carrying out the provisions of section 2, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, not to exceed in the aggregate the sum of \$126,100,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Emergency Maintenance of Environmental Assets, Act of 2000, and shall be issued for such maximum term, not to exceed 20 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2025. All interest and payments on account of principal of such obligations shall be payable from the general fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 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 2, and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such times and at such rates as shall be



fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with section 3 of Article LXII of the Amendments to the Constitution, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2005. All interest and payments on account of principal of such obligations shall be payable from the general fund. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 7.** The third sentence of section 3 of chapter 584 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 8.** The third sentence of the third paragraph of section 9 of chapter 765 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 9.** The fourth sentence of section 8 of chapter 803 of the acts of 1972 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-seven" and inserting in place thereof the following words:- June 30, 2020.

**SECTION 10.** The second sentence of section 11 of chapter 723 of the acts of 1983, as amended by section 6 of chapter 132 of the acts of 1993, is hereby further amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 11.** The second sentence of section 11L of said chapter 723 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 12.** The second sentence of section 14 of chapter 799 of the acts of 1985 is hereby amended by striking out the words "June thirtieth in the year two thousand" and inserting in place thereof the following words:- June 30, 2010.

**SECTION 13.** The second sentence of section 77 of chapter 206 of the acts of 1986 is hereby amended by striking out the words "June thirtieth, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- June 30, 2007.

**SECTION 14.** Item 2129-8881 of section 2 of chapter 564 of the acts of 1987 is hereby amended by inserting after the words "calendar year nineteen hundred and eighty-eight" the following words:- : provided further, that the department of environmental management may issue a grant of not more than \$500,000 from the amount appropriated herein to Historic Massachusetts, Inc. for the purpose of addressing code compliance, public safety improvements, historic preservation and associated costs at the Baker Chocolate Factory Company Administration Building at Lower Mills in the city of Boston, under the historic curatorship program, so-called, established pursuant to section 44 of chapter 85 of the acts of 1994. The grant shall be counted as a fiscal year 2000 capital expenditure.

**SECTION 15.** Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the bond-funded authorizations that are listed herein shall cease to be available for expenditure on the effective date of this act: 2120-7871; 2120-7875; 2120-8848; 2120-9843; 2121-8887; 2121-9883; 2121-9886; 2121-9887; 2122-8848; 2150-7873; 2150-7890; 2681-9029; 2120-7954; 2150-8831; 2250-1001; 2320-9880; 2420-7964; 2420-7884; 2440-7848; 2440-8802; 2440-9846; 2490-0018.

**SECTION 16.** Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of the bond-funded authorizations that are listed below which are in excess of the amount specified below for each such item shall cease to be available for expenditure on the effective date of this act. If an allocation account is specified below for an item, such reduction shall be reflected in the state accounting system in said allocation account.

Appropriation Item	Allocation Account	
2100-0950		\$7,710,824
2100-0952		\$2,787,458
2100-1961		\$95,947
2120-8882		\$6,647,919
2121-8884		\$1,667,389
2121-8885		\$990,000
2121-8888		\$4,989,995
2121-9881		\$1,015,212
2150-9952		\$5,000,000
2000-9963		\$1,492,310
2240-8860		\$6,794,969
2300-8970	2240-8862	\$21,787,500
2490-0017		\$53,602,431
2420-8936		\$41,077,856

**SECTION 17.** Notwithstanding the provisions of any general or special law to the contrary, the uncommitted balances as of the day after the effective date of this act of the following bond-funded allocation accounts shall be returned in the state accounting system to their original items of appropriation and each said appropriation is hereby reduced by an amount equal to the total balance so returned to it.

Appropriation Item	Allocation Account
2490-0012	2120-8852
2121-8883	2122-8883
2121-8885	2122-8885
2121-8887	2122-8887
2121-9881	2122-9881
2121-9886	2122-9886
2130-8772	2130-8773
2120-9842	2120-9852

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2122-8848	2122-8849
2121-9885	2122-9885
2681-9029	2681-9030
2150-8831	2150-8832
2250-8881	2000-9881

**SECTION 18.** This act shall take effect upon its passage.

*This bill was returned on August 10, 2000, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:*

*Items Disapproved:* **SECTION 14.**

*The remainder of the bill was approved by the Governor on August 10, 2000 at six o'clock and zero minutes, P.M.*

**Chapter 239 AN ACT EXEMPTING THE POSITION OF PLUMBING INSPECTOR OF THE TOWN OF HALIFAX FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of plumbing inspector of the town of Halifax shall not be subject to chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding the office of plumbing inspector of the town of Halifax on the effective date of this act.

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

Approved August 10, 2000.

**Chapter 240. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN PROPERTY IN THE CITY OF FITCHBURG TO THE CITY OF FITCHBURG.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital asset management and maintenance to convey a certain parcel of land to the city of Fitchburg, 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 asset management and maintenance shall convey to the city of Fitchburg by deed approved as to form by the attorney general certain parcels of land in the city of Fitchburg, more particularly described below, subject to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management.

The parcels to be conveyed are parcels 10 and 11 as shown on a plan entitled "Plan of Taking Land in City of Fitchburg" dated June 20, 1997, by Whitman and Bingham and recorded in the Worcester north registry of deeds, plan book 396, page 24. Also to be conveyed are parcels 12, 16, 13, 14, 21 and 17, as shown on a plan entitled "Plan of Taking Land in the City of Fitchburg", dated September 3, 1998, by Whitman and Bingham Associates, Inc., said plan being recorded in said registry of deeds, plan book 399, page 14. Said parcels shall be used for the widening of North street in the city of Fitchburg;.

**SECTION 2.** There shall be an independent appraisal for the use described herein of the fair market value of each parcel conveyed by the commonwealth to the city of Fitchburg. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of capital asset management and maintenance for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration. The amount of consideration for each parcel to be conveyed shall be the full and fair market value of each such parcel, as determined by said commissioner in accordance with procedures customarily accepted by the appraising profession. The consideration for said parcels shall take into account the obligations placed on said city of Fitchburg and the benefits to said city, the surrounding communities and to the commonwealth. Said commissioner 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 chairmen of the joint committee on state administration at least 15 days prior to execution.

**SECTION 3.** The city of Fitchburg shall pay all expenses associated with and any cost of appraisals, surveys, and other expenses related to the transfer of land, and any cost and liabilities and expenses of any kind for its ownership, maintenance or operation.

**SECTION 4.** In the event that the parcel of land conveyed by section 1 of this act is not used for improvements to North street in the city of Fitchburg, or the conditions or restrictions to said conveyance are not fulfilled, title to all interests in said parcel of land shall revert to the commonwealth.

Approved August 10, 2000.



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**Chapter 241. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT TO THE TOWN OF PROVINCETOWN.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to allow forthwith the acquisition of a certain easement by the town of Provincetown, 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 capital asset management and maintenance, in consultation with the department of highways, may convey a permanent utility easement to the town of Provincetown to be used for the purpose of the disposal of municipal wastewater treatment plant effluent, such easement to be in, over and under the land area within the full width of the median strip of the highway known as Route 6 for its full length within the town of Provincetown, from Station 0+00 at the Truro town line to the end of Route 6 within the town of Provincetown at approximately station 188+00, said median strip and highway being shown on the plan entitled, "Plan and Profile of Proposed State Highway Layout in the Town of Provincetown," dated July 21, 1953, prepared by the office of department of public works in the city of Boston and is on file with the department of highways.

**SECTION 2.** The consideration to be paid by the town of Provincetown to the commonwealth shall be the full and fair market value of the permanent easement described in section 1 for purpose as set forth therein. The full and fair market value shall be determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal. The inspector general shall review and comment on said appraisal, and said review and comment shall include an examination of the methodology utilized for said appraisal. The commissioner shall, 30 days prior to the conveyance authorized by this act, submit said appraisal and a report thereon to the inspector general. The inspector general shall prepare a report of his review of the appraisal and file said report with the commissioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committee on state administration. The town of Provincetown shall be responsible for any costs for appraisals, surveys, and other expenses relating to the conveyance of said land.

**SECTION 3.** In the event the land described in section 1 ceases to be used at any time for the purposes set forth in this act, said easement shall become null and void and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and with the prior approval of the general court.

Approved August 10, 2000.

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**Chapter 242. AN ACT RELATIVE TO THE APPOINTMENT OF FIREFIGHTERS AND POLICE OFFICERS.**

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

Chapter 31 of the General Laws is hereby amended by inserting after section 58 the following section:-

Section 58A. Notwithstanding the provisions of any general or special law to the contrary, in any city, town or district that accepts this section, no person shall be eligible to have his name certified for original appointment to the position of firefighter or police officer if such person has reached his thirty-second birthday on the date of the entrance examination. Any veteran shall be allowed to exceed the maximum age provision of this section by the number of years served on active military duty, but in no case shall said candidate for appointment be credited more than four years of active military duty.

Approved August 10, 2000.

**Chapter 243. AN ACT DESIGNATING A STATE HIGHWAY IN THE TOWN OF WESTFORD AS THE PAT BRADLEY HIGHWAY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith a certain state highway as the Pat Bradley highway, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

The state highway known as Boston road in the town of Westford shall be designated and known as the Pat Bradley Highway, in recognition of her membership in the Professional Golfers Association Hall of Fame. The department of highways shall erect and maintain suitable markers along the highway bearing the designation in compliance with the standards of the department.

Approved August 10, 2000.

**Chapter 244. AN ACT PROVIDING FOR THE CONVEYANCE OF CERTAIN LAND IN THE TOWN OF SANDWICH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conveyance of certain land, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The commissioner of capital asset management and maintenance, acting in consultation with the commissioner of environmental management, may convey to the town of Sandwich, in fee simple, for general municipal purposes, two parcels of land described below.

Parcel 1 is bounded and described as follows:

Beginning at a point on the easterly layout line of Mashpee Road (Route 130), said point being 57 feet more or less north of Massachusetts Highway Bound at Station 66 + 68.27 of the April 1948 Alteration (Layout No. 3408) and the northerly edge of a dirt road:

thence, northeasterly and southeasterly along the northerly edge of the dirt road, 870 feet more or less to a point on the westerly line of land now or formerly of Sea Lake Corporation;

thence, N-33°-50'-00"-W, 30 feet more or less to a point;

thence, N-18°-25'-30"-E, 120.17 feet to a point;

thence, N-45°-46'-00"-E, 140.50 feet to a point;

thence, N-6°-09'-10"-W, 23.27 feet to a concrete bound;

thence, N-6°-09'-10"-W, 812.93 feet to a concrete bound;

thence, S-65°-29'-30"-W, 923.22 feet to a drill hole;

thence, N-62°-03'-20"-W, 269.48 feet to a Massachusetts Highway Bound;

thence, southerly along a curve, 208.45' to a Massachusetts Highway Bound;

thence, S-27°-47'-50"-E, 493.94 feet to a point;

thence, southerly along a curve, 281 feet more or less to the point of beginning.

The parcel containing 21 acres, more or less; as further described in chapter 507 of the acts of 1978 and shown as a portion of Sandwich Assessors' Map No. 38, Lot 236.

Parcel 2 is bounded and described as follows:

Beginning at a point on the westerly layout line of Mashpee Road (Route 130) said point being 57 feet more or less north of a Massachusetts Highway Bound at Station 66 + 68.27 of the April 1942 Alteration (Layout No. 3408) and the northerly edge of a dirt road:

thence, northerly and southeasterly along the northerly edge of said dirt road, 870 feet more or less to a point on the westerly line of land now or formerly of Sea Lake Corporation;

thence, S-33°-50'-00"-E, 126 feet more or less to a point;

thence, S-24°-22'-25"-E, 57.54 feet to a point;

thence, S-01°-30'-40"-E, 97.21 feet to a point;

thence, S-04°-50'-10"-W, 144.83 feet to a point;

thence, S-18°-48'-40"-W, 165.00 feet to a point;

thence, S-05°-03'-50"-W, 46.33 feet to a point;

thence, S-19°-05'-45"-W, 68.84 feet to a point on northerly line of the August 1949 layout of the Mid-Cape Highway;

thence, N-86°-54'-29"-W, 1012.45 feet to a point on the easterly line of the said Mashpee Road Layout;

thence, N-13°-21'-38"-W, 498.73 feet to a point;

thence, S-80°-01'-27"-W, 8.84 feet to said Massachusetts Highway Bound;  
thence, northwesterly along a curve 57 feet more or less to the point of the beginning.

The parcel containing ten acres, more or less; as further described in chapter 401 of the acts of 1982 and shown as a portion of Sandwich Assessors' Map No. 38, Lot 236.

**SECTION 2.** In consideration of the conveyance authorized in section 1, the town of Sandwich shall transfer, in fee simple, to the commonwealth, for conservation and recreation purposes, two parcels of land described below.

Parcel 3 is shown as Parcels B and C on the plan entitled "Plan of Land of the Estate of Cressida P. Elderidge in Sandwich and Bourne, April 1947 duly recorded with Barnstable county registry of deeds in Plan Book 80, Page 15, and shown on Assessors' Map No. 46, Lot 7.

Parcel 4 is bounded and described as follows:

Beginning at a point in Bass Creek thence southeasterly by land now or formerly of Henry O. Gagner, Jr., and Raymond F. Gagner, along said creek, about 780 feet;  
thence, southwesterly by said Gagner's land about 375 feet;  
thence, northwesterly by said Gagner's land about 570 feet;  
thence, northeasterly by a ditch by land of same Gagners about 350 feet to the point of the beginning.

The premises contains 5.5 acres, more or less.

**SECTION 3.** The consideration given by the town of Sandwich for Parcels 1 and 2 shall consist of (a) the transfer to the commonwealth of Parcels 3 and 4, and (b) if the aggregate value of Parcels 3 and 4, as determined by appraisal, is less than the aggregate value of Parcels 1 and 2, and determined by appraisal, a sum of money equal to the amount by which the aggregate value of Parcels 1 and 2 exceeds the aggregate value of Parcels 3 and 4. For purposes of this section, the value of each of said parcels shall be its full and fair market value, determined by an independent appraisal, for their use as described in this act. The inspector general shall review and approve the appraisal and the review shall include a review of methodology utilized for the appraisal. The inspector general shall prepare a report for his review and file said report with the commissioner of capital asset management and maintenance for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

**SECTION 4.** The commissioner of capital asset management and maintenance 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. 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 amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to the execution.



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**SECTION 5.** The provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws shall not apply to the transfers authorized in sections 1 and 2.

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

Approved August 10, 2000.

**Chapter 245. AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN PROPERTY AT THE RUTLAND HEIGHTS STATE HOSPITAL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the disposition of certain property, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** As used in this act, the following words shall, unless the context indicates otherwise, have the following meanings:-

"Commissioner", the commissioner of the division of capital asset management and maintenance.

"Committee", the Rutland state land planning committee.

"DCAMM", division of capital asset management and maintenance.

"Disposition", or "dispose", the sale, lease, sublease, grant of easements or other conveyances of interests in, and the conveyance by deed or any other action to otherwise grant, convey, demise, transfer or otherwise dispose of the site or any portion thereof or any interest therein, or in any other land owned by the commonwealth with respect to which a disposition is necessary or convenient for the disposition of the site or any portion thereof.

"RDIC", the Rutland development and industrial commission.

"Reuse plan", the plan entitled the "Rutland Heights Hospital Reuse Master Plan", dated April, 1997, as amended, prepared by the committee in consultation with the town of Rutland planning board and DCAMM and approved by the selectmen of the town of Rutland and the committee, a copy of which is on file with DCAMM and the town of Rutland. The commissioner may, subject to the appropriation of adequate funds, undertake such additional planning and study as the commissioner deems necessary to enhance, refine, and amend said reuse plan as it relates to the site and the uses thereof, subject to consultation with the board of selectmen of the town of Rutland and the committee.

"Rutland heights hospital" or "site", approximately 88 acres of land and the buildings and other improvements thereon owned by the commonwealth and known as the former Rutland Heights State Hospital in the town of Rutland. Subject to the appropriation of adequate funds, the commissioner shall prepare a survey of the site.

**SECTION 2.** The commissioner may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, sell in fee, lease for a term or terms up to 99 years or

otherwise dispose of all or any portion of the site to the Rutland development and industrial commission, and the Rutland development and industrial commission may, notwithstanding any general or special law governing its acquisition of interests in real or personal property, acquire any such interests in all or any portion of the site, for uses consistent with the reuse plan, including, but not limited to, light industrial, manufacturing, offices, retail, housing, recreation and municipal uses, subject to such terms and conditions as the commissioner may from time to time prescribe. Such disposition of the site or any portion thereof shall be for full and fair market value as determined by the commissioner based on an independent professional appraisal undertaken in accordance with procedures customarily accepted by the appraising profession. Said appraisal shall reflect any decrease in the value of the site due to the presence of hazardous materials found as a result of the environmental analysis required by section 4. Said appraisal shall also reflect any increase in value to the site due to any construction, reconstruction, alteration, improvement, demolition or repair of facilities located on the site pursuant to said section 4. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology used for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

**SECTION 3.** The Rutland development and industrial commission may, subject to this act and section 6 of chapter 30B of the General Laws, and such other terms and conditions as the commissioner may prescribe, in a manner consistent with the reuse plan, solicit, evaluate and select development proposals for all or any portion of the site and to dispose of all or any portion of the site to a developer or developers or to the town of Rutland for uses consistent with the reuse plan. The selection of developers for any such disposition of all or any portion of the site by the Rutland development and industrial commission shall be undertaken in accordance with an open and competitive process, including the publication and issuance of a written request for proposals setting forth the required proposal contents, the date, time and place for proposal submission, and the selection criteria. The selection of proposals shall be made on the basis of criteria, including the anticipated economic development benefits and public benefits of the proposal, the experience, qualifications, capacity and capability of the proposer, and the consistency of the proposal with the request for proposal requirements. The disposition of all or any portion of the site to the town of Rutland for a public purpose shall not be subject to the foregoing competitive selection process.

**SECTION 4.** The division of capital asset management and maintenance may expend not more than \$10,000,000 for the preparation of studies, surveys, title review, investigations of the site preparation of plans and specifications, a full environmental analysis of the site to determine the presence of hazardous materials that would require action under chapter 21E of the General Laws, environmental remediation, the appraisal required by section 2, the design, construction, reconstruction, alteration, improvement, demolition and repair of facilities located on the site; and administrative expenses, consultant fees and other expenses

deemed necessary by the commissioner to further the disposition and redevelopment of the site or any portion thereof. The environmental analysis shall be made public.

**SECTION 5.** To meet the expenditures necessary to carry out the provisions of this act, the treasurer of the commonwealth shall, upon request of the governor, issue and sell bonds of the commonwealth, in amounts specified by the governor from time to time, not exceeding in the aggregate \$10,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Rutland Heights State Hospital Loan, Act of 2000, and shall be issued for such maximum term 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 three bonds shall be payable not later than June 30, 2008. Bonds and interest therein issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 6.** The state treasurer of the commonwealth may borrow from time to time on the credit of the commonwealth such sums of money in an amount not to exceed \$10,000,000 as may be necessary for the purpose of making the payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such 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 the final maturity dates of such notes, whether original or renewal, shall not be later than June 30, 2008. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 7.** The commissioner may, notwithstanding sections 40E to 40J, inclusive of chapter 7 of the General Laws or any other general or special law to the contrary: (i) retain, accept, acquire by purchase, transfer, lease, eminent domain or otherwise, any interest in real property, and (ii) dispose of by deed, transfer, lease or otherwise, any rights of way or easements for access, egress, drainage, utilities and other purposes in, over and beneath portions of the site and in, over and beneath other property of the commonwealth contiguous to the site or with respect to which such disposition is necessary or convenient for the disposition of the site or any portion thereof in each case, as the commissioner may determine to further the purposes of this act.

Approved August 10, 2000.

**Chapter 246. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND TO THE TOWN OF LEICESTER.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to convey forthwith a certain parcel of land to the town of Leicester, therefore it is hereby

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

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

**SECTION 1.** The commissioner of capital asset management and maintenance may, subject to section 40E to 40J, inclusive, of chapter 7 of the General Laws, to convey by a deed approved as to form by the attorney general, a certain parcel of land located in the town of Leicester, acquired for water supply purposes to said town of Leicester for construction and operation of a water treatment facility to be managed by the Moose Hill water commission. Said parcel is shown as Lot A on a plan of land entitled "Plan of land in Leicester, Mass." dated February 10, 1993 drawn by Due North Land Surveying Services which is on file in the office of the town clerk of said town.

**SECTION 2.** The consideration to be paid by the town of Leicester, to the commonwealth shall be the full and fair market value for said land described in section 1. Said full and fair market value shall be determined by the commissioner of the division of capital asset management and maintenance based upon an independent professional appraisal. The inspector general shall review and comment on said appraisal, and said review and comment shall include an examination of the methodology utilized for said appraisal. Said commissioner shall, 30 days prior to the conveyance authorized by this act, submit said appraisal and a report thereon to said inspector general. Said inspector general shall prepare a report of his review of said appraisal and file said report with said commissioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committee on state administration. Said town of Leicester shall be responsible for any costs for appraisals, surveys, and other expenses relating to the conveyance of said land.

**SECTION 3.** If the land described in section 1 ceases to be used at any time for the purposes set forth in this act, said land shall revert to the care and control of the division of capital asset management and maintenance and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and to the prior approval of the general court.

Approved August 10, 2000.

## **Chapter 247. AN ACT RELATIVE TO THE ESTABLISHMENT OF A CHILD FATALITY REVIEW TEAM.**

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

**SECTION 1.** Chapter 38 of the General Laws is hereby amended by inserting after section 2 the following section:-



Section 2A. As used in this section, the following words shall have the following meanings:-

"Child", any person under the age of 18.

"Fatality", any death of a child.

"Local team", a local multidisciplinary and multi-agency child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding the provisions of section 172 of chapter 6, members of the local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on said team. Each local team shall be comprised of at least the following members:

(1) the district attorney of the county, who shall chair each local team;

(2) the chief medical examiner or his designee;

(3) the commissioner of the department of social services or his designee;

(4) a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team;

(5) a local police officer from the town or city where the child fatality occurred, appointed by the chief of police of said municipality;

(6) a state law enforcement officer, appointed by the colonel of state police;

(7) the chief justice of the juvenile division of the trial court or his designee;

(8) the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center or his designee;

(9) the commissioner of the department of public health or his designee; and

(10) any other person with expertise or information relevant to individual cases who may attend meetings on an ad hoc basis, by agreement of the permanent members of each local team. Such persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of the departments of mental retardation, mental health, youth services and education.

"State team", a child fatality review team within the office of the chief medical examiner. Notwithstanding the provisions of section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on said team. The state team shall consist of at least the following members:-

(1) the chief medical examiner, who shall chair the state team;

(2) the attorney general or his designee;

(3) the commissioner of the department of social services or his designee;

(4) the commissioner of the department of public health or his designee;

(5) the commissioner of the department of education or his designee;

(6) a representative of the Massachusetts District Attorney's Association to be selected by said association;

- (7) the colonel of the state police or his designee;
  - (8) the commissioner of the department of mental health or his designee;
  - (9) the commissioner of the department of mental retardation or his designee;
  - (10) the director of the Massachusetts center for sudden infant death syndrome or his designee;
  - (11) the commissioner of the department of youth services or his designee;
  - (12) a representative of the Massachusetts chapter of the American Academy of Pediatrics, with experience in diagnosing or treating child abuse and neglect to be selected by said chapter;
  - (13) a representative from the Massachusetts Hospital Association to be selected by said association;
  - (14) the chief justice of the juvenile division of the trial court or her designee;
  - (15) the president of the Massachusetts Chiefs of Police Association or his designee;
  - (16) a child advocate appointed by a majority vote of the members of the state team;
- and
- (17) any other person selected by the chair, or by majority vote of the members of the state team, with expertise or information relevant to individual cases.
- (1) There shall be established within the office of the chief medical examiner the state child fatality review team. The purpose of the state team shall be to decrease the incidence of preventable child deaths and injuries by:-
- (i) developing an understanding of the causes and incidence of child death; and
  - (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child deaths.
- (2) To achieve its purpose, the state team shall:
- (i) develop model investigative and data collection protocols for local child fatality teams;
  - (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
  - (iii) provide training and written materials to the local teams to assist them in carrying out their duties;
  - (iv) review reports from local teams;
  - (v) study the incidence and causes of child fatalities in the commonwealth;
  - (vi) analyze community, public and private agency involvement with the decedents and their families prior to and subsequent to the deaths;
  - (vii) develop a protocol for the collection of data regarding child deaths and provide training to local teams on the protocol;
  - (viii) develop and implement such rules and procedures as are necessary for its own operation; and
  - (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

(c)(1) A local child fatality review team shall be established in each of the 11 districts headed by a district attorney. The purpose of each such local team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) coordinating the collection of information on child deaths;
- (ii) promoting cooperation and coordination between agencies responding to child deaths and in providing services to family members;
- (iii) developing an understanding of the causes and incidence of child deaths in the county; and
- (iv) advising the state team on changes in law, policy or practice which may affect child deaths and injuries.

(2) To achieve its purpose, the local team shall:

- (i) review, establish and implement model protocols from the state team;
- (ii) review, subject to the approval of the local district attorney, all individual child deaths in accordance with the established protocol;
- (iii) meet periodically, but at least four times per calendar year, to review the status of child death cases and recommend methods of improving coordination of services between member agencies;
- (iv) collect, maintain and provide confidential data as required by the state team; and
- (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

(3) At the request of the local district attorney, the local team shall be immediately provided with:

- (i) information and records relevant to the cause of death of a child whose death is being reviewed by the local team, by providers of medical or other care, treatment or services, including dental and mental health care;
- (ii) information and records relevant to the cause of death maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;

(iii) information and records of any provider of social services, including the state department of social services, to the child or his family, that the local team deems relevant to the review; and

(iv) demographic information relevant to the decedent and his immediate family including but not limited to, address, age, race, gender, and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d)(1) The following provisions shall apply to both the state and local teams:

Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123, or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair. Any information

considered to be confidential pursuant to the aforementioned statutes may be submitted for the team's review upon the determination of the chair that the review of said information is necessary. The chair shall ensure that no information submitted for the team's review is disseminated to parties outside the team. Under no circumstances shall any member of this team violate the confidentiality provisions set forth in the aforementioned statutes.

(2) Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

(3) Team meetings shall be closed to the public. Any and all information and records acquired by the state team or by a local team, in the exercise of its purpose and duties pursuant to this chapter, shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out the teams' duties and purposes.

(4) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(5) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(6) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of the team or are maintained by a team.

(d) Nothing in this section shall be construed or interpreted to limit the powers and duties of the chief medical examiner or district attorneys.

**SECTION 2.** Section 3 of chapter 38 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 35, the word "two" and inserting in place thereof the following figure:- 18.

**SECTION 3.** Said section 3 of said chapter 38, as so appearing, is hereby further amended by inserting after the word "nurse", in line 42, the following words:- , department of social services social worker.

**SECTION 4.** The last paragraph of section 4 of said chapter 38, as so appearing, is hereby amended by adding the following sentence:- The chief medical examiner shall notify the local district attorney of the death of a child immediately following receipt of a report that such a death occurred.

**SECTION 5.** Section 51F of chapter 119 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Nothing in this section shall prevent the department from keeping information on unsubstantiated reports to assist in future risk and safety assessments of children and families.

Approved August 10, 2000.



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## Chapter 248. AN ACT RELATIVE TO MINIMUM STANDARDS FOR PUBLIC BATHING WATERS.

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

**SECTION 1.** Chapter 111 of the General Laws is hereby amended by inserting after section 5R the following section:-

Section 5S. (a) As used in this section, the following words shall have the following meanings:-

"Bathing water", fresh or salt water adjacent to any public bathing beach or semi-public bathing beach in the commonwealth.

"Department", the department of public health.

"Public bathing beach", a beach open to the general public, whether or not an entry fee is charged, that permits access to bathing waters.

"Semi-public bathing beach", a bathing beach used in connection with a hotel, motel, trailer park, campground, apartment house, condominium, country club, youth club, school, camp or similar establishment where the primary purpose of the establishment is not the operation of the bathing beach, and where admission to the use of the bathing beach is included in the fee paid for use of the premises. A semi-public bathing beach shall also include a bathing beach operated and maintained solely for the use of members and guests of an organization that maintains such a bathing beach.

(b) The department, in consultation with local health officers, shall establish minimum sanitation standards to protect bathing waters from contamination from the following: (1) sludge deposits and solid refuse; (2) floating solid, grease or scum wastes; (3) oil, hazardous material, and heavy metals; and (4) bacteria, including but not limited to, total coliform, fecal coliform and enterococci bacteria.

(c) Such standards shall establish safe levels of human exposure to such contaminants, and shall further incorporate, at a minimum, the following provisions:-

(1) An officer or an agent of a local board of health shall test, monitor and analyze all bathing waters within its municipality. Every local board of health shall report the results from all testing, monitoring and analysis of bathing waters to the department. The department shall establish such reporting requirements and shall keep public records thereof. The department shall issue an annual report on the state of beach water quality using data that has been reported to the department. The department shall make such data available to the public upon written request.

(2) The department shall determine at which sites to conduct testing and monitoring of bathing waters. The department shall consider, but not be limited to, the following factors in determining at which sites to conduct testing and monitoring of bathing waters: (i) prior testing results pursuant to this section for such bathing waters; (ii) the number of people who use the bathing beach annually; and (iii) whether the beach is located adjacent to a storm water drain, sewage, industrial and commercial wastewater discharges, or commercial, industrial and agricultural drains.

(d) The department shall determine at what frequency to conduct testing, monitoring and analysis of bathing waters. Testing, monitoring and analysis shall be conducted on at least a weekly basis during the bathing season, and at such times and under such conditions as shall be sufficient to protect public health and safety. The department may grant a variance from the weekly testing requirement for a public or semi-public bathing beach only where there is a documented history of no sources of pollution, both point and non-point, at the bathing beach, or where such pollution sources at the beach have been fully and completely remediated.

(e) The department shall require the posting of conspicuous warning signs to notify the public whenever there is a threat to human health or safety in bathing waters. Signs shall be posted at locations on the beach that are visible to the public in order to inform the public of the nature of the problem and the possibility of a threat to human health and safety. Signs shall be posted immediately after significant rainstorms at bathing beach locations where there has been a chronic history of violations of the department's minimum sanitation standards for bathing beaches after such rainstorms. When an officer or agent of a local board of health discovers a violation of such minimum sanitation standards, the officer or agent shall notify the department immediately, and in no event not later than 24 hours after such discovery. The local board of health shall also post signs immediately, and in no event not later than 24 hours after such a discovery.

(f) A person may request that a local board of health conduct testing, monitoring and analysis of bathing waters when there is a reasonable basis to believe that an alleged violation of such minimum sanitation standards established by this section has occurred. Local boards of health shall promptly review such requests and determine whether any such testing, monitoring and analysis is necessary to ensure the public health and safety in bathing waters.

(g) The owners of semi-public bathing beaches shall be required to pay for the costs of testing, monitoring and analysis of bathing waters adjacent to such semi-public bathing beaches.

(h) Local boards of health may enter into contractual agreements with owners of semi-public bathing beaches where the local board of health conducts testing, monitoring and analysis of such bathing waters.

(i) A municipality or state agency may adopt sanitation standards and testing, monitoring, and analysis requirements for bathing waters within its jurisdiction that are stricter than the standards adopted by the department. In any case where a municipality or state agency adopts such stricter standards, any warning signs required by this section shall display the results of such stricter standards relative to the standards of the department.

(j) The testing, monitoring and analysis of bathing waters that are under the control of any state agency shall be conducted by that state agency. All such state agencies shall meet the requirements set forth by this section and the regulations promulgated by the department.

(k) The department may, subject to appropriation, award competitive grants to local boards of health in the form of a 50 per cent reimbursement for the testing, monitoring and

analysis of bathing waters and to otherwise carry out the provisions of this section and the regulations promulgated thereunder. The department shall enter into a contractual agreement with a sole provider of testing services to be utilized by any state agency, and which may be utilized by any local board of health, to comply with the provisions of this section.

The department shall also ensure that the provisions of this section and the regulations promulgated thereunder are implemented in a cost effective manner by encouraging, where possible, regional approaches or other cost effective means of carrying out the purposes of this section.

(l) The department shall enforce the provisions of this section in accordance with the penalty and enforcement provisions of section 127A.

**SECTION 2.** The department of public health shall promulgate the regulations required by section 5S of chapter 111 of the General Laws not later than March 1, 2001.

**SECTION 3.** The division of local mandates, in the office of the state auditor, through the legislative review program, pursuant to the last paragraph of section 6B of chapter 11 of the General Laws, shall make a comprehensive report on sections 1 and 2 of this act. The report shall determine the financial impact on cities and towns of such sections and shall prepare a preliminary cost study and cost benefit analysis. The report shall be filed with the clerk of the house of representatives not later than December 1, 2000.

**SECTION 4.** Sections 1 and 2 of this act shall take effect on February 1, 2001.

Approved August 11, 2000.

## **Chapter 249. AN ACT FURTHER REGULATING THE CIVIL COMMITMENT PROCESS FOR PERSONS WITH MENTAL ILLNESS.**

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

**SECTION 1.** Section 7 of chapter 123 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 20, the word "fourteen" and inserting in place thereof the following word:- four.

**SECTION 2.** Paragraph (c) of said section 7 of said chapter 123, as so appearing, is hereby amended by adding the following sentence:- The periods of time prescribed or allowed under the provisions of this section shall be computed pursuant to Rule 6 of the Massachusetts Rules of Civil Procedure.

**SECTION 3.** Section 11 of said chapter 123, as so appearing, is hereby amended by adding the following two sentences:- Before accepting an application for voluntary admission where the superintendent may require three days written notice of intention to leave or withdraw, the admitting or treating physician shall assess the person's capacity to understand that: (i) the person is agreeing to stay or remain at the hospital; (ii) the person is agreeing to

accept treatment; (iii) the person is required to provide the facility with three days written advance notice of the person's intention to leave the facility; and (iv) the facility may petition a court for an extended commitment of the person and that he may be held at the facility until the petition is heard by the court. If the physician determines that the person lacks the capacity to understand these facts and consequences of hospitalization, the application shall not be accepted.

**SECTION 4.** Section 12 of said chapter 123, as so appearing, is hereby amended by striking out, in lines 11, 23, 49, 57, 70 and 71, the word "ten" and inserting in place thereof, in each instance, the following word:- four.

**SECTION 5.** Said section 12 of said chapter 123, as so appearing, is hereby further amended by striking out, in line 52, the word "ten-day" and inserting in place thereof the following words:- four day.

**SECTION 6.** Subsection (b) of said section 12 of said chapter 123, as so appearing, is hereby amended by adding the following two paragraphs:-

Upon admission of a person under the provisions of this subsection, the facility shall inform the person that it shall, upon such person's request, notify the committee for public counsel services of the name and location of the person admitted. Said committee for public counsel services shall forthwith appoint an attorney who shall meet with the person. If the appointed attorney determines that the person voluntarily and knowingly waives the right to be represented, or is presently represented or will be represented by another attorney, the appointed attorney shall so notify said committee for public counsel services, which shall withdraw the appointment.

Any person admitted under the provisions of this subsection, who has reason to believe that such admission is the result of an abuse or misuse of the provisions of this subsection, may request, or request through counsel an emergency hearing in the district court in whose jurisdiction the facility is located, and unless a delay is requested by the person or through counsel, the district court shall hold such hearing on the day the request is filed with the court or not later than the next business day.

**SECTION 7.** Subsection (e) of said section 12 of said chapter 123, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The court shall appoint counsel to represent said person.

**SECTION 8.** Said subsection (e) of said section 12 of said chapter 123, as so appearing, is hereby amended by adding the following sentence:- The periods of time prescribed or allowed under the provisions of this section shall be computed pursuant to Rule 6 of the Massachusetts Rules of Civil Procedure.

**SECTION 9.** Four months after the effective date of this act and quarterly thereafter, the chief justice of the district court, and the committee for public counsel services shall report to the joint committee on human services and the house and senate committees on ways and means regarding any additional cost, as well as the ability of the court to carry out



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its responsibilities. The department of mental health shall report four months after the effective date of this act and quarterly thereafter to said committees regarding data collected from the facilities it licenses and operates to assist in evaluation of its impact.

Approved August 13, 2000.

**Chapter 250. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 139 IN THE TOWN OF MARSHFIELD AS THE KOREAN WAR VETERANS MEMORIAL HIGHWAY.**

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

The portion of state highway route 139 within the town of Marshfield shall be designated as the Korean War Veterans Memorial Highway, in recognition of the service of veterans of the Korean War. The department of highways shall erect and maintain a suitable marker on state highway route 139 bearing such designation, in compliance with the standards of the department.

Approved August 13, 2000.

**Chapter 251. AN ACT AUTHORIZING THE LICENSING OF APPRENTICE HOISTING ENGINEERS.**

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

**SECTION 1.** Chapter 146 of the General Laws is hereby amended by inserting after section 53 the following section:-

Section 53A. The commissioner shall issue rules and regulations, pursuant to chapter 30A, embodying the classifications of hoisting machinery and establishing criteria and procedures for the issuance, denial, renewal, suspension and revocation of licenses of apprentice operators of such machinery. However, a final adjudication that there has been a violation of federal or state occupational safety and health regulations, or any rule or regulation adopted by the department, shall be cause for the denial, revocation or suspension of any license issued under this section. Criteria for issuance of such licenses shall include, but not be limited to, training and experience requirements appropriate to the categories of machinery for which the license is intended, and registration with the apprenticeship council within the department of labor and workforce development. A holder of such apprentice license may operate hoisting machinery only under the guidance and supervision of a holder of a license to operate for the category of hoisting machinery to be operated by the apprentice.

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**SECTION 2.** Said chapter 146 is hereby further amended by striking out section 54, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 54. A license to operate hoisting machinery shall be carried on the person of the operator or apprentice operator while operating such hoisting machinery.

**SECTION 3.** Section 54A of said chapter 146, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "sections fifty-three or fifty-four" and inserting in place thereof the following words:- section 53, 53A or 54.

Approved August 13, 2000.

## Chapter 252. AN ACT RELATIVE TO NEEDLESTICK INJURY PREVENTION.

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

**SECTION 1.** Chapter 111 of the General Laws is hereby amended by inserting after section 53C the following section:-

Section 53D. (a) Any acute or non-acute hospital licensed under this chapter shall ensure the provision of services to individuals through the use of hollow-bore needle devices or other technology that minimize the risk of injury to health care workers from hypodermic syringes or needles, in accordance with rules and regulations promulgated pursuant to subsection (b).

(b) The department shall promulgate rules and regulations requiring the use, at all acute and non-acute hospitals, of only such devices which minimize the risk of injury to health care workers from needlestick and sharps, so-called. Such rules and regulations promulgated by the department shall include the following requirements:-

(1) Written exposure control plans shall be developed by each acute and non-acute hospital that include an effective procedure for identifying and selecting existing sharps prevention technology, so-called, of the types specified by the department.

(2) Sharps injury prevention technology shall be included as engineering or work practice controls, except in cases where the employer or other appropriate party can demonstrate circumstances in which the technology does not promote employee or patient safety or interferes with a medical procedure. Those circumstances shall be specified by the employer and shall include, but not be limited to, circumstances where the technology is medically contraindicated or not more effective than alternative measures used by the employer to prevent exposure incidents. In all cases the department shall make the final determination as to whether an employer or other appropriate party has demonstrated in a satisfactory manner circumstances which warrant an exemption from the inclusion of sharps injury prevention technology.

(3) Information concerning exposure incidents shall be recorded in a sharps injury log to be kept within such acute and non-acute hospitals and reported annually to the department,

including but not limited to, the type and brand of device involved in the incident. Such logs shall be used as the basis for continuing quality improvement in reducing sharps injuries through the provision of education and the procurement of improved products. Such logs shall be kept confidential and shall be used only for the intended purposes of this section.

(4) Written exposure control plans shall be updated when necessary to reflect progress in sharps prevention technology as determined by the department.

(c) The department shall promulgate all rules and regulations pursuant to this section in consultation with an advisory committee composed of, but not limited to: the department's director of infectious disease, a consumer to be selected by the commissioner, a technical expert to be selected by the commissioner, and a representative from the Massachusetts Nurses Association, the Massachusetts Association of Occupational and Environmental Medicine, the Massachusetts Medical Society and the Massachusetts Hospital Association.

The department, in consultation with the advisory committee, shall compile and maintain a list of needleless systems, needles and sharps, so-called, with engineered injury protections meeting the purposes of this section. The list shall be available to assist employers in complying with rules and regulations promulgated in accordance with this section.

**SECTION 2.** The department of public health shall promulgate the rules and regulations required by section 53D of chapter 111 of the General Laws no later than November 1, 2000.

Approved August 17, 2000.

## **Chapter 253. AN ACT ESTABLISHING A BUILDING RESERVE FUND IN THE TOWN OF LYNNFIELD.**

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

**SECTION 1.** There is hereby established in the treasury of the town of Lynnfield a special fund to be known as the Lynnfield Building Reserve Fund. The amount appropriated to said fund under Article 2 of the warrant for the March 11, 2000 special town meeting shall be deposited in said fund. At any annual or special town meeting the town may also appropriate additional funds for and authorize additional deposits in said fund. The town treasurer shall be the custodian of said fund and may invest amounts in said fund in accordance with the provisions of section 54 of chapter 44 of the General Laws. All earnings and income from such investments shall be added to and become a part of said fund.

**SECTION 2.** Amounts in said fund may be used in any fiscal year to reduce the amount to be included in the tax levy for such fiscal year to pay principal of and interest on debt of the town maturing or due in such fiscal year relating to the school and senior center construction, reconstruction and remodeling projects authorized under Article 1 of the warrant for the March 11, 2000 special town meeting, or any other project to which the town

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meeting has voted to apply the Building Reserve Fund. The amount to be so used shall be determined by the town administrator, with the approval of the board of selectmen, on or prior to August first of each fiscal year and notice of such amount shall be given to the town assessors within ten days of the determination. Such amount shall be used without further appropriation by the town assessors to reduce the amount otherwise to be assessed for such fiscal year pursuant to section 23 of chapter 59 of the General Laws.

**SECTION 3.** The vote of the town passed under Article 2 of the warrant for the March 11, 2000 special town meeting appropriating \$2,300,000 to said fund is hereby ratified, validated and confirmed.

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

Approved August 17, 2000.

## **Chapter 254. AN ACT RELATIVE TO INSURANCE AND GENETIC TESTING AND PRIVACY PROTECTION.**

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

**SECTION 1.** It is hereby declared that it shall be a goal of the commonwealth to protect the results of genetic tests as private information. The purpose of this act is to maintain that privacy by:

- (1) prohibiting disclosure of such results of genetic tests without the consent of the person to whom the information pertains;
- (2) prohibiting the requirement of such results of genetic tests as a condition of employment or insurance; and
- (3) prohibiting discrimination by insurance institutions based on the use of such results of genetic tests. Further it is the goal of the commonwealth to achieve these purposes without limiting the potential for medical research and permitting certain uses for life insurance underwriting.

**SECTION 2.** Chapter 111 of the General Laws is hereby amended by inserting after section 70F, as appearing in the 1998 Official Edition, the following section:-

Section 70G. (a) For purposes of this section, the following words shall have the following meanings:-

"Confidential research information", any results of a genetic test maintained pursuant to pharmacological or clinical research protocols which are subject to and conducted in accordance with the review and approval of an Institutional Review Board established pursuant to the provisions of 45 CFR 46 and 21 CFR 50 and 56 which protects the confidentiality of the individual who is the subject of the genetic test either by encryption, encoding or other means consistent with the requirements of said federal regulations, or where the identity of the individual is unknown or protected from disclosure by encrypting or encoding, or by other means consistent with the requirements of said federal regulations.



"Genetic information", any written or recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result. For purposes of this section, the term genetic information shall not include any information about an identifiable person that is taken:

(1) as a biopsy, autopsy, or clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a test of DNA, RNA, mitochondrial DNA, chromosomes or proteins;

(2) as a blood sample solely for blood banking;

(3) as a newborn screening pursuant to section 110A;

(4) as confidential research information for use in epidemiological and clinical research conducted for the purpose of generating scientific knowledge about genes or learning about genes or learning about the genetic basis of disease or for developing pharmaceutical and other treatments of disease; or

(5) as information pertaining to the abuse of drugs or alcohol which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material. For the purposes of this section, the term genetic test shall not include tests given for drugs, alcohol, cholesterol, or HIV; or any test for the purpose of diagnosing or detecting an existing disease, illness, impairment or disorder.

"Informed written consent", a written consent form for the requested release of a person's genetic information, or the release of genetic information, or for the release of medical records containing such information. Such written consent form shall state the purpose for which the information is being requested and shall be distinguished from written consent for the release of any other medical information.

"Insurance Institution", any corporation, association, partnership, reciprocal exchange, inter-insurer, insurance support organization as defined in chapter 175I, Lloyds insurer, so-called, fraternal benefit society or other person engaged in the business of insurance, including health maintenance organizations, medical service plans and hospital service plans, preferred provider arrangements and savings bank life insurance, as defined in chapters 175, 176, 176A, 176B, 176C, 176G, 176I, and 178A.

"Person", any natural person, corporation, association, partnership or other legal entity.

"Prior written consent", a written consent form signed by the person who is the subject of the test or, if that person lacks capacity to consent, signed by the person authorized to consent for such person which form shall not be a general waiver or consent for genetic testing and which shall include:-

(1) a statement of the purpose of the test;

(2) a statement that prior to signing the consent form, the consenting person discussed

with the medical practitioner ordering the test the reliability of positive or negative test results and the level of certainty that a positive test result for that disease or condition serves as a predictor of such disease;

(3) a statement that the consenting person was informed about the availability and importance of genetic counseling and provided with written information identifying a genetic counselor or medical geneticist from whom the consenting person might obtain such counseling;

(4) a general description of each specific disease or condition tested for; and

(5) the person or persons to whom the test results may be disclosed;

(b) Hospital, dispensary, laboratory, hospital-affiliated registry, physician, insurance institution, insurance support organization, or insurance representative, and commercial genetic testing company, agency, or association reports and records pertaining to any genetic information shall not be public records, and the contents thereof shall not be divulged by any person having charge of or access to the same without informed written consent, except upon proper judicial order or to a person whose official duties, in the opinion of the commissioner, entitle receipt of the information contained therein, or except in connection with life, disability, and long term care insurance as authorized pursuant to chapter 175I or as confidential research information for use in epidemiological or clinical research conducted for the purpose of generating scientific knowledge about genes or learning about the genetic basis of disease or for developing pharmaceutical and other treatments of disease. A laboratory receiving a request to conduct a genetic test from a facility, as defined in section 70E, or a physician or health care provider may conduct the requested test only when the request is accompanied by a signed statement of the medical practitioner ordering the test warranting that the appropriate prior written consent has been obtained from the patient except where the test is conducted as confidential research information for use in epidemiological or clinical research conducted for the purpose of generating scientific knowledge about genes or learning about the genetic basis of disease or for developing pharmaceutical and other treatments of disease. The signed request authorizes the laboratory to perform the test and disclose the results to the medical practitioner.

(c) No facility, as defined in section 70E, and no physician or health care provider shall: (1) test any person for genetic information without first obtaining the prior written consent; (2) disclose the results of a genetic test to any person other than the subject thereof without first obtaining the informed written consent except where the results disclosed will be used only as is confidential research information for use in epidemiological or clinical research conducted for the purpose of generating scientific knowledge about genes or learning about the genetic basis of disease or for developing pharmaceutical and other treatments of disease; or identify the person being tested to any other person without first obtaining informed written consent or upon proper judicial order. Organizations conducting pharmaco-economic studies in systematic research to determine the cost benefits of specific treatment for genetic based disease shall be exempted from the need to re-obtain informed written consent.

(d) Whoever violates any provisions of this section shall be deemed to have violated section 2 of chapter 93A. Any person whose rights under this section have been violated, interfered with, or attempted to be interfered with may institute and prosecute in his own name and on his own behalf, or the attorney general, acting on behalf of the commonwealth, may institute a civil action for injunctive and other equitable relief.

(e) This section shall not apply to a law enforcement official in the execution of his official duties; to a hospital, laboratory or physician carrying out tests upon proper judicial order; or to law enforcement or health care personnel, or any other person, in the execution of their official duties pursuant to chapter 22E.

**SECTION 3.** Section 1 of chapter 151B of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following two subsections:-

22. The term "genetic information", shall mean any written, recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result or family history pertaining to the presence, absence, variation, alteration, or modification of a human gene or genes. For the purposes of this chapter, the term genetic information shall not include information pertaining to the abuse of drugs or alcohol which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

23. The term "genetic test", shall mean any tests of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material. For the purposes of this chapter, the term genetic test shall not include tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

**SECTION 4.** Section 3 of said chapter 151B, as so appearing, is hereby amended by inserting after the word "age", in line 19, the following words:- , genetic information.

**SECTION 5.** Said section 3 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age", in line 62, the following words:- , genetic information.

**SECTION 6.** Section 4 of said chapter 151B, as so appearing, is hereby amended by inserting after the word "object", in line 5, the following words:- , genetic information.

**SECTION 7.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age", in line 63, the following words:- , genetic information.

**SECTION 8.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 77, the following words:- genetic information.

**SECTION 9.** Said section 4 of said chapter 151B, as so appearing, is hereby amended by inserting after the word "age,", in line 80, the following words:- genetic information.

**SECTION 10.** Said section 4 of said chapter 151B, as so appearing, is hereby further

amended by inserting after the word "object", in line 89, the following words:- , genetic information.

**SECTION 11.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "origin", in line 97, the following words:- , genetic information.

**SECTION 12.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "origin", in line 129, the following words:- genetic information.

**SECTION 13.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 154, the following words:- genetic information.

**SECTION 14.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 170, the following words:- genetic information.

**SECTION 15.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 214, the following words:- genetic information.

**SECTION 16.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 221, the following words:- genetic information.

**SECTION 17.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 230, the following words:- genetic information.

**SECTION 18.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "origin", in line 321, the following words:- genetic information.

**SECTION 19.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 331, the following words:- genetic information.

**SECTION 20.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 335, the following words:- genetic information.

**SECTION 21.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 341, the following words:- genetic information.

**SECTION 22.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by inserting after the word "age,", in line 630, the following words:- genetic information.

**SECTION 23.** Said section 4 of said chapter 151B, as so appearing, is hereby further



amended by inserting after the word "age," in line 639, the following words:- genetic information.

**SECTION 23A.** Said section 4 of said chapter 151B, as so appearing, is hereby further amended by adding the following subsection:-

19 (a) It shall be unlawful discrimination for any employer, employment agency, labor organization, or licensing agency to

(1) refuse to hire or employ, represent, grant membership to, or license a person on the basis of that person's genetic information;

(2) collect, solicit or require disclosure of genetic information from any person as a condition of employment, or membership, or of obtaining a license;

(3) solicit submission to, require, or administer a genetic test to any person as a condition of employment, membership, or obtaining a license;

(4) offer a person an inducement to undergo a genetic test or otherwise disclose genetic information;

(5) question a person about their genetic information or genetic information concerning their family members, or inquire about previous genetic testing;

(6) use the results of a genetic test or other genetic information to affect the terms, conditions, compensation or privileges of a person's employment, representation, membership, or the ability to obtain a license;

(7) terminate or refuse to renew a person's employment, representation, membership, or license on the basis of a genetic test or other genetic information; or

(8) otherwise seek, receive, or maintain genetic information for non-medical purposes.

**SECTION 24.** Chapter 175 of the General Laws is hereby amended by inserting after section 108G the following two sections:-

Section 108H. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", a written recorded individually identifiable result of a genetic test as defined in this section or explanation of such a result.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying the genes or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material. For the purpose of this section, the term genetic test shall not include tests given for the exclusive purposes of determining the abuse of drugs or alcohol.

No company, and no officer or agent thereof, and no insurance broker, shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount of payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of any individual policy of accident or sickness insurance, authorized pursuant to section 108 which provides hospital and surgical expense insurance, or a group blanket policy of accident and sickness insurance authorized pursuant to section 110 which provides hospital and surgical expense insurance, based on genetic information

as defined in this section. No company, officer or agent thereof, and, no insurance broker shall require genetic tests or genetic information as defined in this section, as a condition of the issuance or renewal of any such individual or group policy of accident or sickness insurance authorized pursuant to section 108 which provides hospital and surgical expense insurance or a group blanket policy of accident and sickness insurance authorized pursuant to section 110 which provides hospital expense and surgical expense insurance. Any violation of this section shall constitute an unfair method of competition or unfair or deceptive act or practice in violation of chapters 93A and 176D. The commissioner may promulgate rules and regulations pursuant to this section.

Section 108I. (a) For the purposes of this section the following words shall have the following meanings:

"Genetic information", a written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result. For the purpose of this section, the term genetic information shall not include information pertaining to the abuse of drugs or alcohol which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material, which are associated with a predisposition to disease, illness, impairment or other disease processes. For the purpose of this section, the term genetic test shall not include tests given for drugs, alcohol, cholesterol, or HIV; any test for the purpose of diagnosing or detecting an existing disease process; any test performed due to the presence of symptoms, signs or other manifestations of a disease, illness, impairment; or other disease process or any test that is taken as a biopsy, autopsy, or clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a test of DNA, RNA, mitochondrial DNA, chromosomes or proteins.

(b) No insurer, agent or broker authorized to issue policies against disability from injury or disease or policies providing for long term care in the commonwealth shall practice unfair discrimination against persons because of the results of a genetic test or the provisions of genetic information, as defined in this section. For purposes of this section, unfair discrimination means cancellation, refusing to issue or renew, charging any increased rate, restricting any length of coverage or in any way practicing discrimination against persons unless such action is taken pursuant to reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles or actual or reasonably anticipated claim experience.

No insurer, agent or broker authorized to issue policies against disability from injury or disease or policies providing for long term care in the commonwealth shall require an applicant to undergo a genetic test as a condition of the issuance or renewal of a policy against disability from injury or disease or policies providing for long term care in the commonwealth. Any violation of this section shall constitute an unfair method of competition

or unfair or deceptive act or practice in violation of chapters 93A and 176D.

(c) In the provision of insurance against disability from injury or disease or policies providing for long term care in the commonwealth, a company, or officer or agent thereof, or an insurance broker may ask on an application for such coverage whether or not the applicant has taken a genetic as defined in this section. The applicant is not required to answer any questions concerning genetic testing. Any application requesting this information must contain or be accompanied by language informing the applicant that the applicant is not required to answer any questions in connection with genetic testing as defined in this section and language informing the applicant that the failure to do so may result in an increased rate or denial of coverage. If the applicant chooses to submit genetic information then the insurer is authorized to use that information to set the terms of a policy provided that such information is reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles, or actual or reasonably anticipated experience. If the commissioner of insurance has reason to believe that unfair discrimination as defined in this section has occurred, and that a proceeding by the commissioner would be in the interest of the public, the commissioner shall, in accordance with chapter 176D, issue and serve upon the insurer a statement of the charges and a notice of hearing thereon. Upon a determination that the practice or act of the insurer is in conflict with the provisions of this section, the commissioner shall issue an order requiring the insurer to cease and desist from engaging in the practice or act and may order payment of a penalty pursuant to the provisions of chapter 176D.

Upon such determination, the commissioner, in consultation with the department of public health, shall hold a public hearing under chapter 30A and may, by order, determine, based on sound actuarial principles or actual or reasonably anticipated claim experience, that the genetic test which is the subject of the cease and desist order provides no reliable information relating to the insured's mortality or morbidity and that its use would constitute unfair discrimination. At least annually, the commissioner shall review any such order to assure that any such determination remains current and shall amend or rescind the order to reflect any change in the determination. The commissioner, in consultation with the department of public health after a public hearing under chapter 30A, may issue an advisory opinion on whether a genetic test provides no reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles or actual or reasonably anticipated claim experience. The commissioner may promulgate rules and regulations pursuant to this section.

**SECTION 24A.** Section 108I of said chapter 175 is hereby repealed.

**SECTION 25.** Said chapter 175 is hereby amended by inserting after section 120D the following section:-

Section 120E. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", a written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result. For the purpose of this section,



the term genetic information shall not include information pertaining to the abuse of drugs or alcohol which is derived from tests given for the exclusive purpose of determining the abuse of drugs or alcohol.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material, which are associated with a predisposition to disease, illness, impairment or other disease processes. For the purpose of this section, the term genetic test shall not include tests given for drugs, alcohol, cholesterol, or HIV; any test for the purpose of diagnosing or detecting an existing disease process; any test performed due to the presence of symptoms, signs or other manifestation of a disease, illness, impairment; or other disease process or any test, that is taken as a biopsy, autopsy, or clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a test of DNA, RNA, mitochondrial DNA, chromosomes or proteins.

No insurer, agent or broker authorized to issue policies on the lives of persons in the commonwealth shall practice unfair discrimination against persons because of the results of a genetic test or the provision of genetic information, as defined in this section. For purposes of this section unfair discrimination means cancellation, refusing to issue or renew, charging any increased rate, restricting any length of coverage or in any way practicing discrimination against persons unless such action is taken pursuant to reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles or actual or reasonably anticipated claim experience.

No insurer, agent or broker authorized to issue policies on the lives of persons in the commonwealth shall require an applicant to undergo a genetic test as a condition of the issuance or renewal of a policy on the lives of persons in the commonwealth. Any violation of this section shall constitute an unfair method of competition or unfair or deceptive act or practice in violation of chapters 93A and 176D.

In the provision of insurance on the lives of persons in the commonwealth, a company, or officer or agent thereof, or an insurance broker may ask on an application for such coverage whether or not the applicant has taken a genetic test as defined in this section. The applicant is not required to answer any questions concerning genetic testing. Any application requesting this information must contain or be accompanied by language informing the applicant that the applicant is not required to answer any questions in connection with genetic testing or information as defined in this section and language informing the applicant that the failure to do so may result in an increased rate or denial of coverage. If the applicant chooses to submit genetic information then the insurer is authorized to use that information to set the terms of a policy provided that such information is reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles, or actual or reasonably anticipated experience. If the commissioner of insurance has reason to believe that such unfair discrimination as defined in this section has occurred, and that a proceeding by the commissioner would be in the interest of the public,



the commissioner shall, in accordance with the provisions of chapter 176D, issue and serve upon the insurer a statement of the charges and a notice of hearing thereon. Upon a determination that the practice or act of the insurer is in conflict with the provisions of this section, the commissioner shall issue an order requiring the insurers to cease and desist from engaging in the practice or act and may order payment of a penalty pursuant to the provisions of chapter 176D.

Upon such determination, the commissioner, in consultation with the department of public health, shall hold a public hearing under chapter 30A and may, by order, determine, based on sound actuarial principles or actual or reasonably anticipated claim experience, that the genetic test which is the subject of the cease and desist order provides no reliable information relating to the insured's mortality or morbidity and that its use would constitute unfair discrimination. At least annually, the commissioner shall review any such order to assure that any such determination remains current and shall amend or rescind the order to reflect any change in the determination. The commissioner, in consultation with the department of public health after a public hearing under chapter 30A, may issue an advisory opinion on whether a genetic test provides no reliable information relating to the insured's mortality or morbidity, based on sound actuarial principles or actual or reasonably anticipated claim experience. The commissioner may promulgate rules and regulation pursuant to this section.

**SECTION 25A.** Section 120E of said chapter 175 is hereby repealed.

**SECTION 26.** Chapter 176A of the General Laws is hereby amended by inserting after section 3A the following section:-

Section 3B. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", a written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying the genes, or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material.

No corporation subject to this chapter and no officer or agent thereof, shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount of payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a medical service plan based on genetic information as defined in this section. No corporation subject to the provisions of this chapter and no officer or agent thereof, shall require genetic tests or private genetic information, as defined in this section, as a condition of the issuance or renewal of a hospital service plan. Any violation of this section shall constitute an unfair method of competition or unfair or deceptive act or practice in violation of chapters 93A and 176D.

**SECTION 27.** Chapter 176B of the General Laws is hereby amended by inserting after section 5A the following section:-

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Section 5B. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", a written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purposes of identifying the genes, or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material.

No corporation subject to this chapter and no officer or agent thereof, shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount of payment of premiums as rates charged, in the length of coverage, or in any other of the terms and conditions of a medical service plan based on genetic information as defined in this section. No corporation subject to the provisions of this chapter and no officer or agent thereof, shall require genetic tests or private genetic information, as defined in this section, as a condition of the issuance or renewal of a medical service plan. Any violation of this section shall constitute an unfair method of competition or unfair or deceptive act or practice in violation of chapters 93A and 176D.

**SECTION 28.** Chapter 176G of the General Laws is hereby amended by adding the following section:-

Section 24. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", any written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying the genes, or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material.

No health maintenance organization subject to this chapter, and no officer or agent thereof, shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount of payment of premium or rates charged, in the length of coverage or in any of the terms and conditions of a health maintenance contract based on genetic information as defined in this section. No health maintenance organization subject to the provisions of this chapter and no officer or agent thereof, shall require genetic tests or private genetic information, as defined in this section, as a condition of the issuance or renewal of a health maintenance contract. Any violation of this section shall constitute an unfair method of competition or deceptive act or practice in violation of chapters 93A and 176D.

**SECTION 29.** Chapter 176I of the General Laws is hereby amended by inserting after section 4, as appearing in the 1998 Official Edition, the following section:-

Section 4A. For the purposes of this section the following words shall have the following meanings:-

"Genetic information", a written recorded individually identifiable result of a genetic test as defined by this section or explanation of such a result.

"Genetic test", a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying the genes, or genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material.

No organization and no preferred provider shall cancel, refuse to issue or renew, or in any way make or permit any distinction or discrimination in the amount of payment of premiums or rates charged, in the length of coverage or in any of the terms and conditions of a health benefit plan based on genetic information as defined in this section. No organization and no preferred provider shall require genetic tests or private genetic information, as defined in this section, as a condition of the issuance or renewal of a health benefit plan.

**SECTION 30.** The department of public health and the division of insurance shall establish a special commission to investigate the use of genetic test results in connection with the issuance of life, disability, and long term care insurance. Said commission shall investigate the methods utilized in such life, long term care and disability industries in the acquisition, dissemination and protection of genetic information of insurance applicants, specifically the provisions of chapter 176D of the General Laws. Said commission shall investigate the utility and necessity of giving life, long term care and disability insurers the power to require a genetic test of insurance applicants. Said commission shall investigate the continuation of sections 24 and 25 past the December 31, 2005 expiration date. Said commission shall make recommendations of any changes necessary to protect the privacy of insurance applicants in connection with genetic information, and necessary to address the potential for fraud and misrepresentation by applicants.

Said commission shall consist of 13 members, including three members of the house of representatives, one of whom shall be the chairman of the house committee on science and technology and one of whom shall be the house chairman of the joint committee on insurance; three members of the senate, one of whom shall be the chairman of the senate committee on science and technology and one of whom shall be the senate chairman of the joint committee on insurance; the commissioner of public health or designee; the commissioner of insurance or designee; and five members who shall be named by the governor, one of whom shall be a representative of the Life Insurance Association of Massachusetts, one of whom shall be a representative of the Massachusetts Medical Society, one of whom shall be a representative of the Council for Responsible Genetics, and one of whom shall be a representative of the Massachusetts Association of Life Underwriters and one of whom shall be a member of the Massachusetts Biotechnology Council.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives, who shall forward the same to the senate committee on science and technology, the house committee on science and technology, the joint committee on insurance and the joint committee on health care on or before July 1, 2002.

**SECTION 30A.** This act shall not apply to, or be construed to limit the provisions of chapter 22E of the General Laws or the activities of law enforcement officials, hospital, laboratory, physician, health care personnel, or any other person acting in accordance with the provisions of said chapter 22E.

**SECTION 31.** Sections 24A and 25A shall take effect on January 1, 2006.

Approved August 22, 2000.

**Chapter 255. AN ACT RELATIVE TO THE OFFICE OF TREASURER-COLLECTOR IN THE TOWN OF NATICK.**

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

**SECTION 1.** Notwithstanding the provisions of section 42C of chapter 54 of the General Laws, the state secretary shall cause the following question to be placed on the official ballot to be used in the town of Natick at the biennial state election to be held in the year 2000.

This question is binding.

"Shall the town vote to have its elected town treasurer-collector become an appointed treasurer-collector of the town?"

If a majority of votes cast in answer to said question is in the affirmative, said office shall become appointed in accordance with the provisions of this act. 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 he was elected or until he otherwise vacates such office; provided, however, that any person 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 act.

**SECTION 2.** The appointment of the treasurer-collector shall be made by the town administrator subject to the confirmation of the board of selectmen for a term not to exceed three years, unless such manner of appointment or term is otherwise provided by law.

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

Approved August 24, 2000.

**Chapter 256. AN ACT RELATIVE TO HEALTH ALLIANCE AND BURBANK HOSPITAL.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for studying the feasibility of a full-service emergency room at Bur-



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

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

Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of public health shall conduct a study concerning the maintenance of a full service emergency room at the Burbank campus of Health Alliance in the city of Fitchburg specifically including the acceptance of ambulances providing advanced life support service. The study shall be conducted to determine the necessity of a full service, 24-hour emergency room at said campus and the costs of maintaining a full service, 24-hour emergency room at said campus. The study shall determine the impact of the downgrading of the facility on the community including, but not limited to, the following areas: elementary and secondary education, Fitchburg State College, elderly and elderly complexes, public safety departments and personnel, emergency transportation, business community, sporting events and facilities and the general impact on communities to the north of said city of Fitchburg.

Said study shall also determine possible resources, including local financial support, for funding a full service, 24-hour emergency room at said campus. On or before October 1, 2000, the report shall be submitted to the senate and house ways and means committees and the joint committee on health care. During the period of the study, Health Alliance and the University of Massachusetts Medical Center shall make every effort to maintain adequate levels of emergency services at said campus to the extent that qualified staff are available.

Approved August 24, 2000.

## **Chapter 257. AN ACT RELATIVE TO AN INCREASE IN THE EXEMPTION FOR RESIDENTIAL REAL PROPERTY IN THE CITY OF SOMERVILLE FROM 20 PER CENT TO 30 PER CENT.**

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

**SECTION 1.** Notwithstanding the provisions of section 5C of chapter 59 of the General Laws or any other general or special law to the contrary, with respect to each parcel of real property classified as Class One, residential, in the city of Somerville as certified by the commissioner of revenue to be assessing all local property at its full and fair cash valuation, and at the option of the mayor, with approval of the board of aldermen, there shall be an exemption equal to not more than 30 per cent of the average assessed value of all Class One, residential, parcels within the city of Somerville; provided, however, that such an exemption shall be applied only to the principal residence of the taxpayer as used by the taxpayer for income tax purposes. This exemption shall be in addition to any exemptions

allowable under section 5 of chapter 59 of the General Laws; provided, however that in no instance shall the taxable valuation of such property, after all applicable exemptions, be reduced to below 10 per cent of its full fair cash valuation, except through the applicability of section 8A of chapter 58 and clause Eighteenth of said section 5 of said chapter 59. Where, under the provisions of said section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for the purposes of the preceding sentence shall be computed by dividing the said amount of tax by the residential class tax rate of the city of Somerville and multiplying the result by \$1,000. For the purposes of this paragraph, "parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for such property and shall include a condominium unit.

**SECTION 2.** A taxpayer aggrieved by the failure to receive such residential exemption may apply for such residential exemption to the assessors in writing on a form approved by the board of assessors within three months after the date on which the bill or notice of assessment was sent.

A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59 of chapter 59 of the General Laws.

Approved August 31, 2000.

**Chapter 258. AN ACT RELATIVE TO THE POSITIONS OF CLERK/REGISTRAR AND TREASURER/COLLECTOR IN THE TOWN OF RANDOLPH.**

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

**SECTION 1.** Chapter 92 of the acts of 1982 is hereby repealed.

**SECTION 2.** The office of town clerk for the town of Randolph is hereby separated from the office of treasurer, and the town clerk shall continue to be an ex officio member of the board of registrars in accordance with the General Laws. The office of the clerk/registrar shall be an elected office whose holder shall be chosen by ballot from said town's registered voters for a term of three years or until the election and qualification of a successor and whose first holder shall be the person holding the office of treasurer/clerk on the effective date of this act. Thereafter, the clerk/registrar shall be elected next at the first regularly scheduled town election following completion of the term of office of the present clerk/treasurer in April 2003, said term of office to commence seven days following election in accordance with section 107 of chapter 41 of the General Laws. The provisions of law relative to clerk and registrar, except insofar as the same may be inconsistent with the provisions of this act, shall apply to the office of clerk/registrar.

**SECTION 3.** The office of treasurer for the town of Randolph is hereby separated from the office of the treasurer/clerk and the office of treasurer is hereby merged with the office of collector for the town of Randolph into one office of treasurer/collector. All the powers and duties of the treasurer and of the collector shall be exercised by the treasurer/

collector. The office of treasurer/collector shall be an elected position whose holder shall be chosen by ballot from said town's registered voters for the term of three years or until the election and qualification of a successor and whose first holder shall be the person holding the office of town collector on the effective date of this act. Thereafter, the treasurer/collector shall be elected next at the regularly scheduled town election following completion of the term of office of the present town collector in April 2002. The provision of law relative to treasurer and collector, except insofar as the same may be inconsistent with the provisions of this act, shall apply to the office of treasurer/collector.

**SECTION 4.** The term of office of the person holding the combined office of treasurer/clerk, under chapter 92 of the acts of 1982 shall cease and terminate upon qualification of a treasurer/collector to the new position created by this act.

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

Approved August 31, 2000.

**Chapter 259. AN ACT RELATIVE TO THE BOARD OF SELECTMEN OF THE TOWN OF PROVINCETOWN.**

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

**SECTION 1.** Chapter 3 of article 4 of the charter of the town of Provincetown, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-4-7 and inserting in place thereof the following section:-

3-4-7. A member of the board of assessors, the finance committee, the personnel board or the school committee shall not receive any payment from the town except reimbursement for vouchered expenses pertaining to town business.

**SECTION 2.** Said chapter 3 of said article 4 of said charter is hereby further amended by adding the following section:-

3-4-10. Notwithstanding any provisions of the charter to the contrary, the town may, by by-law, establish an annual stipend for members of the board of selectmen.

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

Approved September 7, 2000.

**Chapter 260. AN ACT AUTHORIZING THE TOWN OF ORLEANS TO ESTABLISH AN AFFORDABLE HOUSING TRUST FUND.**

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

The town of Orleans may establish a separate fund to be known as the Affordable

Housing Trust Fund for the purpose of creating or preserving affordable housing by: (a) the town of Orleans or the Orleans Housing Authority; or (b) a housing trust or community development corporation created under the laws of the commonwealth. The funds may specifically be used to purchase and improve land, to purchase dwelling units or to develop new or rehabilitate existing dwelling units for purchase or rental by qualified affordable housing purchasers or tenants or to preserve existing affordable housing in the affordable housing inventory. Expenditures shall follow an allocation plan submitted by a joint committee made up of the housing task force and the Orleans Housing Authority commissioners as appointed by the board of selectmen. The allocation plan and any specific capital purchases for land or buildings shall be approved at a town meeting. Any acquisition or disposition of real property shall be subject to approval at a town meeting. Other expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the board of selectmen and such expenditures shall be used for affordable housing purposes.

Approved September 7, 2000.

## **Chapter 261. AN ACT RELATIVE TO THE FILLING OF VACANCIES ON BOARDS IN THE TOWN OF PROVINCETOWN.**

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

**SECTION 1.** Chapter 3 of article 1 of the charter of the town of Provincetown, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-1-2 and inserting in place thereof the following section:-

3-1-2. The chairman of any town board shall notify the appointing authority in writing when a vacancy occurs on the town board. The appointing authority shall fill the vacancy within 60 days of the receipt of the notice of vacancy. In the event of the failure of the appointing authority to fill the vacancy within the allowed time, the moderator shall then be charged with filling the vacancy within 60 days. In the event of the failure of the moderator to fill the vacancy within the allowed time, the town board shall fill the vacancy. In the event of the failure of the town board to fill the vacancy within 60 days for the sole reason that the board lacks a quorum to act, the appointing authority shall thereafter fill the vacancy and the appointment process set forth in this section shall be repeated until such time as the vacancy is filled.

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

Approved September 7, 2000.



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**Chapter 262. AN ACT RELATIVE TO RECALL ELECTIONS IN THE TOWN OF BREWSTER.**

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

**SECTION 1.** The second paragraph of section 2 of chapter 474 of the acts of 1991 is hereby amended by striking out, in line 2, the word "five" and inserting in place thereof the following figure:- 15.

**SECTION 2.** Section 3 of said chapter 474 is hereby amended by striking out, in lines 2 and 3, the words "his certificate to the board of selectmen within seven" and inserting in place thereof the following words:- the town clerk's certificate to the board of selectmen within three.

**SECTION 3.** Section 4 of said chapter 474 is hereby amended by striking out, in lines 5 and 6, the words ", unless otherwise provided in this act".

Approved September 7, 2000.

**Chapter 263. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF CANDLE SAFETY DAY.**

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

Chapter 6 of the General Laws is hereby amended by inserting after section 12WW the following section:-

Section 12XX. The governor shall annually issue a proclamation setting apart the second Monday in December as Candle Safety Day to promote the safe use of candles in the commonwealth and recommending that said day be observed in an appropriate manner by the people.

Approved September 7, 2000.

**Chapter 264. AN ACT RELATIVE TO TEACHER CERTIFICATION.**

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

Section 38G of chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the definition of "Provisional educator with advanced standing" and inserting in place thereof the following definition:-

"Provisional educator with advanced standing", a person who holds a provisional educator certificate with advanced standing; said certificate shall be valid for five years of employment as an educator in the schools of the commonwealth and may be renewed for an additional five years of employment in accordance with regulations adopted by the board.

*Emergency Letter: September 7, 2000 @ 4:17 P.M.*

Approved September 7, 2000.

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**Chapter 265. AN ACT VALIDATING CERTAIN ACTIONS TAKEN BY THE TOWN OF BOLTON.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the action taken by the town of Bolton at its October 26, 1998 town meeting to authorize the borrowing of additional money for the cleanup of gasoline contamination and related costs, which was further authorized by chapter 97 of the acts of 2000, is hereby ratified, validated and confirmed as if said borrowing and debt exclusion override had been authorized by and adopted in full compliance with law.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the actions taken by the town of Bolton at the special town meeting held on December 13, 1999 and the special election held on December 14, 1999 regarding certain borrowings and debt exclusion overrides, are hereby ratified, validated and confirmed as if notice for such meeting and election had been posted and published in full compliance with law.

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

Approved September 7, 2000.

**Chapter 266. AN ACT RELATIVE TO SELF-INSURED WORKERS' COMPENSATION GROUPS.**

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

**SECTION 1.** Paragraph (c) of subsection (1) of section 25G of chapter 152 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following sentence:- The requirements of this paragraph shall not apply to a self-insurance group which is composed of more than 1,000 members and has been in existence for at least five years as of December 31, 1999 and at all times remains in compliance with the minimum net worth requirements of paragraph (a) of subsection (2).

**SECTION 2.** Subsection (3) of section 25O of said chapter 152, as so appearing, is hereby amended by adding the following sentence:- Any self-insured group which is composed of more than 1,000 members and has been in existence for a period of five consecutive years as of December 31, 1999 and which remains in compliance with the requirements of subsection (2) of section 25G shall not be required to have its members experience rated pursuant to the uniform experience rating plan filed with and approved by the commissioner, unless its by-laws or similar rules require otherwise.

Approved September 7, 2000.

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## Chapter 267. AN ACT RELATIVE TO COMMUNITY PRESERVATION.

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

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 44A the following chapter:-

### **CHAPTER 44B. COMMUNITY PRESERVATION.**

Section 1. This chapter shall be known and may be cited as the Massachusetts Community Preservation Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:-

"Acquire", obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. "Acquire" shall not include a taking by eminent domain, except as provided in this chapter.

"Annual income", a family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

"Community housing", low and moderate income housing for individuals and families, including low or moderate income senior housing.

"Community preservation", the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic structures and landscapes and the creation and preservation of community housing.

"Community preservation committee", the committee established by the legislative body of a city or town to make recommendations for community preservation, as provided in section 5.

"Community Preservation Fund", the municipal fund established under section 7.

"CP", community preservation.

"Historic structures and landscapes", a building, structure, vessel or real property that is listed or eligible for listing on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low income housing", housing for those persons and families whose annual income is less than 80 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"Low or moderate income senior housing", housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

"Maintenance", the upkeep of real or personal property.

"Moderate income housing", housing for those persons and families whose annual income is less than 100 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"Open space", shall include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

"Preservation", protection of personal or real property from injury, harm or destruction, but not including maintenance.

"Real property", land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

"Real property interest", a present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest which is limited to the following: an 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 a mortgagee or other secured party in a mortgage or security agreement.

"Recreational use", active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. "Recreational use" shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

Section 3. (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the approval by the legislative body and their acceptance by the voters of a ballot question as set forth in this section.

(b) Notwithstanding the provisions of chapter 59 or any other general or special law to the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not more than 3 per cent of the real estate tax levy against real property, as determined annually by the board of assessors. The amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of section 21C of said chapter 59.

(c) All exemptions and abatements of real property authorized by said chapter 59 or any other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A taxpayer receiving an exemption of real property authorized by said chapter 59 or any other law shall be exempt from any surcharge on real property established under this section. The surcharge to be paid by a taxpayer receiving an abatement of real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.



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(d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in section 57 of said chapter 59.

(e) The legislative body may also vote to accept one or more of the following exemptions:

(1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the city or town;

(2) for class three, commercial, and class four, industrial, properties as defined in section 2A of said chapter 59, in cities or towns with classified tax rates; or

(3) for \$100,000 of the value of each taxable parcel of residential real property.

(f) Upon approval by the legislative body, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question:

"Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below?"

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, but not otherwise.

(g) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate with exemption or exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

Section 4. (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant to the tax collector, the accepted surcharge shall be imposed.

(b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to the schedule for collection of property taxes for the tax on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be kept with respect to such surcharge, which shall be subject to public examination upon reasonable request from time to time.

(c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

Section 5. (a) A city or town that accepts sections 3 to 7, inclusive, shall establish by ordinance or by-law a community preservation committee. The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b)(1) The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The community preservation committee shall make recommendations to the legislative body for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(3) The community preservation committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(d) After receiving such recommendations from the community preservation committee, the legislative body shall then take such action and approve such appropriations from the Community Preservation Fund as set forth in section 8, and such additional appropriations as it deems appropriate to carry out the recommendations of the community preservation committee.

(e) For the purposes of community preservation and upon the recommendation of the community preservation committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of community preservation.

Section 6. In every fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space, but not including land for recreational use, not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent of the annual revenues for community housing. In each fiscal year, the legislative body shall make such appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee, but the appropriations shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund. Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years, but funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town in the commonwealth. The community preservation funds shall not replace existing operating funds, only augment them.

Section 7. Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish a separate account to be known as the Community Preservation Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

The following monies shall be deposited in the fund: (a) all funds collected from the real property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; (b) all funds received from the commonwealth or any other source for such purposes; and (c) proceeds from the disposal of real property acquired with funds from the Community



Preservation Fund. The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the community preservation committee and providing administrative and operating expenses to the committee.

Section 8. (a) The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$20. The fees for so recording, filing or depositing a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards, additional square feet for the filing and recording of plans or for additional or required marginal references.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge of \$20. The fees for so registering, filing or entering a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead of chapter 188. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts Community Preservation Trust Fund, established in section 9.

Section 9. (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Community Preservation Trust Fund, for the benefit of cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7, inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions adopted by a municipality. The fund shall consist of all revenues received by the commonwealth: (1) under the provisions of section 8; (2) from public and private sources as gifts, grants and donations to further community preservation programs; (3) from damages, penalties, costs or interest received on account of litigation or settlement thereof for a violation of section 15; or (4) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 10 in such manner as will secure the highest interest rate available consistent with



the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with said section 10. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative expenses shall not exceed 5 per cent of the annual total revenue received under the provisions of said section 10.

Section 10. (a) The commissioner of revenue shall annually on October 15 disburse monies from the fund established in section 10 to cities and towns that have accepted sections 3 to 7, inclusive, and notified the commissioner of their acceptance. The community shall notify the commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the municipality has raised through June 30 by imposing a surcharge on its real property levy and shall certify the percentage of the surcharge applied.

(b) The commissioner shall multiply the amount in the fund by 80 per cent. This amount distributed in the first round distribution shall be known as the match distribution. The first round total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an amount not less than 5 per cent but not greater than 100 per cent of the total amount raised by the additional surcharge on real property by each city or town. The percentage shall be the same for each city and town and shall be determined by the commissioner annually in a manner that distributes the maximum amount available to each participating city or town.

(c) The commissioner shall further divide the remaining 20 per cent of the fund in a second round distribution, known as the equity distribution. The commissioner shall determine the equity distribution in several steps. The first step shall be to divide the remaining 20 per cent of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This dividend shall be known as the base figure for equity distribution. This base figure shall be determined solely for purposes of performing the calculation for equity distribution and shall not be added to the amount received by a participant.

(d) Each city and town in the commonwealth shall be assigned a community preservation rank for purposes of the equity distribution. The commissioner shall determine each community's rank by first determining the municipality's equalized property valuation per capita ranking, ranking municipalities from highest to lowest valuation. The commissioner shall also determine the population of each municipality and rank each from

largest to smallest in population. The commissioner shall add each equalized property valuation rank and population rank, and divide the sum by two. The dividend is the community preservation raw score for that municipality.

(e) The commissioner shall then order each municipality by CP raw score, from the lowest raw score to the highest raw score. This order shall be the CP rank for each municipality. If more than one municipality has the same CP raw score, the municipality with the higher equalized valuation rank shall receive the higher CP rank.

(f) After determining the CP rank for each municipality in the commonwealth, the commissioner shall divide all municipalities into deciles according to their CP ranking, with approximately the same number of municipalities in each decile, and with the municipalities with the highest CP rank shall be placed in the lowest decile category, starting with decile 10. Percentages shall be assigned to each decile as follows:-

decile 1	140 per cent of the base figure.
decile 2	130 per cent of the base figure.
decile 3	120 per cent of the base figure.
decile 4	110 per cent of the base figure.
decile 5	100 per cent of the base figure.
decile 6	90 per cent of the base figure.
decile 7	80 per cent of the base figure.
decile 8	70 per cent of the base figure.
decile 9	60 per cent of the base figure.
decile 10	50 per cent of the base figure.

After assigning each municipality to a decile according to their CP rank, the commissioner shall multiply the percentage assigned to that decile by the base figure to determine the second round equity distribution for each participant.

(f) Notwithstanding any other provision of this section, the total state contribution for each city or town shall not exceed the amount raised by the municipality's surcharge on its real property levy.

(g) When there are monies remaining in the trust fund after the first and second round distributions, and any necessary administrative expenses have been paid in accordance with section 6, the commissioner may conduct a third round surplus distribution. Any remaining surplus in the fund may be distributed by dividing the amount of the surplus by the number of cities and towns that have accepted this chapter. The resulting dividend shall be the surplus base figure. The commissioner shall then use the decile categories and percentages as defined in this section to determine a surplus equity distribution for each participant.

(h) The commissioner shall determine each participant's total state grant by adding the amount received in the first round distribution with the amounts received in any later round or rounds of distributions, with the exception of a city or town that has already received a grant equal to 100 per cent of the amount the community raised by its surcharge on its real property levy.

(1) Only those cities and towns that adopt the maximum surcharge allowed by this chapter shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 per cent of the cities and towns in the commonwealth have accepted sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the commissioner may calculate the state grant with only one round of distributions, or in any other equitable manner.

(j) After distributing the trust fund in accordance with this section, the commissioner may keep any remaining funds in the trust for distribution in the following year.

Section 11. A city or town that accepts sections 3 to 7, inclusive, may issue, from time to time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3, the proceeds of which shall be deposited in the Community Preservation Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. Cities or towns that choose to issue bonds pursuant to this section shall make every effort to limit the administrative costs of issuing such bonds by cooperating among each other using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

Section 12. (a) A real property interest that is purchased with monies from the Community Preservation Fund shall be bound by a permanent deed restriction that meets the requirements of chapter 184, limiting the use of the interest to the purpose for which it was acquired. The deed restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The deed restriction may also run to the benefit of a nonprofit, charitable corporation or foundation selected by the city or town with the right to enforce the restriction.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.

Section 13. The community preservation committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund.

The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records.

Section 14. Notwithstanding the provisions of any general or special law to the contrary, every city and town may accept sections 3 to 7, inclusive, and may thereupon receive state grants under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not be precluded from participating in state grant programs.

State grant programs may include local adoption of this chapter among the criteria for selection of grant recipients. Funds in the Community Preservation Fund may be made available and used by the city or town as the local share for state or federal grants upon recommendation of the community preservation committee and the legislative body, as provided for in section 5, if such grants and such local share are used in a manner consistent with the recommendations of the community preservation committee.

Section 15. (a) A person who, without permission, knowingly carries away or steals, mutilates, destroys, damages, causes to be damaged or cuts any tree, shrub, grass or any other portion of real property purchased by a city or town with funds derived from this chapter shall be liable to the city or town in tort for such actions.

(b) Damages, including punitive damages for willful or wanton violation of this chapter or any rule or regulation issued or adopted hereunder, may be recovered in a civil action brought by the city or town or, upon request of the city or town, by the attorney general. The city or town or, upon request of the city or town, the attorney general, may bring an action for injunctive relief against any person violating this chapter or any rule or regulation issued hereunder. The superior court shall have jurisdiction to enjoin violations, to award damages and to grant such further relief as it may deem appropriate.

(c) Any damages, penalties, costs or interest thereon recovered pursuant to this section shall be deposited into the Community Preservation Fund of the city or town in which the violation occurred.

Section 16. (a) At any time after imposition of the surcharge, the legislative body may approve and the voters may accept an amendment to the amount and computation of the surcharge, or to the amount of exemption or exemptions, in the same manner and within the limitations set forth in this chapter.

(b) At any time after the expiration of five years after the date on which sections 3 to 7, inclusive, have been accepted in a city or town, said sections may be revoked in the same manner as they were accepted by such city or town, but the surcharge imposed under section 3 shall remain in effect in any such city or town, with respect to unpaid taxes on past transactions and with respect to taxes due on future transactions, until all contractual obligations incurred by the city or town prior to such termination shall have been fully discharged.

Section 17. The commissioner of revenue shall have the authority to promulgate rules and regulations to effect the purposes of this chapter.



**SECTION 2.** Section 38 of chapter 262 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge under section 8 of chapter 44B.

**SECTION 3.** Section 39 of said chapter 262, as so appearing, is hereby amended by adding the following paragraph:-

The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge under section 8 of chapter 44B.

Approved September 14, 2000.

**Chapter 268. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND TO THE TOWN OF NEW BRAINTREE IN THE TOWN OF NEW BRAINTREE.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance may notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, sell and convey by deed a parcel of state-owned land located in the town of New Braintree to the town of New Braintree, subject to this act.

The parcel, containing 12.60 acres, more or less, is shown on a plan entitled "Preliminary Plan of Land in New Braintree, MA, Owned by: Commonwealth of Massachusetts Division of Capital Asset Management Being Conveyed to the Town of New Braintree" dated March 10, 1998, prepared by Donald A. Para, Land Surveying Inc., on file in the office of the division of capital asset management and maintenance in this act referred to as the "parcel". The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey.

**SECTION 2.** The consideration to be paid by the town of New Braintree for the parcel described in section 1 shall be the full and fair market value of the interests as determined by the commissioner as determined by an independent appraisal. Said inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. Said inspector general shall prepare a report of his review and file the 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.

**SECTION 3.** No deed conveying the parcel to the town of New Braintree on behalf of the commonwealth shall be valid unless the deed provides that the parcel shall be used only for a public safety complex to be constructed by the town. The deed shall further provide that title to the parcel shall revert to the commonwealth in the event that the parcel ceases to be used solely for said purpose. Said deed shall reserve to the commonwealth perpetual easements for the installation, operation, maintenance, repair and replacement of any utilities located on the parcel and benefiting the commonwealth's state police training academy located on West Brookfield road in the town.

**SECTION 4.** The commissioner of the division of capital asset management and maintenance may sell water to the town of New Braintree for the purpose of providing drinking water and fire protection to the public safety complex subject to the following conditions: (a) said commissioner shall have determined that such sale shall not adversely affect the commonwealth state police training academy, (b) said town shall pay the commonwealth fair market value for water used by the public safety complex, as such fair market value may be established from time to time by said commissioner, (c) said town shall be responsible for all water quality testing and (d) said town shall hold harmless the commonwealth of any and all liability in this regard and will fund any and all construction costs, costs for water quality testing, metering and associated costs of such provision of water to the public safety complex.

**SECTION 5.** The town of New Braintree shall be responsible for the costs of any appraisals, surveys, including, without limitation, the costs of preparing a recordable plan and the costs of recording the plan with the appropriate registry of deeds or filing the plan with the appropriate registry district of the land court, and other expenses relating to the transfer of the parcel deemed necessary by the commissioner for the conveyance of the parcel to said town.

Approved September 14, 2000.

## **Chapter 269. AN ACT AUTHORIZING THE TOWN OF DENNIS TO DEPOSIT CERTAIN FUNDS INTO ITS CAPITAL IMPROVEMENTS FUND.**

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

**SECTION 1.** The town of Dennis may deposit proceeds from the sale of tax title foreclosure property directly into its Capital Improvements Fund established by chapter 104 of the acts of 1999.

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

Approved September 14, 2000.

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**Chapter 270. AN ACT DESIGNATING THE RECREATION CENTER AT THE  
TAUNTON STATE HOSPITAL AS THE RICHARD "RICKY"  
SILVIA RECREATION CENTER.**

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

The recreation center located at the Taunton state hospital shall be designated and known as the Richard "Ricky" Silvia recreation center. The department of mental health shall erect and maintain a suitable marker bearing the designation.

Approved September 14, 2000.

**Chapter 271. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF  
SWAMPSCOTT FROM THE CIVIL SERVICE LAW.**

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

**SECTION 1.** All positions in the department of public works and all maintenance positions in the school department of the town of Swampscott shall be exempt from chapter 31 of the General Laws.

**SECTION 2.** Section 1 shall not impair the civil service status of any person holding a position in the department of public works or a maintenance position in the school department on the effective date of this act.

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

Approved September 14, 2000.

**Chapter 272. AN ACT INCREASING THE MEMBERSHIP OF THE BOARD OF  
CEMETERY COMMISSIONERS OF THE TOWN OF DENNIS.**

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

**SECTION 1.** Notwithstanding section 22 of chapter 114 of the General Laws or any other general or special law to the contrary, the board of cemetery commissioners of the town of Dennis shall consist of five persons.

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

Approved September 14, 2000.

**Chapter 273. AN ACT AUTHORIZING THE TOWN OF KINGSTON TO ACQUIRE  
CERTAIN LAND IN THE TOWN OF PEMBROKE.**

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

**Chap. 273**

The town of Kingston, acting by and through its board of selectmen, may acquire, by purchase, gift or eminent domain, certain parcels of land or portions thereof located in the town of Pembroke for passive recreation and conservation purposes subject to a conservation restriction in favor of the city of Brockton for protection of its municipal drinking water supply. The parcels of land are shown on a plan entitled "Definitive Plan of Land of Christopher Jones Settlement dated September 30, 1996, Kingston, Massachusetts" and shown also on the Kingston Assessors' Map 1 as Lots 2 and 3 and on Map 7 as Lots 1, 2, 4 and 5, and on the Pembroke Assessors' Map D-1 as Lot 2.

Approved September 14, 2000.

**Chapter 274. AN ACT RELATIVE TO GIFTS OF PERSONAL PROPERTY TO MUNICIPALITIES.**

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

Chapter 44 of the General Laws is hereby amended by inserting after section 53A the following section:-

Section 53A½. A city council, with the mayor's approval if the charter so provides, or a board of selectmen or town council may, in its sole discretion and authority, accept gifts of tangible personal property on behalf of the city or town from the federal government, a charitable foundation, private corporation, individual, or from the commonwealth or any political subdivision thereof, and may, in its sole discretion and authority, use said gifts, without specific appropriation thereof, for the purpose of such a gift or, if no restrictions are attached to the gift, for such other purposes as it deems advisable.

Approved September 14, 2000.

**Chapter 275. AN ACT AUTHORIZING THE TOWN OF KINGSTON TO ACCEPT CERTAIN STREETS.**

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

**SECTION 1.** Notwithstanding chapters 79 and 82 of the General Laws or any other general or special law to the contrary, the town of Kingston may accept as public ways the streets listed in Article 38 of the annual town meeting of said town held on May 3, 1999.

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

Approved September 14, 2000.



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**Chapter 276. AN ACT RELATIVE TO THE HISTORIC DISTRICT COMMITTEE FOR THE TOWN OF DENNIS.**

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

**SECTION 1.** Section 5 of chapter 470 of the acts of 1973 is hereby amended by inserting after the fourth paragraph, inserted by section 1 of chapter 90 of the acts of 1994, the following paragraph:-

Notwithstanding the provisions of this section, the members of the historic district committee for the town of Dennis shall be elected at said town's annual election and shall serve for four year terms commencing on June 1 and ending on May 31.

**SECTION 2.** The terms of the incumbent members of this historic district commission for the town of Dennis on the effective date of this act whose terms expire on December 31 shall be extended until May 31 of the subsequent year.

Approved September 14, 2000.

**Chapter 277. AN ACT RELATIVE TO CERTAIN SEWER BETTERMENTS IN THE CITY OF GLOUCESTER.**

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

**SECTION 1.** Notwithstanding the provisions of sections 4, 12, 13, 16 and 17 of chapter 80 and section 23 of chapter 83 of the General Laws, or any other general or special law, the city of Gloucester code of ordinances sections 23-15 and 23-24 or the Gloucester city charter to the contrary, the city of Gloucester is hereby authorized to reassess certain sewer betterments for the North Gloucester sewer project which were assessed pursuant to a January 4, 2000 North Gloucester Sewer Betterment Commitment. Properties included in said reassessment and recommitment are those bettered and liened as part of North Gloucester sewer project Contracts 97-1 and 97-2 as identified and evidenced in recorded documents filed at the Essex south registry of deeds, Book 16125, page 95, et seq., recorded December 28, 1999; and Land Court Doc. #365403, recorded December 30, 1999. The sewer betterment assessments which are the subject of this act shall be reduced for developed properties by \$3,884 per property assessment, but in any event, to not less than \$20,030 per assessment.

The city shall also have the authority to amend the lien filings referred to herein to reflect the reduction from \$23,914. The effective time of the filing of the liens shall remain unchanged effective as provided by section 12 of chapter 80 of the General Laws.

Any interest to be paid by property owners on said reassessed betterments shall be calculated on the revised amounts of \$20,030 and not the amounts originally assessed.

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

Approved September 14, 2000.

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**Chapter 278. RELATIVE TO THE TRANSFER AND USE OF DEEDS EXCISE TAXES COLLECTED BY SUFFOLK COUNTY IN FISCAL YEAR 2000.**

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

**SECTION 1.** Notwithstanding section 5 of chapter 34B of the General Laws, chapter 127 of the acts of 1999, or any other general or special law to the contrary, 42.5 per cent of the taxes collected pursuant to chapter 64D of the General Laws by the Suffolk county registry of deeds during the fiscal year ending June 30, 2000 shall be transmitted to the Deeds Excise Fund for said county, and may be expended by said county for the purposes specified in section 12 of said chapter 64D.

**SECTION 2.** This act shall take effect as of July 1, 1999.

Approved September 19, 2000.

**Chapter 279. AN ACT AUTHORIZING THE TOWN OF WALPOLE TO ISSUE TWO ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Walpole may issue two additional restaurant licenses for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138. Such licenses shall be subject to said chapter 138 except said section 17.

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

Approved September 21, 2000.

**Chapter 280. AN ACT FURTHER REGULATING BICYCLE MESSENGERS IN THE CITY OF BOSTON.**

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

**SECTION 1.** The last paragraph of section 7 of chapter 302 of the acts of 1998 is hereby amended by inserting after the word "Laws" the following words:- and shall visibly display a commercial bicycle messenger identification device on the back or back pack of the bicycle messenger.

**SECTION 2.** The first sentence of section 10 of said chapter 302 is hereby amended by striking out the words "as provided under section 8,".

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**Chap. 280**

**SECTION 3.** The first sentence of section 11 of said chapter 302 is hereby amended by striking out the words "5 or".

Approved September 21, 2000.

**Chapter 281. AN ACT AUTHORIZING THE TOWN OF CLINTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

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

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Clinton may issue to KOSL, Inc., doing business as The Wine Merchant a license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138. The license shall be subject to said chapter 138 except said section 17. Upon the issuance of the license authorized in this act, KOSL, Inc., doing business as The Wine Merchant shall return to the town of Clinton its license for the sale of wines and malt beverages not to be drink on the premises.

Approved September 21, 2000.

**Chapter 282. AN ACT AUTHORIZING THE TOWN OF TRURO TO ESTABLISH A CAPITAL IMPROVEMENTS FUND.**

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

**SECTION 1.** The town of Truro may establish and maintain a special account to be known as the Capital Improvements Fund and may raise and appropriate money therefor.

**SECTION 2.** The Capital Improvements Fund shall be maintained by the town treasurer as a separate account. The treasurer may invest the funds in such separate account in the manner authorized in sections 55 and 55B of chapter 44 of the General Laws. Interest earned thereon shall be credited to and become part of the separate account.

**SECTION 3.** By a two-thirds vote at any special or annual town meeting the town may appropriate such sums as may be available in the Capital Improvements Fund for any capital purchase or expenditure of the town.

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

Approved September 21, 2000.

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**Chapter 283. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO HOLD A FALL ANNUAL TOWN MEETING.**

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

**SECTION 1.** Notwithstanding section 9 of chapter 39 of the General Laws or any other general or special law to the contrary, the town of Mashpee may hold an annual town meeting in September, October or November.

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

Approved September 21, 2000.

**Chapter 284. AN ACT PROVIDING FOR THE TEMPORARY CERTIFICATION OF TEACHERS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for temporary certification of teachers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** The first paragraph of section 38G of chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the definition of "Standard educator certificate" the following definition:-

"Temporary certificate", a license to teach which the commissioner of education may, at his discretion, issue to a person who holds a valid teaching certificate from another state and who has been employed under the certificate for a minimum of three years but has not satisfied the certification testing requirements contained in this section. The temporary certificate shall be valid for one year and is nonrenewable. Service under a temporary certificate shall be counted as service in acquiring professional teacher status, contingent upon the teacher passing the applicable certification tests.

**SECTION 2.** Said section 38G of said chapter 71, as so appearing, is hereby further amended by inserting after the word "standing", in lines 48 and 49, the following word:- , temporary.

Approved September 21, 2000.

**Chapter 285. AN ACT DESIGNATING CERTAIN PAVILIONS IN THE CITY OF REVERE AS THE SENATOR FRANCIS D. DORIS PAVILIONS.**

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

The metropolitan district commission pavilions, so-called, located on Revere Beach



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**Chap. 285**

Boulevard, directly across from the Elizabeth Doris Park, in the city of Revere, shall be designated and known as the Senator Francis D. Doris Memorial Pavilions, in memory of the late Senator Francis D. Doris. Suitable markers bearing such designation shall be attached thereto by the metropolitan district commission in compliance with the standards of the commission.

Approved September 28, 2000.

**Chapter 286. AN ACT RELATIVE TO COST OF LIVING ADJUSTMENTS TO RETIREES IN THE TOWN OF HINGHAM.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, section 103 of chapter 32 of the General Laws shall apply to and be considered accepted by the town of Hingham and the Hingham retirement system so that the Hingham retirement board may both vote to grant cost of living adjustments in accordance with said section 103 of said chapter 32 retroactive to July 1, 1998 and vote to grant cost of living increases greater than the percentage increase recommended by the public employees retirement administration commission, but not greater than 3 per cent annually, retroactive to July 1, 1998.

**SECTION 2.** The town of Hingham retirement board may grant costs of living adjustments in accordance with this act to both contributory and noncontributory members of the Hingham retirement system.

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

Approved September 28, 2000.

**Chapter 287. AN ACT AUTHORIZING THE TOWN OF HULL TO INCREASE THE PENSION OF FIREFIGHTER JOHN CLASBY.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary, and in order to promote the public good, the retirement board of the town of Hull is hereby authorized and directed to retire or increase the pension payable to John Clasby, a firefighter retired or to be retired in the fire department of the town of Hull who, as a result of injuries sustained by him while in the performance of his duties as a firefighter, is totally and permanently disabled for further service as a firefighter, upon determination in

accordance with the procedures and requirements of section 7 of chapter 32 of the General Laws that such member is unable to perform the essential duties of his job and that such inability is likely to be permanent and that he should be so retired. The annual amount of pension payable to John Clasby under the provisions of this act shall be fixed at an amount equal to the regular rate of compensation which he would have been paid had he continued in service as a firefighter for said town at the grade held by him at the time of his retirement. Said John Clasby shall be entitled to receive all annual cost of living adjustments in his annual pension granted under the provisions of any general or special law. Upon the effective date of this act, the retirement board of said town shall forthwith pay to him all the amounts standing to his credit in the annuity savings or annuity reserve funds for the retirement system of said town.

**SECTION 2.** The provisions of section 100 of chapter 41 of the General Laws shall apply to John Clasby, notwithstanding his retirement, relative to the indemnification by the town of Hull, for any hospital, medical or related expenses which may be incurred by him after the effective date of this act as a result of the incapacity mentioned in section 1, to the extent not covered by any other insurance or benefit program or source.

**SECTION 3.** Upon the death of John Clasby, the town of Hull shall pay to the surviving children of said John Clasby until the age of 18, a pension of equal proportion to each child which shall total three-fourths of the amount of the pension payable to said John Clasby at the time of his death; provided, however, that for any such child who reaches the age of 18 and is then attending or attends thereafter but before age 23 either a secondary school or an accredited post secondary school in an approved degree granting program, but excluding a program beyond an undergraduate degree, said payments shall continue or resume while such child is attending said program, as the case may be, until the age of 23. Upon such child reaching age 23 or no longer meeting the qualifications for receipt of the pension allocation as provided for in this section, such child's pension allocation shall cease and the remaining children who may qualify for said pension allocation shall continue to share equally in said three-fourths pension. When the last child reaches age 23 or no longer meets the qualifications for receipt of the pension allocation as provided for herein, the pension allocation shall cease and if said John Clasby left a wife who did not remarry, she shall continue to receive three-fourths of the pension so long as she remains unmarried or until her death.

**SECTION 4.** Should John Clasby have been retired by the effective date of this act, his pension payable under this act shall be deemed retroactive to the date of his retirement and he shall be entitled to receive in a lump sum the difference due.

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

Approved September 28, 2000.

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**Chapter 288. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF SURVIVORS OF VICTIMS OF HOMICIDE AWARENESS.**

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

Chapter 6 of the General Laws is hereby amended by inserting after section 15GGGG, inserted by chapter 94 of the acts of 2000, the following section:-

Section 15HHHH. The governor shall annually issue a proclamation setting apart the period from November 20th to December 20th, inclusive, as a time for survivors of homicide victims awareness and recommending that the time period be observed in an appropriate manner by the people.

Approved September 28, 2000.

**Chapter 289. AN ACT RELATIVE TO PLACEMENT OF THE BERKSHIRE COUNCIL OF GOVERNMENTS CHARTER ON THE NOVEMBER BALLOT.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the Berkshire charter commission shall submit to the voters of the county the proposed charter as amended by said charter commission on July 25, 2000. Notwithstanding the provisions of section 42C of chapter 54 of the General Laws, the state secretary shall cause the question of adopting said charter, and a summary thereof prepared by the attorney general, to appear on the biennial state election ballot in November 2000 in Berkshire county. Said charter shall take effect on January 1, 2001, if approved in at least 22 Berkshire county municipalities by a majority of those residents voting in each of those municipalities or if the total population of approving municipalities represents two-thirds of the total population of Berkshire county based on the rolling three-year average of the estimated population. The council shall organize as provided by the newly approved charter.

**SECTION 2.** Notwithstanding any general or special law to the contrary, the state secretary may, at his discretion, print the question regarding approval of the new charter creating the Berkshire Regional Council of Governments, which is to appear on the November 7, 2000 biennial state election ballot in Berkshire county pursuant to section 1, on a separate paper ballot for use in those municipalities where the question cannot sensibly be printed on the regular official ballot.

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

Approved September 28, 2000.

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**Chapter 290. AN ACT RELATIVE TO THE DISABILITY RETIREMENT OF  
DAVID FARIA OF THE TOWN OF DARTMOUTH.**

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

**SECTION 1.** Notwithstanding section 7 of chapter 32 of the General Laws, the accidental disability retirement allowance paid to retired police officer David Faria of the town of Dartmouth under said section 7 shall be increased to an amount equal to the retirement allowance to which he would have been entitled had he continued in service until the retirement date of October 1998.

**SECTION 2.** The Bristol county retirement board shall amend the retirement allowance of retired police officer David Faria to comply with this act. The town of Dartmouth shall be liable to the Bristol county retirement system for all costs and liabilities imposed upon said system pursuant to this act.

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

Approved September 28, 2000.

**Chapter 291. AN ACT RELATIVE TO CERTAIN VETERANS EMPLOYED BY  
BOSTON MEDICAL CENTER.**

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

**SECTION 1.** For the purpose of paragraph (h) of subdivision (1) of section 4 of chapter 32 of the General Laws, every veteran who had been employed by the department of health and hospitals in the city of Boston who was a member in service of the State-Boston retirement system on June 30, 1996 with not less than ten years of creditable service under said chapter 32, who thereafter became an employee of Boston Medical Center, shall be deemed to be a member in service as of the effective date of chapter 71 of the acts of 1996, if veterans eligible for creditable service under said paragraph (h) of said subdivision (1) of said section 4 of said chapter 32 hereunder make application for such creditable service within 180 days after the effective date of this act. Terms used in this act shall have the meaning given them in section 1 of chapter 32 of the General Laws.

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

Approved September 28, 2000.

**Chapter 292. AN ACT AUTHORIZING THE TOWN OF HINSDALE TO  
ESTABLISH A SEWER BETTERMENT RESERVE FUND.**

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

**SECTION 1.** Notwithstanding section 53 of chapter 44 of the General Laws or any



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other general or special law to the contrary, the town of Hinsdale may establish a separate fund to be known as the Sewer Betterment Reserve Fund. The town treasurer shall keep the Fund separate and apart from all other monies of the town and shall deposit in it all sewer betterment payments received by the town. The town 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 the town's sewer betterment debt.

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

Approved October 5, 2000.

**Chapter 293. AN ACT DESIGNATING STATE HIGHWAY ROUTE 213 IN METHUEN AS THE LOOP CONNECTOR.**

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

State highway route 213 in the city known as the town of Methuen shall be designated and known as the Loop Connector. The department of highways shall erect and maintain suitable markers bearing this designation in compliance with the standards of the department.

Approved October 5, 2000.

**Chapter 294. AN ACT RELATIVE TO THE POSSESSION OF ALCOHOLIC BEVERAGES IN MOTOR VEHICLES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate further the possession of alcoholic beverages in motor vehicles, 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.** Chapter 90 of the General Laws is hereby amended by striking out section 24I, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 24I. (a) As used in this section, the following words shall have the following meanings:

"Open container", any bottle, can or other receptacle used to contain a liquid that has been opened or has a broken seal, or the contents of which have been partially removed or consumed.

"Passenger area", the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in a seated position including, but not limited to, the glove compartment. But in a motor vehicle that is not equipped with a trunk, the passenger area shall not include a locked glove compartment, the area behind the last upright seat, or an area not normally occupied by the driver or a passenger.

(b) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, possesses an open container of alcoholic beverage in the passenger area of any motor vehicle shall be punished by a fine of not less than \$100 nor more than \$500.

(c) This section shall not apply to (1) the passengers of a motor vehicle designed, maintained and used for the transportation of persons for compensation, or (2) the living quarters of a house coach or house trailer.

**SECTION 2.** The joint committee on public safety shall study the feasibility, establishment, implementation and operation in the commonwealth of a safe rides program, so-called, designed and intended to provide transportation to individuals who find themselves in an unsafe situation. The committee shall complete its study and prepare a report of its findings and recommendations on or before December 1, 2000.

Approved October 10, 2000.

## **Chapter 295. AN ACT AUTHORIZING A PAYMENT IN LIEU OF TAXES AGREEMENT BETWEEN THE TOWN OF DRACUT AND NICKEL HILL ENERGY, LLC.**

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

**SECTION 1.** Notwithstanding section 38H of chapter 59 of the General Laws or any other general or special law to the contrary, the town of Dracut may enter into an agreement for payments in lieu of taxes with Nickel Hill Energy, LLC or its successors or assigns.

**SECTION 2.** Any such agreement described in section 1 approved by the annual town meeting of the town of Dracut on June 7, 1999 and any actions on or after that date are hereby ratified, validated, and confirmed in all respects and as though this act had been in full effect at the time of the execution of said agreement.

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

Approved October 12, 2000.

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**Chapter 296. AN ACT DESIGNATING CERTAIN BRIDGES IN THE TOWN OF WESTPORT AND THE TOWN OF NATICK.**

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

**SECTION 1.** The overpass on state highway route 88 spanning state highway route 177 in the town of Westport shall be designated and known as the Westport Firefighters Memorial Bridge, in honor of past firefighters who have served the town of Westport. The department of highways shall erect and maintain suitable markers on the bridge bearing the designation in compliance with the standards of the department.

**SECTION 2.** The bridge on Spring street spanning the Boston and Albany railroad tracks between Cochituate street and Middlesex avenue in the town of Natick shall be designated and known as the Alfred DeFlumeri and Michael DiGeronimo Memorial Bridge, in honor of Alfred DeFlumeri and Michael DiGeronimo, who gave their lives serving their country in World War II. The department of highways shall erect and maintain suitable markers on the bridge bearing the designation in compliance with the standards of the department.

**SECTION 3.** The bridge on Speen street spanning the Boston and Albany railroad tracks near West Central street in the town of Natick shall be designated and known as the Michael A. Torti Memorial Bridge, in honor of Michael A. Torti and his many years of service to the town of Natick. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved October 12, 2000.

**Chapter 297. AN ACT DESIGNATING A CERTAIN CAUSEWAY CONNECTING THE TOWN OF WESTPORT AND GOOSEBURY ISLAND AS THE THOMAS EDWARD PETTEY CAUSEWAY.**

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

The causeway connecting the town of Westport and Goosebury Island shall be designated and known as the Thomas Edward Pettey Causeway, in honor of Thomas Edward Pettey who died during the construction of the causeway on December 24, 1931. The department of environmental management shall erect and maintain a suitable marker on the causeway bearing the designation in compliance with the standards of the department.

Approved October 12, 2000.

**Chapter 298. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.**

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which

is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 53A of chapter 29 of the General Laws for the purpose of refunding outstanding bonds of the commonwealth shall be issued for a term not to exceed 30 years. All such bonds shall be payable not later than June 30, 2035, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter 584 of the acts of 1972, as amended by section 2 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2020, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 9 of chapter 765 of the acts of 1972, as amended by section 3 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2020, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 4.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 8 of chapter 803 of the acts of 1972, as amended by section 4 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2020, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 5.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 11 of chapter 723 of the acts of 1983, as amended by section 5 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.



**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 11L of chapter 723 of the acts of 1983, as amended by section 6 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 7.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 14 of chapter 799 of the acts of 1985, as amended by section 7 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 8.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 77 of chapter 206 of the acts of 1986, as amended by section 8 of chapter 195 of the acts of 2000, shall be issued for a term not to exceed seven years. All such bonds shall be payable not later than June 30, 2007, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 9.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter 202 of the acts of 2000 shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 10.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 3 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 11.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 4 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 12.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 5 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 13.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 6 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed five years. All such bonds shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 14.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 7 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 15.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 8 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 16.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 9 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 17.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 10 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2015, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 18.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 11 of chapter 235 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2024, as recommended by the governor in a

message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 19.** Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 49 of chapter 29 of the General Laws, as amended by section 15 of chapter 235 of the acts of 2000, in anticipation of the issuance of the bonds of the commonwealth, shall be issued and may be renewed one or more times for terms not exceeding three years. All such notes shall be payable not later than June 30, 2010, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 20.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 5 of chapter 237 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2021, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 21.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 6 of chapter 237 of the acts of 2000 shall be issued for a term not to exceed ten years. All such bonds shall be payable not later than June 30, 2011, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 22.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 4 of chapter 238 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

**SECTION 23.** Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 5 of chapter 238 of the acts of 2000 shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2025, as recommended by the governor in a message to the general court dated August 17, 2000, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

Approved October 17, 2000.

## **Chapter 299. AN ACT RELATIVE TO ZONING BY-LAWS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which



is to provide forthwith an alternative procedure for the attorney general to review zoning by-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 32 of chapter 40 of the General Laws is hereby amended by adding the following two paragraphs:-

Notwithstanding the provisions of the preceding paragraph, if the attorney general finds there to be any defect in the procedure of adoption or amendment of any zoning by-law relating to form or content of the notice of the planning board hearing prescribed in section 5 of chapter 40A, or to the manner or dates on which said notice is mailed, posted or published as required by said section 5, then instead of disapproving the by-law or amendment because of any such defect, the attorney general may proceed under the provisions of this paragraph. If the attorney general so elects, written notice shall be sent to the town clerk within a reasonable time setting forth with specificity the procedural defect or defects found, including a form of notice thereof, whereupon the running of the 90-day period provided for the attorney general's review pursuant to this section shall be suspended. The town clerk shall forthwith post the notice in a conspicuous place in the town hall for a period of not less than 14 days, and shall publish it once in a newspaper of general circulation in the town. The notice shall state that any resident, the owner of any real property in the town, or any other party entitled to notice of the planning board hearing, who claims that any such defect was misleading or was otherwise prejudicial may, within 21 days of the publication, file with the town clerk a written notice so stating and setting forth the reasons supporting that claim. Forthwith after the expiration of said 21 days, the town clerk shall submit to the attorney general either (a) a certificate stating that no claim was filed within the 21 day period, or (b) a certificate stating that one or more claims were filed together with copies thereof. Upon receipt of the town clerk's certificate, the 90-day period provided for the attorney general's review pursuant to this section shall resume; but if the expiration of the 90-day period is less than ten days from the date on which the town clerk's certificate was received, then the review period shall be extended to the tenth day following such receipt. If no claim was made, the attorney general may waive any such defect; but, if any claim is made then the attorney general may not waive any such defect. However, by not filing a claim under this paragraph, a person shall not be deprived of the right to assert a claim of invalidity arising out of any possible defect in the procedure of adoption or amendment as provided in this section and in section 5 of chapter 40A.

Notwithstanding the provisions of the first paragraph of this section, the attorney general and the town counsel may, by an agreement in writing setting forth the reasons therefor and filed with the town clerk before the end of the 90-day period, extend the 90-day period provided for the attorney general's review pursuant to this section for not more than an additional 90 days.

Approved October 18, 2000.



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**Chapter 300. AN ACT RELATIVE TO THE TAXATION OF A CERTAIN SOLID WASTE FACILITY IN THE TOWN OF BOURNE.**

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

Notwithstanding any general or special law to the contrary, the integrated solid waste management facility located in the town of Bourne shall be subject to the tax set forth in section 24A of chapter 16 of the General Laws.

Approved October 20, 2000.

**Chapter 301. AN ACT DIRECTING THE SUPERINTENDENT OF STATE OFFICE BUILDINGS TO INSTALL A PLAQUE HONORING MEMBERS OF THE UNITED STATES COAST GUARD.**

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

The superintendent of state office buildings shall, subject to the approval of the art commission as to size and content, install and maintain a plaque, in a suitable space in the east corridor to the right of the Great Hall on the second floor of the state house, in honor of the men and women of the United States Coast Guard.

Approved October 20, 2000.

**Chapter 302. AN ACT RELATIVE TO PUBLIC HOSPITALS.**

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

**SECTION 1.** Section 1 of chapter 111 of the General Laws is hereby amended by inserting after the word "employees", in line 30, as appearing in the 1998 Official Edition, the following words:- , or a public hospital and its agents and employees.

**SECTION 2.** Said section 1 of said chapter 111 is hereby further amended by inserting after the word "a", in line 35, the second time it appears, as so appearing, the following words:- public hospital or.

**SECTION 3.** Section 203 of said chapter 111, as so appearing, is hereby amended by inserting after the word "licensed", in lines 1, 8, 15 and 30, the following words:- or public.

**SECTION 4.** Said section 203 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 27, the words "shall, as a condition of licensure," and inserting in place thereof the following words:- , as a condition of licensure, and every public hospital shall.

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**SECTION 5.** Section 204 of said chapter 111 is hereby amended by inserting after the word "and", in line 3, as so appearing, the following words:- shall be exempt from the disclosure of public records under section 10 of chapter 66 but.

Approved October 20, 2000.

**Chapter 303. AN ACT RELATIVE TO DESIGNATING THE PETER G. PIRO MEMORIAL BRIDGE.**

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

The bridge on Cedar street between Clyde street and Franey road in the city of Somerville, now known as the Cedar street bridge, shall be known and designated as the Alderman Peter G. Piro Memorial Bridge, in memory of Alderman at Large Peter G. Piro of the Magoun square section of said city of Somerville, who devoted his adult life to the service of the public and in particular to the young adults of said city of Somerville. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

Approved October 26, 2000.

**Chapter 304. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF ANDOVER AS THE CAPTAIN GEORGE L. STREET BRIDGE.**

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

The bridge on Greenwood road spanning interstate highway Route 495 in the town of Andover shall be designated and known as the Captain George L. Street Bridge, in honor of United States Navy Captain George L. Street, who is a recipient of the Congressional Medal of Honor. The department of highways shall erect and maintain suitable markers bearing said designation in compliance with the standards of said department.

Approved October 26, 2000.

**Chapter 305. AN ACT AUTHORIZING THE TOWN OF LONGMEADOW TO OFFER A SENIOR DISCOUNT IN THE FEE CHARGED FOR THE USE OF THE TOWN'S RECYCLING CENTER.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the

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contrary, the town of Longmeadow, in the discretion of its board of selectmen, may charge a reduced fee for residents over the age of 65 for the use of the town's recycling center.

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

Approved October 27, 2000.

## Chapter 306. AN ACT RELATIVE TO THE TAXATION OF CERTAIN PROPERTY IN THE TOWN OF BELMONT.

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

**SECTION 1.** Notwithstanding paragraph (c) of clause Third of section 5 of chapter 59 of the General Laws or any other general or special law to the contrary, the personal and real property of a charitable organization, which property was acquired before 1911, located in the town of Belmont and providing treatment of mental diseases or mental disorders, shall be exempt from taxation if such property qualifies as exempt pursuant to the first paragraph of said clause Third.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the taxation of the real property described within a certain agreement entered into between the town of Belmont and the McLean Hospital Corporation dated November 22, 1999 shall be governed by said agreement.

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

Approved October 27, 2000.

## Chapter 307. AN ACT RELATIVE TO THE CONSERVATION COMMISSION OF THE TOWN OF BOXFORD.

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

The conservation commission of the town of Boxford may provide, by rules promulgated under this act, for the imposition of reasonable fees for the employment of outside consultants and shall account for and expend such funds in accordance with the provisions of section 53G of chapter 44 of the General Laws.

Approved November 1, 2000.

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## **Chapter 308. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF SUTTON.**

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

The charter of the town of Sutton is hereby amended by striking out Articles 1 to 8, inclusive, and inserting in place thereof the following eight Articles:-

### **ARTICLE 1**

#### **INCORPORATION; SHORT TITLE; POWERS**

##### **SECTION 1-1: INCORPORATION**

The inhabitants of the Town of Sutton within the corporate limits as established by law shall continue to be a body corporate and politic with perpetual succession under the name "Town of Sutton".

##### **SECTION 1-2: SHORT TITLE**

This instrument shall be known and may be cited as the Sutton Home Rule Charter.

##### **SECTION 1-3: POWERS OF THE TOWN**

Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the commonwealth, it is the intent and the purpose of the voters to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the commonwealth.

##### **SECTION 1-4: DIVISION OF POWERS**

The administration of all of the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch headed by a Board of Selectmen. The legislative powers of the town shall be vested in a Town Meeting open to all voters.

##### **SECTION 1-5: CONSTRUCTION**

The powers of the Town of Sutton under this charter are to be construed liberally in its favor and the specific mention of any particular power is not intended to limit in any way the general powers of the Town of Sutton as stated in section 1-3.

##### **SECTION 1-6: INTERGOVERNMENTAL RELATIONS**

Subject to the applicable requirements of any provision of the constitution or statutes of the commonwealth, the Town of Sutton may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or civil divisions or agencies thereof or the United States government or any one or more agencies thereof.

### **ARTICLE 2**

#### **LEGISLATIVE BRANCH**

##### **SECTION 2-1: TOWN MEETING**

The legislative powers of the town shall continue to be exercised by a Town Meeting open to all voters.

##### **SECTION 2-2: PRESIDING OFFICIAL**

The Moderator, elected as provided in section 3-6, shall preside at all Town Meetings. At the commencement of the annual spring Town Meeting the Moderator shall appoint a Deputy Moderator to serve as acting Moderator in the event of the temporary ab-



sence or disability of the Moderator. The Deputy Moderator shall serve until a successor is appointed by the Moderator and ratified by Town Meeting.

The Moderator, at Town Meetings, shall regulate the proceedings, decide all questions of order, make public declaration of all votes and may exercise such additional powers and duties as may be authorized by the General Laws, by this charter, by by-law or by vote of the Town Meeting, to the extent not inconsistent with the foregoing.

Until such time as the Town Meeting may act, by by-law, to adopt another manual or guide, the Town Meeting shall be governed by the rules of procedure in the most recent edition of "Town Meeting Time, A Handbook of Parliamentary Law", published by the Massachusetts Moderators Association.

### **SECTION 2-3: COMMITTEES**

(a) In General - Subject to the provisions of this charter and such by-laws or other Town Meeting votes regarding committees the Moderator shall appoint for fixed terms the members of such committees of the Town Meeting, special or standing, as may from time to time be established. In addition to such specific powers, duties and responsibilities as may be assigned to a Town Meeting committee by the by-law or vote establishing it, each such committee when acting within the scope of its authority shall have a right to the pertinent records of any town agency and to consult with, at reasonable times, any Town official, employee or agent.

(b) Finance and Warrant Advisory Committee - There shall be a Finance and Warrant Advisory Committee the members of which shall be appointed by the Moderator. The number of members, the term of office and any other conditions of appointment or service as may be deemed necessary or desirable shall be established by by-law. The subject matter of all proposals to be submitted to a Town Meeting by warrant articles shall be referred to the Finance and Warrant Advisory Committee by the Board of Selectmen at the earliest practicable time following their receipt by the Board of Selectmen. The Finance and Warrant Advisory Committee shall report its recommendations on every article contained in a Town Meeting warrant, in writing, together with a brief statement of the reasons for each such recommendation. Before preparing its recommendations the Finance and Warrant Advisory Committee shall hold one or more public hearings to permit public discussion of the subject matter of all articles contained in the warrant. The Finance and Warrant Advisory Committee shall have such additional powers and duties as may be provided by law or by by-law.

### **SECTION 2-4: TIME OF MEETING**

The Town Meeting shall meet in regular session at least twice in each calendar year. The first such meeting, will be held during May or June, on a date fixed by by-law. It shall be primarily concerned with the determination of matters involving the expenditure of town funds, including, but not limited to, the adoption of an annual operating budget, and for the determination of all other matters to be decided by the voters. The second such meeting will be held during the last four calendar months, on a date fixed by by-law.

### **SECTION 2-5: SPECIAL MEETINGS**

Special Town Meetings may be held at the call of the Board of Selectmen at such times as they deem necessary, or desirable, in order to transact the legislative business of the

town in an orderly manner. Special Town Meetings may also be held on the petition of 200 or more voters, in the manner provided by law.

**SECTION 2-6: 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 meeting is to convene and, by separate articles, the subject matter to be acted upon. The publication of the warrant for every Town Meeting shall be in accordance with town by-laws governing such matters.

**SECTION 2-7: INITIATION OF WARRANT ARTICLES**

(a) Initiation - The Board of Selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the Town Meeting and which are filed by (1) any multiple member body acting by a majority of its members, (2) any elected town official not a member of a multiple member body, or (3) any ten voters for a regular Town Meeting and any 100 voters for a special Town Meeting.

(b) Inclusion on the Warrant - The Board of Selectmen shall include on the warrant for a regular Town Meeting the subject matter of all petitions which have been received by it 60 or more days prior to the date filed by by-law for the Town Meeting to convene. Whenever a special Town Meeting is to be called, the Board of Selectmen shall give notice by publication in a local newspaper, and shall notify by mail Town Officials and chairpersons of multiple member bodies. The Board of Selectmen shall include in the warrant for such special Town Meeting the subject matter of all petitions which are received at its office on or before five o'clock in the afternoon of the fifth business day following such publication.

(c) Referral - Following the approval of the warrant, the Board of Selectmen shall mail a copy of the signed warrant to the residences of the Moderator, chairperson of the Finance and Warrant Advisory Committee, and provide copies to be posted in such places as required by by-law.

**SECTION 2-8: AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETINGS**

Every Town Official, the chairperson of each multiple-member body, the head of each department and the head of each division within the said departments shall attend all sessions of a Town Meeting for the purpose of providing information pertinent to matters appearing in the warrant.

In the event any Town Official, chairperson of a multiple-member body, department head or division head is to be absent due to illness or other reasonable cause, such person shall designate a Deputy to attend to represent the office, multiple-member body, department or division. If any person designated to attend the Town Meeting under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section.

**SECTION 2-9: CLERK OF THE MEETING**

The Town Clerk shall serve as clerk of the Town Meeting, give notice of all adjourned sessions thereof, record its proceedings, and perform such additional duties in connection therewith as may be provided by the General Laws, by this charter, by by-law or by other Town Meeting vote.

**SECTION 2-10: RULES OF PROCEDURE**

The Town Meeting may, by by-law, establish and from time to time amend, revise, or repeal rules to govern the conduct of Town Meetings.

**ARTICLE 3  
ELECTED OFFICIALS**

**SECTION 3-1: IN GENERAL**

(a) Elective Offices - The offices to be filled by the voters shall be a Board of Selectmen, a School Committee, three members of a Planning Board, a Board of Library Trustees, and a Town Moderator. In addition, four members of a Housing Authority and such other officials or representatives to regional authorities or districts as may be established by by-law or by inter-local agreement may also be filled by ballot at town elections.

(1) Eligibility - Any voter shall be eligible to hold any elective town office, provided however, no person shall simultaneously hold more than one elected town office as defined in this section.

(c) Town Election - The annual election of Town Officials and the determination of all questions to be provided by by-law.

(d) Compensation - Elected Town Officials shall receive such compensation for their services as may be appropriated, annually, for such purpose.

(e) Availability - Notwithstanding their election by the voters, the Town Officials named in this section shall be subject to the call of the Board of Selectmen or of the Town Administrator, at all reasonable times, for consultation, conference and discussion on any matter relating to their respective offices.

(f) Filling of Vacancies -

(1) Multiple-member Body - If there is a vacancy in a board consisting of two or more members, other than the Board of Selectmen the remaining members shall forthwith give written notice to the Board of Selectmen of the existence of any such vacancy. After seven days public notice of the date on which the vote shall be taken, the Board of Selectmen, with the remaining members or member of such board shall fill such vacancy by a joint roll call vote. If the multiple-member body does not give such notice to the Board of Selectmen within 30 days following the date on which said vacancy occurs, the Board of Selectmen shall, after seven day's public notice, fill such vacancy without participation by the remaining members or member of the multiple-member body.

(2) Board of Selectmen - If there is a failure to elect, or if a vacancy occurs in the office of Selectmen and six months or more will elapse before the next annual town election, the remaining Selectmen shall, forthwith, call a special election to fill the vacancy. If a vacancy occurs in the office of selectman and more than three but less than six months will elapse before the next annual town election, the remaining Selectmen may call a special election to fill the vacancy or, upon the written request of not less than 200 registered voters of the town, the Board of Selectmen shall forthwith call such special election.

(g) Recall of Elected Officials



(1) Application - Any person who holds an elected town office, with more than six months remaining of the term of office, may be recalled from the office by the voters in the manner provided in this section.

(2) Recall Petitions - A recall affidavit, signed by at least 50 voters in each of the precincts into which the town is divided, may be filed with the Town Clerk containing the name of the official whose recall is sought and a statement of the grounds for recall. The Board of Registrars of Voters shall certify such petitions with regard to the sufficiency and validity of the signatures of voters. The Town Clerk, within seven days following such filing, shall deliver to the ten persons first named on such petitions, petition blanks demanding said recall. The Town Clerk shall keep available printed petition forms. They shall be addressed to the Board of Selectmen, contain the typewritten names of the ten persons to whom they are issued and the grounds for recall as stated in the affidavit. The petitions shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. A copy of the petitions shall be entered into the record book to be kept in the office of the Town Clerk.

The recall petitions shall be returned to the office of the Town Clerk within 14 days following the date they are issued, signed by at least 50 per cent of the total number of persons who voted at the most recent annual town election.

The Town Clerk shall, within one day following such filing, submit the petitions to the Board of Registrars of Voters who shall, within five days, thereafter, certify thereon the number of signatures which are the names of voters.

(3) Recall Elections - If the petitions are certified by the Registrars of Voters, the Town Clerk shall forthwith submit the same with a certificate to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall forthwith give notice, in writing, of said petition to the official whose recall is sought. If said official does not resign from office within five days following delivery of the said notice, the Board of Selectmen shall order a special election. This special election shall be held not less than 60 nor more than 90 days after the date of the certification of the Town Clerk that the petition is sufficient. If a regular annual town election is to be held within 90 days following the date of said certificate the recall election shall be held in conjunction therewith and not at a special election. If a vacancy occurs in the position from which the official is being recalled after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(4) Nomination of Candidates - An official whose recall is sought will be a candidate to succeed to the same office. Unless the official requests otherwise in writing, the Town Clerk shall place the name of the official on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the election shall all be in conformity with the provisions of law relating to town elections generally, unless otherwise provided in this section.

(5) Propositions on the Ballot -



(a) Ballots used at the recall election shall state the proposition in the order indicated:  
For the recall of (name of official)

Against the recall of (name of official)

Adjacent to each proposition shall be a place to vote for either of said propositions.

If a majority of the votes cast is in favor of the recall, and provided at least 25 per cent of the total number of registered voters as of the date of the most recent town election have participated at such recall election, the official shall be deemed to be recalled.

(b) After the said proposition shall appear the word "candidates" and the names arranged alphabetically. If the official is recalled, the ballots for candidates shall then be counted, and the candidate receiving the highest number of votes shall be declared elected.

(6) Officeholder - The incumbent shall continue to hold office and perform the duties until the recall election. If not then recalled, the official shall continue in office for the remainder of the unexpired term, subject to recall as provided in paragraph (7).

If the official is recalled, the office shall be deemed vacant upon the certification of the election results. The candidate who receives the highest number of votes shall serve for the balance of the unexpired term.

(7) Repeat of Recall Petition - No recall shall be filed:

(a) against an official within six months after taking office,

(b) or in the case of an official subjected to a recall election and not recalled thereby, until at least six months after the election at which the recall was submitted to the voters.

### **SECTION 3-2: BOARD OF SELECTMEN**

(a) Composition, Term of Office - There shall be a Board of Selectmen consisting of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The executive powers of the town shall be vested in the Board of Selectmen which shall be the chief executive office. The Board of Selectmen shall have all of the executive powers it is possible for a Board of Selectmen to have and to exercise. The Board of Selectmen shall serve as the chief policy making agency. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it. The Board of Selectmen shall work in conjunction with other Town Officials to develop and to promulgate policy guidelines designed to bring all agencies of the town into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of them, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines which are to be implemented by officials and employees appointed by or under its authority.

The Board of Selectmen shall cause a record of all its official acts to be kept. To aid in the performance of its duties, the Board of Selectmen shall appoint a Town Administrator as provided in Article 4.

Except as otherwise provided by the General Laws, this charter, or specified by by-

law, or expressly voted by Town Meeting, no member of the Board of Selectmen shall be a member of any other town board or committee.

(c) Appointment Powers - The Board of Selectmen shall appoint a Town Administrator. The Board of Selectmen shall appoint such other Town Officials and members of multiple-member bodies, the primary responsibilities of which are policy making and not administrative and such other positions as may be provided by by-law.

(d) Licensing Authority - The Board of Selectmen shall be the licensing board for the town and shall have power to issue licenses authorized by law. It shall also make all necessary rules and regulations regarding the issuance of such licenses and attach conditions and impose restrictions on any such license as it deems to be in the public interest, and enforce all laws relating to all businesses for which it issues any licenses.

### **SECTION 3-3: SCHOOL COMMITTEE**

(a) Composition, Term of Office - There shall be a School Committee consisting of five members elected for terms of three years each so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The School Committee shall have all of the powers and duties which are given to School Committees by General Laws and it shall have such additional powers and duties as may be authorized by this charter, or by by-law, or by Town Meeting vote.

### **SECTION 3-4: LIBRARY TRUSTEES**

(a) Composition, Term of Office - There shall be a Board of Library Trustees of three members, elected for terms of three years each and arranged such that the terms of one member shall expire each year.

(b) Powers and Duties - The Board of Library Trustees shall be responsible for the management and supervision of the free public libraries of the town. The Board of Library Trustees shall have all other powers and duties which are given to library trustees by the General Laws and shall have such additional powers and duties as are provided by charter, or by by-law or by Town Meeting vote, as well as any powers, duties and responsibilities as may be imposed by the terms of any applicable trust.

### **SECTION 3-5: TOWN MODERATOR**

(a) Term of Office - There shall be a Town Moderator elected for a term of three years.

(b) Powers and Duties - The Town Moderator shall be the presiding official of the Town Meeting, as provided in section 2-2, regulate its proceedings and perform such other duties as may be provided by the General Laws, by charter, by by-law or by Town Meeting vote.

The Moderator shall appoint the Finance and Warrant Advisory Committee and shall appoint the members of all committees established by vote of the Town Meeting unless otherwise provided.

### **SECTION 3-6: PLANNING BOARD**

(a) **Composition, Term of Office** - There shall be a Planning Board consisting of five members of whom three shall be elected for terms of three years each, so arranged that the term of one member shall expire each year and the remaining two members shall be appointed by the Board of Selectmen for terms of three years each, so arranged that the terms expire in different years.

(b) **Powers and Duties** - The Planning Board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of the town. The board shall make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The board shall regulate the subdivision of land within the town by adoption of rules and regulations governing such development and the administration of such rules and regulations. The Planning Board shall make recommendations to the Town Meeting on all matters affecting land use and development, including the zoning by-law of the town. The Planning Board shall recommend to the Town Administrator the appointment of a Town Planner, and shall supervise the duties of the Town Planner.

The Planning Board shall make an annual report, giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs. The Planning Board shall have all of the other powers and duties as provided by the General Laws.

#### **SECTION 3-7: SUTTON HOUSING AUTHORITY**

(a) **Composition, Term of Office** - There shall be a Housing Authority which shall consist of five members serving for terms of five years each, so arranged that the term of one member shall expire each year. Four of these members shall be elected by the voters, and the fifth member shall be appointed by the department of housing and community development of the commonwealth, or as may otherwise be provided by law.

(b) **Powers and Duties** - The Housing Authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly persons of low income. The Housing Authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

#### **SECTION 3-8: BLACKSTONE VALLEY REGIONAL VOCATIONAL SCHOOL DISTRICT COMMITTEE (Sutton Representative)**

(a) **Composition, Term of Office** - The voters shall elect such members of the Blackstone Valley Regional Vocational School Committee for such terms as may be provided under the agreement and laws establishing the same.

(b) **Powers and Duties** - The members of the Blackstone Valley Regional Vocational School Committee shall, along with members of the committee from other municipalities participating therein, be responsible for the management and supervision of the said school according to the agreement and laws governing the same.

### **ARTICLE 4**

#### **TOWN ADMINISTRATOR**

##### **SECTION 4-1: APPOINTMENT; QUALIFICATION; TERM**

The Town Administrator shall be appointed solely on the basis of demonstrated ex-



executive and administrative qualifications from a list prepared by a screening committee established by by-law. The Board of Selectmen shall appoint the Town Administrator and shall fix the term and compensation for such person. The Town Administrator shall be a person especially fitted by education, training and previous experience in public administration to perform the duties of the office. A Town Administrator need not be a resident of the town or of the Commonwealth at the time of appointment or at any time during the period of such service. The Town Administrator shall not have served as an elected official in the Town of Sutton for at least 12 months prior to appointment. The town may from time to time establish, by by-law, such additional qualifications as necessary and appropriate.

The Town Administrator shall devote full time to the office and shall not hold any other town elected or appointed office, or engage in any other business or occupation during such service, unless such action is approved in advance and in writing by the Board of Selectmen.

Each member of the Board of Selectmen shall complete an annual written review of the job performance of the Town Administrator. A summary of the overall evaluation shall be a public record.

#### **SECTION 4-2: POWERS AND DUTIES**

The Town Administrator shall be the chief administrative official of the town, directly responsible to the Board of Selectmen for the administration of all town affairs for which the office of Town Administrator is given responsibility under this charter. The powers and duties of the Town Administrator shall include, but are not limited to, the following:

(a) To supervise, direct, and be responsible for the efficient administration of all functions and activities for which the office of Town Administrator is given authority, responsibility, or control.

(b) To appoint, subject to the provisions of the civil service law and of any applicable collective bargaining agreements, all department heads, officials, members of multiple-member bodies, for whom no other method of selection is provided by this charter. Such appointments shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the Board of Selectmen, unless the Board of Selectmen shall within that period by a majority of all of its members vote to reject such appointment or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the Board of Selectmen.

(c) To remove or suspend in appropriate circumstances appointed officials and employees pursuant to section 7-8 of Article 7.

(d) To be the administrator of a town personnel system including, but not limited to, personnel policies and practices, rules and regulations including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town. The Town Administrator shall also prepare and periodically review at least every five years a plan establishing the personnel staffing and job classification for each town agency and positions therein, except the school department.



(e) To attend all regular and special meetings of the Board of Selectmen, unless unavailable for reasonable cause.

(f) To maintain full and complete records of the financial and administrative activities of the town. The Town Administrator shall render a quarterly report of such activities to the Board of Selectmen and a copy shall be placed on file with the Town Clerk.

(g) To keep the Board of Selectmen fully advised as to the needs of the town and to recommend to the Board of Selectmen, and to other elected Town Officials and agencies, action required by them or by the Town Meeting.

(h) To have full jurisdiction over the rental and use of all town facilities and property except school property and property under the control of the conservation commission. The Town Administrator shall be responsible for the maintenance and repair of all town buildings and facilities placed under the Town Administrator's control.

(i) To prepare and present, in the manner provided in Article 6, an annual operating budget for the town, a staffing plan pursuant to the Administrative Code as defined in subsection (b) of section 5-1 of Article 5 and conforming with subsection (d) of section 4-2 of this Article, and a proposed capital outlay program for the five fiscal years next ensuing.

(j) To maintain a complete inventory of all real and personal property of the town including all property under the jurisdiction of the School Committee.

(k) To negotiate all contracts involving any subject within the jurisdiction of the office of Town Administrator, including contracts with town employees, except employees of the school department, involving wages, hours, and other terms and conditions of employment.

(l) To be responsible for purchasing all supplies, material, and equipment for all departments and activities of the town but not including food for schools, school books, and other instructional material, supplies and equipment unless otherwise specifically requested by the School Committee. The Town Administrator shall examine, or cause to be examined the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency except schools. The Town Administrator shall be responsible for the disposal of all supplies, material, and equipment which have been declared surplus by any town agency.

(m) To see that all of the provisions of the General Laws, this charter, town by-laws, other votes of the Town Meeting and votes of the Board of Selectmen which require enforcement by the Town Administrator or officials subject to the direction and supervision of the Town Administrator are faithfully executed, performed or otherwise carried out.

(n) To inquire at any time into the conduct and operation of office or performance of duties of any official or employee, department, board, commission, or other town agency except schools.

(o) To attend all sessions of all Town Meetings and answer questions raised by voters which relate to warrant articles and to matters over which the Town Administrator exercises any supervision.

(p) To reorganize, consolidate or abolish, in the manner provided in Article 5 town

agencies serving under the supervision of the Town Administrator, in whole or in part, and to provide for new town agencies, and to provide for a reassignment of powers, duties and responsibilities among such agencies so established or existing.

(q) To coordinate the activities of all town agencies serving under the office of Town Administrator and the office of Board of Selectmen with those under the jurisdiction of other officials and multiple-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.

(r) To perform any other duties as are required to be performed by the Town Administrator by by-laws, administrative code, votes of Town Meeting, votes of the Board of Selectmen, or otherwise.

(s) To establish a Personnel Resource Development Committee and maintain a talent resource bank of prospective volunteers for town service.

#### **SECTION 4-3: DELEGATION OF AUTHORITY**

The Town Administrator may authorize any subordinate official or employee to exercise any power or perform any function or duty which is assigned to the office of Town Administrator, provided however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the Town Administrator.

#### **SECTION 4-4: ACTING TOWN ADMINISTRATOR**

(a) Temporary Absence - By letter filed with the Town Clerk, the Town Administrator shall designate a qualified town official or employee to exercise the powers and perform the duties of Town Administrator during a temporary absence. During a temporary absence the Board of Selectmen may not revoke such designation until at least ten working days have elapsed, whereupon the Board of Selectmen may appoint another qualified town official or employee to serve until the Town Administrator shall return.

(b) Vacancy - Any vacancy in the office of Town Administrator must be filled by the Board of Selectmen. Pending such regular appointment, the Board of Selectmen must appoint a qualified town official or employee to perform the duties of the office on an acting basis. Such temporary appointment may not exceed three months, but one renewal may be voted by the Board of Selectmen not to exceed a second three months. The Board of Selectmen shall set compensation for such person.

(c) Powers and Duties - The powers of an acting Town Administrator, shall be limited to urgent matters and shall include temporary or emergency appointments or employment.

#### **SECTION 4-5: REMOVAL**

The Board of Selectmen may, by a majority vote of the full board terminate and remove the Town Administrator from office in accordance with the following procedure.

(a) The Board of Selectmen shall adopt by the affirmative vote of a majority of all its members a preliminary resolution of removal that must state the reason or reasons for removal. This preliminary resolution may suspend the Town Administrator for a period not

to exceed 45 days. A copy of the resolution shall be delivered to the Town Administrator forthwith.

(b) Within five days after receipt of the preliminary resolution the Town Administrator may request a public hearing by filing a written request for such hearing with the Board of Selectmen. This hearing shall be held at a meeting of the Board of Selectmen not less than 20 days nor later than 30 days after the request is filed the Town Administrator may file with the Board of Selectmen a written statement responding to the reasons stated in the resolution of removal, provided the same is received at its office more than 48 hours in advance of the public hearing.

(c) The Board of Selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members, not less than ten nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the Town Administrator, if the Town Administrator has not requested a public hearing; or, within ten days following the close of the public hearing. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal and the Town Administrator shall, at the expiration of said time, forthwith resume the duties of the office. The Town Administrator shall continue to receive a salary until the effective date of a final resolution of removal.

The action of the Board of Selectmen under this section shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such action solely in the Board of Selectmen.

## ARTICLE 5

### ADMINISTRATIVE ORGANIZATION

#### SECTION 5-1: ORGANIZATION OF TOWN AGENCIES

The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the following methods provided in this article.

(a) By-laws - Subject to express prohibitions in the General Laws or the provisions of this charter, the Town Meeting may, by by-law, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part. The Town Meeting may also establish such new town agencies as it deems necessary or advisable, determine the manner of selection, the term of office and prescribe the functions of all such entities; provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or, unless this charter specifically so provides, assigned to any other.

(b) Administrative Code - The Town Administrator, after consultation with the Board of Selectmen, may from time to time prepare and submit to the Town Meeting plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.

Whenever the Town Administrator prepares such a plan, the Board of Selectmen shall hold one or more public hearings on the proposal. The Board of Selectmen shall give notice



by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than seven nor more than 14 days following said publication. Following such public hearing, the proposal, which may have been amended subsequent to the public hearing, shall be submitted to the Town Meeting by an appropriate warrant article.

An organization or reorganization plan shall become effective at the expiration of 60 days following the date of adjournment of the Town Meeting at which the proposal is submitted unless the Town Meeting disapproves of the plan by a majority vote. The Town Meeting may vote only to approve or to disapprove the plan and may not vote to amend it.

The Town Administrator may, through the administrative code, and subject to express prohibitions in the General Laws, or this charter, reorganize, consolidate or abolish any town agency, in whole or in part. The Town Administrator may establish such new town agencies as is deemed necessary to the same extent as is provided in subsection (a) of section 5-1, for by-laws. The Town Administrator may for such purpose transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another, but no function assigned by this charter to a particular town agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

#### **SECTION 5-2: MERIT PRINCIPLE**

All appointments and promotions of Town Officials and employees shall be made on the basis of merit and fitness, demonstrated by examination or other evidence of competence and suitability.

### **ARTICLE 6**

#### **FINANCE AND FISCAL PROCEDURES**

##### **SECTION 6-1: FISCAL YEAR**

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by the General Laws.

##### **SECTION 6-2: SCHOOL COMMITTEE BUDGET**

(a) Public Hearing - At least seven days before the meeting at which the School Committee is to vote on its final budget request, the School Committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget, and the reasons for such changes. It shall further indicate the times and places at which complete copies of its proposed budget are available for examination by the public, and the date, time and place when a public hearing will be held by the School Committee on the proposed budget. The School Committee shall take its final vote on its proposed budget not sooner than at its next regularly scheduled meeting following the public hearing.

(b) Submission to Town Administrator - The budget as adopted by the School Committee shall be submitted to the Town Administrator within the time fixed by by-law, to enable the Town Administrator to consider the effect of the school department's requested appropriation upon the total town operating budget.



### **SECTION 6-3: SUBMISSION OF BUDGET AND BUDGET MESSAGE**

Within the time fixed by by-law the Town Administrator, after consultation with the Board of Selectmen, shall submit to the Finance and Warrant Advisory Committee a proposed operating budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. The Town Administrator shall simultaneously provide for the publication in a local newspaper of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. Said publication shall further indicate the times and places at which complete copies of the proposed operating budget are available for examination by the public.

### **SECTION 6-4: BUDGET MESSAGE**

The budget message of the Town Administrator shall explain the budget for all town agencies both in programmatic and fiscal terms. It shall outline proposed financial policies of the town for the ensuing fiscal year, including a description of important features of the budget, an indication of any major variations from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position, and include other material as the Town Administrator deems desirable, or the Selectmen may require.

### **SECTION 6-5: THE BUDGET**

The proposed operating budget shall provide a complete financial plan for all town funds and programs for the ensuing fiscal year. Except as may otherwise be required by the General Laws, or this charter, it shall be in the form the Town Administrator deems desirable. The budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures, including debt service, for the following year. The budget shall be arranged to show the actual and estimated income and expenses for the previous, current and ensuing fiscal years and shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency; and
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by town agency; and
- (c) Estimated surplus revenue and free cash at the end of the current fiscal year, and estimated balances in any special accounts established for specific purposes.

### **SECTION 6-6: ACTION ON THE BUDGET**

(a) Public Hearing - Upon its receipt of the proposed operating budget, the Finance and Warrant Advisory Committee shall provide for the publication in a local newspaper of a notice stating the time and place of the public hearing on the proposed operating budget as submitted. Such hearing shall not be less than seven nor more than 14 days following such publication.

(b) Review - The Finance and Warrant Advisory Committee shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer

with representatives of each such agency in connection with its review and consideration. The Finance and Warrant Advisory Committee may require the Town Administrator, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget, and shall require the attendance of a representative of each town agency.

(c) Action by Town Meeting - The Finance and Warrant Advisory Committee shall file a report containing its recommendations for actions on the proposed operating budget, which report shall be available at least seven days before the date on which the Town Meeting acts on the budget. When the budget proposed by the Town Administrator is before the Town Meeting for action it shall first be subject to amendments, if any, proposed by the Finance and Warrant Advisory Committee before any other amendments may be proposed. Any amendment offered at Town Meeting, shall include its funding source and shall not create a deficit in the proposed budget.

#### **SECTION 6-7: CAPITAL PLANNING PROGRAM**

The Town Administrator shall submit a capital planning program to the Board of Selectmen and the Finance and Warrant Advisory Committee as part of the annual budget process including:

(a) a list of all capital improvements proposed to be undertaken during each of the ensuing five years, with supporting information as to the need for each capital improvement;

(b) cost estimates, proposed methods of financing, and recommended time schedules for each improvement; and,

(c) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved.

This information is to be annually revised by the Town Administrator with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

#### **SECTION 6-8: APPROVAL OF WARRANTS**

The Town Administrator shall be the chief financial official of the town.

Warrants for the payment of town funds prepared by the Town Accountant in accordance with the provisions of the General Laws shall be submitted to the Town Administrator. The approval of any such warrant by the Town Administrator 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 the Town Administrator, or a vacancy in the office of Town Administrator.

### **ARTICLE 7**

#### **GENERAL PROVISIONS**

##### **SECTION 7-1: CHARTER CHANGES**

This charter may be amended, restated or replaced in accordance with its terms and pursuant to the state constitution and the General Laws.

##### **SECTION 7-2: SEVERABILITY**

The provisions of this charter are severable. If any provision of this charter is held

invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

### **SECTION 7-3: SPECIFIC PROVISIONS TO PREVAIL**

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provisions shall prevail.

### **SECTION 7-4: NUMBER AND GENDER**

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

### **SECTION 7-5: DEFINITIONS**

Unless another meaning is clearly apparent from the context in which the word is used, the following words as used in this charter shall have the following meanings:

(a) Charter - The word "charter" shall mean this charter as the same may hereafter be amended or restated.

(b) Days - The word "days" shall refer to calendar days, including Saturday, Sunday, and holidays.

(c) Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence, event, or condition which necessitates immediate action.

(d) General Laws - The words "General Laws" shall mean laws which apply alike to all cities and towns, to all towns, or to a class of municipalities of which Sutton is a member specifically including the General Laws of Massachusetts, as amended.

(e) Local Newspaper - The words "local newspaper" shall mean a daily or weekly newspaper of general circulation in the Town of Sutton.

(f) Majority Vote - The words "majority vote" shall mean a majority of those present and voting, provided that a quorum of the body is present when the vote is taken, unless a higher number is required by law.

(g) Multiple-member Body - The words "multiple-member body" shall mean any town body consisting of three or more persons and whether titled board, commission, committee, subcommittee, or otherwise, whether elected, appointed or otherwise constituted.

(h) Quorum - The word "quorum", unless otherwise required by law or this charter, shall mean a majority of the members of a multiple-member body then in office, excluding any vacancies which might then exist.

(i) Town - The word "town" shall mean the Town of Sutton.

(j) Town Agency - The words "town agency" shall mean any department, division or office of the town government.

(k) Town Bulletin Board - The words "town bulletin board" shall mean the bulletin board in the town hall on which official town notices are posted and such other locations within the town which may from time to time be designated as town bulletin boards by by-



law, or by vote of the Board of Selectmen.

(l) Town Official - The words "Town Official" when used without further qualification or description, shall mean a person having charge of a town agency, or a member of a multiple-member-body of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

(m) Voters - The word "voters" shall mean registered voters of the Town of Sutton.

#### **SECTION 7-6: RULES AND REGULATIONS**

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the Town Clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until ten days following the date it has been so filed in the office of the Town Clerk.

#### **SECTION 7-7: CHARTER AND BY-LAW REVIEW**

##### **A. By-law and Charter Review Committee**

(1.) Purpose- A standing By-law and Charter Review Committee shall be established to provide an annual review of all General By-laws, exclusive of Zoning By-laws, and the Home Rule charter.

(2.) Composition- The By-law and Charter Review Committee shall consist of five members, two to be appointed by the Town Moderator and three to be appointed by the Board of Selectmen. Members of the By-law and Charter Review Committee shall serve for an indefinite term.

(3.) Duties- The By-law and Charter Review Committee shall

. Investigate and review specific portions of the general by-laws and Home Rule Charter.

. Submit an annual report to the Board of Selectmen.

. Meet annually with the Board of Selectmen regarding annual review and suggested changes.

. Recommend changes, additions, and deletions to general by-laws and Home Rule Charter.

. Act as a resource for town boards, committees and officials to interpret the meaning and language of the Home Rule Charter and general by-laws as deemed necessary.

B. Attorney General Approval- Subsequent to enactment by the Town Meeting, copies of the revised charter and by-laws shall be forwarded to the attorney general of the commonwealth for approval, and they shall be otherwise published, all as required by the General Laws. Copies of the revised by-laws shall be made available for distribution to the public.

#### **SECTION 7-8: REMOVALS AND SUSPENSIONS**

Any appointed official, member of a multiple-member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed



for a fixed or an indefinite term, may be suspended or removed from office, without compensation, by the appointing authority for good cause. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.

Any appointed official, member of a multiple-member body or employee of the town may be suspended from office by the appointing authority if such action is deemed by said appointing authority to be necessary to protect the interests of the town. However, no suspension shall be for more than 15 days. Suspension may be concurrent with removal and shall not interfere with the rights of the official or employee under the removal procedure given below.

The appointing authority when removing any such official, member of a multiple-member body or employee of the town, shall act in accordance with the following procedure:

(a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by registered mail or certified mail, return receipt requested, to the last known address of the person sought to be removed.

(b) Within five days following delivery of such notice the official, member of a multiple-member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(c) Between one and ten days after the public hearing is adjourned, or if the official, member of a multiple-member body or employee of the town fails to request a public hearing between six and 15 days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the official, member of a multiple-member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the official, member of a multiple-member body or employee shall, forthwith, be reinstated.

Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not re-appointed when the original term expires.

#### **SECTION 7-9: PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES**

(a) Meetings - All multiple-member bodies shall meet regularly at such times and places within the town as they may by their own rules prescribe. Except in cases of emergency, special meetings of any multiple-member body shall be held on the call of the respective chairman, or by one-third of the members thereof by suitable written notice delivered to the residence or place of business of each member at least 48 hours in advance of the time set. A copy of the said notice shall also be posted on the town bulletin board. Special meetings of any multiple-member body shall also be called within seven days after the date of the filing with the Town Clerk of a petition signed by at least 50 voters and which states the purpose or purposes for which the meeting is to be called. Except as authorized by law, all

meetings of all multiple-member bodies shall be open and public. All meetings shall be held in places to which members of the public have a convenient right of access.

(b) Agendas - At least 24 hours before any meeting of a multiple-member body is to be held, an agenda containing all items which are scheduled to come before the multiple-member body at the meeting shall be posted on the town bulletin board. No action taken on a matter not included in the posted agenda shall be effective unless the multiple-member body first adopts, by a separate vote, a resolution declaring that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.

(c) Rules and Journal - Each multiple-member body shall determine its own rules and order of business unless otherwise provided by this charter or by law and shall provide for keeping a journal of its proceedings. These rules and journals shall be public records, and, following their approval by the multiple-member body, copies shall be certified and placed on file in the office of the Town Clerk and for the convenience of the public, kept available for public inspection in the office of the Town Clerk.

(d) Voting - Except on procedural matters all votes of all multiple-member bodies shall be taken by a call of the roll. The vote of each member shall be recorded in the journal; if the vote is unanimous, only that fact need be recorded.

(e) Quorum - A majority of the members of the multiple-member body then in office shall constitute a quorum. However, a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple-member body. No other action of the multiple-member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple-member body.

(f) Filling of Vacancies - Whenever a vacancy shall occur in the membership of an appointed multiple-member body, the remaining members shall immediately give written notice of such vacancy to the appointing authority. If, at the expiration of 30 days following the delivery of such notice to the appointing authority said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple-member body shall fill such vacancy for the remainder of any unexpired term by majority vote of the remaining members.

(g) Composition of Multiple-member Bodies - All multiple-member bodies when established shall be composed of an odd number of members, of not less than three. Whenever the terms of office of a multiple-member body are for more than one year such terms of office shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

#### **SECTION 7-10: NOTICE OF VACANCIES**

Whenever a vacancy occurs in any town office, position or employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of such vacancy to be posted on the town bulletin board for not less than ten days. Such notice shall contain a description of

the duties of the office, position or employment and a listing of the necessary or desirable qualifications to fill the office, position or employment. No permanent appointment to fill such office, position or employment shall be effective until 14 days following the date such notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the provisions of any collective bargaining agreement.

**SECTION 7-11: LOSS OF OFFICE, EXCESSIVE ABSENCE**

If any person appointed to serve as a member of a multiple-member body shall fail to attend four or more consecutive meetings, or one-half or more of all of the meetings of such body held in one calendar year, the remaining members of the multiple-member body may, by a majority vote of such body, declare the office to be vacant, provided that not less than ten days prior to the date said vote is scheduled to be taken, the body has given in hand, or mailed by registered or certified mail, return receipt requested, notice of such proposed or pending vote to the last known address of such person.

**ARTICLE 8**

**TRANSITIONAL PROVISIONS**

**SECTION 8-1: CONTINUATION OF EXISTING LAWS**

All General Laws, special laws, town by-laws, votes, rules and regulations of or pertaining to the town which are in force when this charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force until amended or rescinded by due course of law or until they expire by their own limitation.

**SECTION 8-2: CONTINUATION OF GOVERNMENT**

All town agencies shall continue to perform their duties until re-appointed, reelected, or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of this charter.

**SECTION 8-3: CONTINUATION OF ADMINISTRATIVE PERSONNEL**

Any person holding an office or position in the administrative service of the town, or any person serving in the employment of the town shall retain such office or position and shall continue to perform their duties until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency.

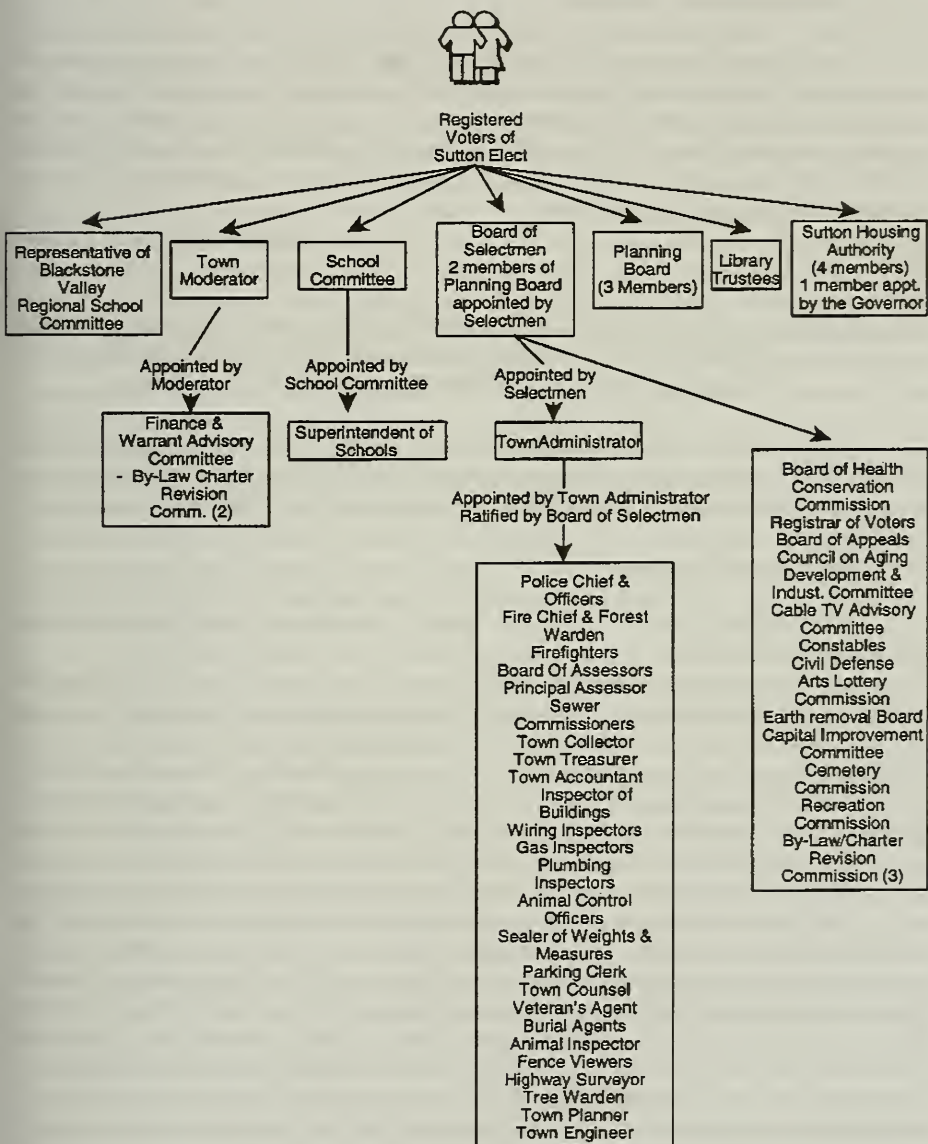
**SECTION 8-4: TRANSFER OF RECORDS AND PROPERTY**

All records, property and equipment whatsoever of any office, department, or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned in this charter.

**SECTION 8-5: TOWN ADMINISTRATIVE ORGANIZATION**

Until such time as a different form of organization shall be provided, in accordance with the provisions of Article 5, the following outline of organization shall be operative: (See Figure 1.)

FIG. 1  
ORGANIZATION OF GOVERNMENT  
FOR THE TOWN OF SUTTON



Approved November 1, 2000.



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**Chapter 309. AN ACT AUTHORIZING THE COMMISSIONER OF REVENUE TO ACT UPON A CERTAIN APPLICATION FOR ABATEMENT.**

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

Notwithstanding section 37 of chapter 62C of the General Laws or any other general or special law to the contrary, the commissioner of revenue may receive and act upon the application of Jeanne Gabis for the abatement of motor vehicle sales taxes arising from the purchase of a motor vehicle in May, 1994, by said Jeanne Gabis who is legally blind. An abatement paid pursuant to the application shall not include payment of interest or any costs related to the filing of the application.

Approved November 1, 2000.

**Chapter 310. AN ACT MAKING CERTAIN CORRECTIONS TO THE REGIONAL TOURISM FACILITIES BOARD AND ADMINISTRATION OF THE URBAN RENEWAL AND REVITALIZATION PROGRAM.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make certain statutory corrections, 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 23G of the General Laws is hereby amended by adding the following two sections:-

Section 42. (a) It is in the best public interest of the commonwealth to promote the prosperity and general welfare of all citizens by enhancing the attractiveness of all regions of the commonwealth for cultural activities and tourism-related activities by partially financing the construction, expansion, renovation or repair of cultural, entertainment, public venues or other regional tourism facilities which may stimulate further investment in the arts, entertainment, humanities and interpretive sciences and may result in increased employment or entrepreneurial opportunities for the citizens of the commonwealth or increased tourism to the region where the facility is located, including tourism from outside the commonwealth.

(b) There is hereby established and placed under the control of the Agency the Regional Tourism Facilities Fund, hereinafter referred to as the fund, to which shall be credited, subject to appropriation, for any fiscal year in which revenues deposited into the Massachusetts Tourism Fund exceed the amounts deposited into said Massachusetts Tourism Fund in the previous fiscal year, 50 per cent of the increase in revenues beyond amounts received in the prior fiscal year received by said Massachusetts Tourism Fund from the tax imposed by section 3 of chapter 64G, section 22 of chapter 546 of the acts of 1969 or any appropriation made pursuant to section 35J of chapter 10. Notwithstanding the provisions of the previous sentence, the fund shall also be credited with all bond proceeds, federal funds,

private contributions, loans or other monies lawfully made available to said fund. The purpose of said fund shall be to make loans or grants for infrastructure projects and eligible projects. Applicants may apply for assistance from the fund for a feasibility grant, grant or loan for the construction, expansion, renovation or repair of cultural, entertainment, public venues, regional tourism facilities or other commercial facilities hereinafter referred to as a project, and the Agency may make a qualified investment in a project upon its finding that: (i) the project is an eligible project or infrastructure project; (ii) there is a demonstrated need for the project; (iii) the project will benefit tourism in the local area; (iv) there is local support for the project; and (v) if the project is in a community that has exercised its right to impose a local option hotel-motel excise tax, pursuant to section 3A of said chapter 64G, there is a commitment for partial financing of the project through such local option hotel-motel excise tax revenue. The Agency shall hold said fund in a separate account, segregated from all other Agency funds. The Agency may invest and reinvest said fund and the income therefrom, except, as hereinafter provided, only (i) in the making of qualified investments; (ii) in the investment of funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (iii) for the payment of binding obligations associated with the qualified investments which are secured by said fund as the same became payable; and (iv) for the payment of principal or interest on qualified investments secured by said fund or the payments of any redemption premium required to be paid when such qualified investments are redeemed prior to maturity. Not less than 50 per cent of said fund shall be expended for cultural facilities projects as defined herein. The Agency shall award the first round of grants from the fund in fiscal year 2002.

(c) As used in this section, the terms "construction", "costs of the project" and "federal agency", shall, unless the context requires otherwise, have the meanings set forth in section 1. As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Applicant", a public agency or private organization exempt from income taxation pursuant to Section 501(c)(3) of Title 28 of the Internal Revenue Code.

"Commercial facilities", a building or structure, or site owned or used by a public, private, civic, educational or professional organization or educational foundation concerned with the arts, humanities, interpretive sciences or local arts and exempt from income taxation pursuant to Section 501(c)(3) of Title 28 of the Internal Revenue Code, which is accessible to the public including, but not limited to, museums, historical sites, zoos, aquariums, theaters, concert halls, exhibition spaces, classrooms, auditoriums suitable for presentation of performing or visual arts. This definition does not include public or private educational institutions of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Cultural organization", a nonprofit organization, public or private, which is primarily concerned with the arts, humanities, interpretive sciences or local arts which is exempt from income taxation. This definition does not include public or private educational institutions

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of early childhood, elementary, secondary, higher educational and vocational-technical education.

"Council", the members of the regional tourism facility fund advisory council, established pursuant to section 43.

"Director", the director of the Agency.

"Eligible project", a project for the acquisition, design, construction, repair, renovation or deferred maintenance of a regional tourism facility which furthers the purposes of this section.

"Feasibility grant", a direct grant of monies from the fund, subject to matching grant requirements to an applicant for payment of the costs and expenses related to the undertaking and completion of a planning and feasibility study for a proposed project. No such grant shall exceed \$50,000. The agency may award a feasibility grant upon its findings that: (i) there is a likelihood that the proposed project will qualify as an eligible project; and (ii) there is local support for the proposed project.

"Fund", the Regional Tourism Facilities Fund created by this section.

"Grant", a direct grant of monies from the fund to an applicant for payment of the costs of a project; provided, that the amount of any single grant awarded from the fund shall not exceed \$7,000,000; provided further, that grants for a total value less than \$1,000,000 shall be subject to a matching funding requirement of dollar for dollar of the amount of the grant; provided further, that grants for a total value in excess of \$1,000,000 and less than \$2,500,000 shall be subject to a matching funding requirement of at least two times the amount of the grant; provided further, that grants for a total value in excess of \$2,500,000 and less than \$5,000,000 shall be subject to a matching funding requirement of at least three times the amount of the grant; provided further, that grants for a total value in excess of \$5,000,000 and less than \$7,000,000 shall be subject to a matching funding requirement of at least four times the amount of the grant; provided further, that not less than 50 per cent of all grant funds expended in one fiscal year from the fund shall be for cultural facility projects as defined herein.

"Infrastructure", repairs to the roof, heating and cooling systems, physical plant, plumbing or foundation of an existing facility and improvements to an existing facility which are necessary to meet life and safety code requirements, so-called, or improvements to an existing facility in order to comply with the Americans with Disabilities Act, or improvements needed to amenities including, but not limited to, light and sound systems, theater seating, expansion or renovation of revenue generating equipment typical for the venue such as concession stands and new projection equipment.

"Loan", a direct loan to an applicant from the fund for payment of up to 40 per cent of the cost of a project for an eligible project, except that the amount of any single loan awarded from the fund shall not exceed \$7,000,000.

"Public body", the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision thereof or any consortium of any contiguous subdivisions and any federal agency.

"Qualified investment", a grant, including a feasibility grant, loan, loan insurance or reinsurance, equity investment, guarantee or other financing or credit enhancement device provided under said fund for an eligible project.

"Regional tourism facility", a building, structure or site owned or used by a public or private organization, exempt from income taxation pursuant to Section 501(c)(3) of Title 28 of the Internal Revenue Code, which is accessible to the public and constitutes a regional tourism attraction including, but not limited to, museums, historical sites, zoos, aquariums and facilities for the performing or visual arts.

(d) Notwithstanding the provisions of any general or special law to the contrary, as a condition of accepting a grant from the fund, an applicant shall agree that, whenever ownership of any property which was purchased or improved with a grant from the fund is transferred to another party, such grant shall be repaid immediately to the fund. The amount of such repayment shall be in the full amount of the grant.

(e) The Agency may establish rules and regulations relative to the fund. Copies of such rules and regulations, and any modifications or amendments thereto, shall be delivered to the chairmen of the house and senate committees on ways and means and the clerks of the house and senate.

Section 43. There shall be established a regional tourism facilities board, in this section called the board. The board shall be comprised of 15 members to be appointed by the governor, one of whom shall be the director of the Massachusetts cultural council or her designee, one of whom shall be the director of the office of travel and tourism or her designee, one of whom shall be the director of the Agency or his designee, and six of whom shall reside outside of the metropolitan Boston area, of whom at least three shall reside in western Massachusetts. All members shall be appointed for a period of five years. Members of the board shall serve without compensation, but may be reimbursed for ordinary in-state travel expenses. The board may establish a technical advisory panel to assist in reviewing applications. The Agency shall provide administrative support for the board from the administrative funds allowed in this chapter.

All applications for grants or loans shall be reviewed by the board and only those pre-approved by the board may receive consideration by the Agency for final approval. Within 30 days, the Agency shall provide the applicant with a written explanation for any proposals denied final approval.

**SECTION 2.** The third paragraph of section 57 of chapter 121B of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out clause (d) and inserting in place thereof the following clause:-

(d) The total amount of urban revitalization and development grants to be paid under this section shall not exceed \$3,700,000 in any one fiscal year or a total of \$50,000,000 in the aggregate, including amounts authorized by the department to be advanced for the estimated expenses as provided in the first paragraph.

Approved November 2, 2000.



**Chapter 311. AN ACT MAKING A SUPPLEMENTAL APPROPRIATION FOR FISCAL YEAR 2001.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make a supplemental appropriation and to provide additional conditions on appropriations, 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 2001, the sum set forth in section 2 is 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, 2001. The sum appropriated in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of said item.

**SECTION 2.**

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

*Department of Transitional Assistance.*

4403-2120 ..... \$4,502,389

**SECTION 3.** Item 4403-2120 of said section 2 of chapter 159 of the acts of 2000 is hereby amended by striking out the words "provided further, that the department shall not expend more for the hotel and motel emergency assistance program in fiscal year 2001 than was expended in fiscal year 2000" and inserting in place thereof the following words:- ; provided further, that no family eligible for the hotel and motel emergency assistance program in fiscal year 2001 shall be placed, except in cases of domestic violence or when no hotel or motel placement is available, in a hotel or motel located more than 15 miles from the last permanent residence of such family; provided further, that if no hotel or motel placement is available within 15 miles of the last permanent residence of any such family, the department shall place the family in the closest possible hotel or motel available beyond the 15 miles and shall transfer the family to a hotel or motel within the 15 miles at the earliest possible date, unless the family requests otherwise; provided further, that the department shall report on a quarterly basis to the joint committee on human services and elder affairs and the house and senate committees on ways and means on the number of families placed more than 15 miles from the last permanent residences of any such families, the cities of their last permanent residences, the cities in which they were placed outside of the 15 miles, the names and addresses of all such hotels and motels more than 15 miles from the last permanent residences of any such families, the date of any solicitations of availability for placement, and the final disposition of the families after leaving the program; provided

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further, that the department shall report to the house and senate committees on ways and means not later than February 1, 2001 on the progress made in ensuring placements within the 15-mile restriction and eliminating the need for hotel and motel placements entirely.

Approved November 2, 2000.

## Chapter 312. AN ACT RELATIVE TO THE CIVIL SERVICE RIGHTS OF CERTAIN INTERMITTENT POLICE OFFICERS AND FIREFIGHTERS.

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

**SECTION 1.** Chapter 31 of the General Laws is hereby amended by inserting after section 60 the following section:-

Section 60A. (a) Notwithstanding the provisions of section 60 to the contrary, this section shall apply to a city or town that has an intermittent or reserve police or fire force and that accepts this section by majority vote of the selectmen of a town or of the city council of a city, subject to its charter.

(b) A member of an intermittent or reserve police or fire force who, after being duly certified on three occasions, refuses employment on a permanent basis in the regular police or fire force shall not be eligible for further certification for appointment to that force and, notwithstanding sections 41, 43 and 44 or any other law, shall cease to be a member of such intermittent or reserve police or fire force. But no such member shall cease to be such a member as a result of having so refused such employment on three such occasions if he shall have submitted to the appointing authority, in writing, on a form or in such manner to be prescribed by the administrator, not later than such third refusal, an irrevocable request by such member not to be so terminated from the intermittent or reserve police or fire force. No such member who is so exempted from such termination shall be counted for the purpose of determining the size of such intermittent or reserve force. The refusal of any such member to accept appointment to the regular force made while he was serving in the armed forces of the United States shall not be included among the refusals referred to in this paragraph.

(c) The appointing authority shall send to the administrator a notice of termination of service of any such member that occurs pursuant to this paragraph. Such notice shall set forth the occasion of each refusal and the date of termination of service of such member. The appointing authority shall send to the administrator a copy of an irrevocable request by any member not to be terminated from the intermittent or reserve police or fire force indicating the date on which such request was received. The administrator shall deny any request of a member of an intermittent or reserve police or fire force that he not be certified in any instance for appointment to the regular force.

(d) This section shall not prevent the appointment to the regular fire force of a city or town of a call firefighter under any general or special law.

**SECTION 2.** Any person whose membership as an intermittent or reserve police officer or firefighter was terminated within the two years receding the effective date of this act pursuant to section 60 of chapter 31 of the General Laws as a result of having refused employment on a permanent basis in the regular police or fire force on three such occasions may be restored to such intermittent or reserve position if he submits to the appointing authority, in writing, on a form or in a manner to be prescribed by the administrator, not later than 90 days immediately following the date of acceptance of section 60A of said chapter 31 by the city or town from which such person was so terminated, a request by such member to be so restored. No such member who is so restored shall be counted for the purpose of determining the size of such intermittent or reserve force.

The appointing authority shall send to the administrator a copy of a request by any member to be restored to the intermittent or reserve police or fire force indicating the date on which such request was received.

Approved November 9, 2000.

### **Chapter 313. AN ACT MAKING CERTAIN CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith certain corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 3 of chapter 1 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 29 and 30, and in line 32, the words "Gay Head" and inserting in place thereof, in each instance, the following word:- Aquinnah.

**SECTION 2.** Section 9B of chapter 3 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the word "Manchester" and inserting in place thereof the following word:- Manchester-by-the-Sea.

**SECTION 3.** Said section 9B of said chapter 3, as so appearing, is hereby further amended by striking out, in line 81, the words "Gay Head" and inserting in place thereof the following word:- Aquinnah.

**SECTION 4.** Chapter 6 of the General Laws is hereby amended by striking out section 15BBBB, inserted by chapter 401 of the acts of 1998.

**SECTION 5.** Section 116 of said chapter 6, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 23 and 24, the words "Massachusetts De-

fenders Committee" and inserting in place thereof the following words:- committee for public counsel services.

**SECTION 6.** Section 156 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words "Massachusetts defenders committee" and inserting in place thereof the following words:- committee for public counsel services.

**SECTION 7.** Section 40F of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "deputy".

**SECTION 8.** Chapter 28A of the General Laws, as so appearing, is hereby amended by striking out the title and inserting in place thereof the following title:- OFFICE OF CHILD CARE SERVICES.

**SECTION 9.** Section 2F of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17, 30 and 52, the word "deputy".

**SECTION 10.** Section 2G of said chapter 29, as so appearing, is hereby amended by striking out, in line 25, the words "of the General Laws".

**SECTION 11.** Section 3 of said chapter 29, as so appearing, is hereby amended by striking out, in lines 46 and 49, the word "deputy".

**SECTION 12.** Section 4 of said chapter 29, as so appearing, is hereby amended by striking out, in line 22, the word "deputy".

**SECTION 13.** Section 5B of said chapter 29, as so appearing, is hereby amended by striking out, in line 28, the word "deputy".

**SECTION 14.** Section 7A of said chapter 29, as so appearing, is hereby amended by striking out, in lines 7, 16, 25 and 29, the word "deputy".

**SECTION 15.** Section 7B of said chapter 29, as so appearing, is hereby amended by striking out, in lines 13, 17 and 29, the word "deputy".

**SECTION 16.** Section 7C of said chapter 29, as so appearing, is hereby amended by striking out, in lines 5, 16, 18, 23, 41, 50 and 64, the word "deputy".

**SECTION 17.** Section 7E of said chapter 29, as so appearing, is hereby amended by striking out, in lines 6, 11, 16, 27, 35, 42, 55, 56 and 61, the word "deputy".

**SECTION 18.** Section 7G of said chapter 29, as so appearing, is hereby amended by striking out, in line 1, the word "deputy".

**SECTION 19.** Section 7I of said chapter 29, as so appearing, is hereby amended by striking out, in lines 16, 29, 32 and 43, the word "deputy".

**SECTION 20.** Section 7J of said chapter 29, as so appearing, is hereby amended by striking out, in line 14, the word "deputy".

**SECTION 21.** Section 7K of said chapter 29, as so appearing, is hereby amended by striking out, in lines 21, 25 and 39, the word "deputy".

**SECTION 22.** Section 94 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word "in", in line 16, the following word:- the.

**SECTION 23.** Section 100A of said chapter 32, as so appearing, is hereby amended by striking out subsection (e) and inserting in place thereof the following subsection:-



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

**SECTION 24.** Section 26 of chapter 40B of the General Laws, as so appearing, is hereby amended by striking out the word "Manchester" and inserting in place thereof the following word:- Manchester-by-the-Sea.

**SECTION 25.** Section 143A of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "Registry of Deeds."

**SECTION 26.** Section 4 of chapter 57 of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the words "Gay Head" and inserting in place thereof the following word:- Aquinnah.

**SECTION 27.** Subsection (e) of section 2 of chapter 62 of the General Laws is hereby amended by striking out paragraph (I), as amended by section 15 of chapter 236 of the acts of 2000.

**SECTION 28.** Said subsection (e) of said section 2 of said chapter 62, as most recently amended by section 16 of said chapter 236, is hereby further amended by adding the following paragraph:-

(M)(1) Each class of net capital loss for the year shall be applied against the other class's net capital gains included in Part C gross income in the following order: Class B net capital gain shall first be offset by any Class C net capital loss, then by any Class D net capital loss, then by any Class E net capital loss, then by any Class F net capital loss and then by any Class G net capital loss. Class C net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss, then by the remainder of any Class F net capital loss and then by the remainder of any Class G net capital loss. Class D net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class E net capital loss, then by the remainder of any Class F net capital loss and then by the remainder of any Class G net capital loss. Class E net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss and then by the remainder of any Class F net capital loss. Class F net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss and then by the remainder of any Class G net capital loss. Class G net capital gain shall first be offset by the remainder of any Class B net capital loss, then by the remainder of any Class C net capital loss, then by the remainder of any Class D net capital loss, then by the remainder of any Class E net capital loss and then by the remainder of any Class F net capital loss. The amount of any class of net capital loss that remains after the foregoing offsets, reduced by the amount of such loss that is deducted under subparagraph (b) of paragraph (2) of subsection (c), shall be Part C capital loss within the same class in the succeeding taxable year.

(2) Class B, C, D, E, F and G net gains shall be reduced by any remaining excess of the deductions allowable under subsection (d) over the Part B gross income, after applying the excess of each class's net capital loss against other class's net capital gains in accordance with subparagraph (1) and after applying such excess Part B deductions against Part A gross income in accordance with paragraph (1) of subsection (c). Any Part B deductions in excess of Part B income shall first be applied to Class B net gains, then to Class C net gains, then to Class D net gains and then to Class E net gains. The amount deductible under this paragraph shall not exceed the amount of Part C gross income which is effectively connected with the active conduct of a trade or business of the taxpayer. Excess Part B deductions shall not be applied to increase the amount of any net capital losses and may not reduce the amount of any net capital gain below zero. The resulting amount of net capital gain or net capital loss shall comprise Part C adjusted gross income.

**SECTION 29.** Chapter 74 of the General Laws is hereby amended by striking out section 32, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 32. Any resident of the commonwealth over 14 years of age who resides in any town outside of a county in which a county agricultural school is located may be admitted to such school on the conditions prescribed in section 7.

**SECTION 30.** Section 38 of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be a National Environmental Technology Institute, hereinafter referred to as the institute, at the University of Massachusetts at Amherst, which shall have accredited programs in engineering and public health.

**SECTION 31.** Section 22 of chapter 101 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1, 5, 6, 10 and 11, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

**SECTION 32.** Section 26 of said chapter 101, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

**SECTION 33.** Chapter 112 of the General Laws is hereby amended by striking out sections 201 to 206, inclusive, inserted by section 3 of chapter 146 of the acts of 1999.

**SECTION 34.** Said chapter 112 is hereby further amended by adding the following six sections:-

Section 221. As used in sections 222 to 226, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Associate home inspector", a person employed by a licensed home inspector to conduct home inspections of residential buildings under the supervision of a licensed home inspector who is licensed pursuant to this chapter.

"Board", the board of registration of home inspectors established pursuant to section 96 of chapter 13.

"Client", a person who engages the services of a home inspector for the purpose of obtaining inspection of and a written report on the condition of a residential building.

"Division", the division of registration.

"Home inspection", the process by which a home inspector observes and provides pursuant to the sale and transfer of a residential building, a written evaluation of the following readily accessible components of a residential building: heating, cooling, plumbing and electrical systems, structural components, foundation, roof, masonry structure, exterior and interior components and any other related residential housing components. A home inspection shall, at a minimum, conform with standards of practice promulgated by the board.

"Home inspector", a person licensed as a home inspector pursuant to this chapter.

"Residential building", a structure consisting of one to four dwelling units.

Section 222. (a) No person shall present, call or represent himself as authorized to provide a home inspection for compensation unless licensed by the board in accordance with this section and sections 223 to 226, inclusive. No person shall conduct a home inspection for compensation unless licensed by the board in accordance with this section and said sections 223 to 226, inclusive, and unless he provides a written report of the home inspection. The requirements contained in this subsection shall not be construed to prevent any of the following persons from acting within the scope of their profession:

- (1) a person employed as a code enforcement official by the commonwealth or a political subdivision thereof when acting within the scope of his employment;
- (2) an architect licensed pursuant to sections 60A to 60O, inclusive;
- (3) a professional engineer licensed pursuant to sections 81D to 81T, inclusive;
- (4) an electrician licensed pursuant to chapter 141;
- (5) a plumber licensed pursuant to chapter 142;
- (6) a real estate broker or salesman licensed pursuant to section 87XX;
- (7) a real estate appraiser or certified general or residential real estate appraiser licensed pursuant to sections 173 to 195, inclusive, or an insurance adjuster;
- (8) a person certified or registered as a pesticide applicator;
- (9) a person employed as a radon, licensed lead paint, urea formaldehyde or termite inspector solely for the purpose of conducting such inspections;
- (10) an individual or business hired solely for the purpose of inspecting the energy-related components of a dwelling in order to assess a home's energy performance;
- (11) officers and employees of the United States or the commonwealth while engaged within the commonwealth in the practice of inspection on behalf of the United States or the commonwealth;
- (12) a person making a home inspection in the presence of a licensed home inspector for the purpose of meeting the requirements of section 223 to qualify for licensure as an associate home inspector; and

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(13) a person conducting an inspection of septic systems as required by 310 CMR 15 solely for the purpose of checking or being in compliance with 310 CMR 15.

(b) Each applicant for a license as a home inspector shall furnish the board with proof of satisfactory completion of the educational, training and experience requirements for licensure, including completion of an approved program of work experience and proof of having passed a licensing examination approved by the board. Applications for licenses and renewals thereof shall be submitted in accordance with procedures established by the board. Pursuant to section 3B of chapter 7, the secretary of administration and finance shall ensure that a licensing fee shall be charged to all applicants in an amount sufficient to defray all administrative costs to the commonwealth associated with the licensure of home inspectors, but in no event shall the fee be less than \$100.

The board shall license as a home inspector an applicant who meets the requirements set forth in this section. Said board shall issue to a home inspector and an associate home inspector a license. Each such licensed home inspector and associate home inspector shall carry the license with him at all times and make it available for presentation to a client or prospective client.

(c) A license shall be issued for a period of two years and shall be renewable on or before the last day of the month in an even-numbered year. Each licensee shall pay to the board a license fee or renewal fee, as appropriate, which shall be set by the secretary of administration and finance. The renewal month shall be determined by the division to facilitate efficient completion of all renewal requests and avoid backlog. The renewal of a home inspector license shall be contingent upon compliance with the continuing education requirements and standards of practice as determined by the board and defined by rules and regulations.

(d) To be eligible for licensure as a home inspector, an applicant shall:

- (i) be of good moral character;
- (ii) have successfully completed high school or its equivalent;
- (iii) have been engaged as a licensed associate home inspector for not less than one year and have performed not less than 100 home inspections under the supervision of a licensed home inspector;
- (iv) have passed a written or electronic competency examination offered or approved by the board; and
- (v) pay the appropriate fee set by the secretary of administration and finance.

Section 223. The board shall establish the requirements for licensure as an associate home inspector and shall promulgate such rules and regulations to establish the associate training program and duties and responsibilities of the supervisor and otherwise as may be necessary pursuant to the provisions of this section. Said board shall license as an associate an applicant who has shown to the satisfaction of the board that the applicant:

- (1) is of good moral character;
- (2) has successfully completed high school or its equivalent;
- (3) has successfully completed a board-approved training program;



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(4) has performed not less than 25 home inspections in the presence of a licensed home inspector;

(5) has passed a written or electronic competency examination offered or approved by the board;

(6) has an identified supervisor who is a person licensed in good standing in the commonwealth as a home inspector; and

(7) has paid the appropriate fee, which shall be set by the secretary of administration and finance.

Section 224. Upon payment to the board of a fee and the submission of a written application provided by said board, the board shall issue a home inspector license to a person who holds a valid license or registration issued by another jurisdiction which has standards substantially equivalent to or exceeding the standards of the commonwealth, as determined by said board.

Section 225. The board shall establish procedures for the filing of complaints regarding home inspectors who are subject to requirements for licensure.

A licensed home inspector and associate home inspector engaged in the practice of home inspection shall secure, maintain and file with the board satisfactory proof of a certificate of an errors and omissions policy which shall be in a minimum amount of \$250,000 in the aggregate. Every proof of an errors and omissions policy shall stipulate that cancellation or nonrenewal of the policy shall not be effective until at least ten days' notice of intention to cancel or not renew has been received in writing by the board. No home inspector or associate may supervise or perform a home inspection unless his performance of the inspection is covered by an errors and omissions policy of at least \$250,000 in the aggregate. Such proof shall be deemed satisfactory if the policy is carried by the licensed company, partnership or franchise for which the home inspector or associate home inspector is a contracted employee and the home inspector or associate home inspector is specifically covered by such policy.

A licensed home inspector and associate home inspector shall promptly report to the insurance company any complaint filed against either the inspector or the inspector's company in a court of competent jurisdiction when the claim in the complaint is greater than the deductible on the inspector's errors and omissions insurance policy.

Any action arising from a home inspection shall be commenced only within three years after the date of a completed written report of a home inspection by a home inspector.

Said board shall investigate all complaints filed with the board relating to the proper practice of home inspection and all complaints relating to a violation of this chapter or any rule or regulation of said board.

Said board may, by a majority vote, after a hearing held subject to chapter 30A, deny, refuse renewal, limit, suspend or revoke the license of a home inspector or an associate home inspector upon proof to the satisfaction of the board that the holder thereof has:

(1) committed fraud or misrepresentation in obtaining a license;

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(2) been guilty of criminal conduct which the board determines to be of such a nature as to render such a person unfit to practice as a licensed home inspector or associate home inspector, as evidenced by criminal proceedings which resulted in a conviction, guilty plea or plea of nolo contendere or an admission of sufficient facts;

(3) failed to report a claim forthwith to the insurance carrier as provided in this section;

(4) violated any rule or regulation of the board;

(5) failed to fulfill any continuing education requirements set out by the board;

(6) violated any ethical standard which the board determines to be of such a nature as to render such person unfit to practice as a home inspector or associate home inspector, such as:

(i) disclosing information concerning the results of the home inspection without the approval of a client or the client's representative;

(ii) accepting compensation from more than one interested party for the same service without the consent of all interested parties;

(iii) accepting commissions or allowances, directly or indirectly, from parties other than the client in connection with work for which the licensee is responsible to the client;

(iv) failing to promptly disclose to a client or potential client information about any business interest of the licensee which may affect the client or potential client in connection with the home inspection;

(v) attempting to limit liability for negligent or wrongful errors or omissions by use of a clause within a performance contract that limits the cost of damages for negligent or wrongful errors or omissions; or

(vi) conducting a home inspection without the appropriate errors and omissions insurance coverage;

(7) failed to provide a written report of the completed home inspection;

(8) reported on the market value of the property or its marketability; or

(9) reported on the advisability or inadvisability of the purchase of the property.

Section 226. The board may, by a majority vote and upon determination made after a hearing pursuant to chapter 30A, find that a home inspector or associate home inspector is liable for a violation of the provisions of sections 222 to 225, inclusive, and may impose the following fines and penalties:

(1) suspend, revoke, cancel or place on probation the license of the home inspector or associate;

(2) reprimand or censure the licensee;

(3) order the licensee to complete continuing education or training or both as a condition of retention or future consideration or reinstatement of such license;

(4) order the licensee to participate in a drug or alcohol rehabilitation program or undergo drug testing or both as a condition of reinstatement of such license;

(5) order the licensee to practice under appropriate supervision for a period of time to be determined by said board as a condition of retention or future consideration of reinstatement of such license;

(6) order financial restitution, where appropriate; and

(7) assess an administrative penalty of not more than \$1,000 for each violation.

Whoever, not being licensed as a home inspector or an associate home inspector, holds himself out as such or whoever, being licensed, impersonates another home inspector or associate home inspector or violates any rule or regulation made by said board and performs a home inspection, may be assessed a civil penalty of not more than \$5,000 for each violation. Such civil penalty may be assessed by the board after hearing and may be enforced by the courts of the commonwealth.

No action by a home inspector for recovery of a fee for the performance of a home inspection shall be maintained in the courts of the commonwealth unless the individual who performed the inspection was duly licensed at the time the fee was earned.

An appeal of a license suspension, revocation, cancellation or other discipline shall be made to the superior court based solely on the administrative record compiled at the board hearing.

**SECTION 35.** Chapter 115 of the General Laws is hereby amended by striking out section 6A, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 6A. As used in this section and in sections 6B and 6C, the word "veteran" shall mean a person who has performed wartime service as defined in Clause Forty-third of section 7 of chapter 4 or any person who served on active duty in the armed forces of the United States for a period of at least 180 days and whose last discharge or release from the armed forces of the United States was under other than dishonorable conditions and who is a resident of the commonwealth.

**SECTION 36.** Section 29A of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "Massachusetts defenders committee" and inserting in place thereof the following words:- committee for public counsel services.

**SECTION 37.** Section 129D of chapter 127 of the General Laws is hereby amended by striking out the last paragraph, added by section 134 of chapter 127 of the acts of 1999, and inserting in place thereof the following paragraph:-

Good conduct credit earned or to be earned under this section or section 129C shall be subject to reduction by order of the court upon a finding that a claim or action brought by a prisoner was frivolous and filed in bad faith in order to abuse the judicial process or upon a determination that an inmate intentionally and in bad faith in order to abuse the judicial process has misrepresented or omitted material information in an affidavit submitted under section 29 of chapter 261.

**SECTION 38.** Section 13 of chapter 132A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 69 and 87, the word "Manchester" and inserting in place thereof, in each instance, the following word:- Manchester-by-the-Sea.

**SECTION 39.** Section 1 of chapter 161A of the General Laws, as appearing in section 151 of chapter 127 of the acts of 1999, is hereby amended by striking out the defi-



inition of "Fifty-one cities and towns" and inserting in place thereof the following definition:- "51 cities and towns", the cities and towns of Bedford, Beverly, Braintree, Burlington, Canton, Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham, Holbrook, Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead, Medfield, Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy, Randolph, Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield, Walpole, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop and Woburn.

**SECTION 40.** Paragraph (f) of section 3 of said chapter 161A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Any agreement with a private company under this chapter which is to be financed from the proceeds of bonds or bond anticipation notes and which provides for the rendering of transportation service by such company and for financial assistance to such company by subsidy, lease or otherwise shall include such service quality standards for such service as the authority may deem appropriate and shall not bind the authority for a period of longer than one year from its effective date, but this shall not prohibit agreements for longer than one year if the authority's obligations thereunder are subject to annual renewal or annual cancellation by the board's authority.

**SECTION 41.** Section 10 of chapter 175 of the General Laws is hereby amended by striking out the words "or a health maintenance organization as defined in chapter 176G," inserted by section 2 of chapter 143 of the acts of 1999, and inserting in place thereof the following words:- or a health maintenance organization as defined in chapter 176G.

**SECTION 42.** Section 24D of said chapter 175 is hereby amended by striking out subsection (a), as amended by section 153 of chapter 127 of the acts of 1999, and inserting in place thereof the following subsection:-

(a) Prior to making any nonrecurring payment equal to or in excess of \$500 to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to this chapter shall exchange information with the IV-D agency, as set forth in chapter 119A, to ascertain whether such claimant owes past due child support to the commonwealth or to an individual to whom the IV-D agency is providing services, and is subject to a child support lien pursuant to section 6 of said chapter 119A. To determine whether a claimant owes past due child support, the company shall either provide the IV-D agency with information about the claimant or examine information made available by the IV-D agency and updated not more than once a month. If the company elects to provide the IV-D agency with information about a claimant, the company shall provide to the IV-D agency, not less than ten business days prior to making payment to such claimant, the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as the commissioner of revenue may require by regulation in consultation with the commissioner of insurance. The company shall use a method and format prescribed by the commissioner of revenue but if the company is unable to use a method and format prescribed by said com-



missioner of revenue, such company shall cooperate with the IV-D agency to identify another method or format, including submission of written materials. If the company elects to examine information made available by the IV-D agency and such claimant owes past due child support and is subject to a lien, the company shall notify the IV-D agency, not less than ten business days prior to making payment to such claimant, of the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as the commissioner of revenue may require by regulation in consultation with the commissioner of insurance, using a method and format prescribed by the commissioner of revenue. The company may remit to the IV-D agency the full amount of the lien or the full amount otherwise payable to the claimant at the time that it so notifies the IV-D agency at any time prior to making payment to the claimant, without regard to the ten business day period. If, at any time prior to payment, the IV-D agency notifies the company of its child support lien against a claimant by giving the company a notice of levy pursuant to said section 6 of said chapter 119A, the company shall withhold from the payment the amount of past due support as set forth in the notice of levy and shall provide such amount to the IV-D agency for disbursement to the obligee. The child support lien shall encumber the right of the claimant to payment under the policy and the company shall disburse to the claimant only that portion of the payment, if any, remaining after the child support lien has been satisfied.

For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured under a liability insurance policy or the liability coverage portion of a multiperil policy or a beneficiary under a life insurance policy.

**SECTION 43.** Chapter 215 of the General Laws is hereby amended by striking out section 30A, inserted by section 2 of chapter 398 of the acts of 1998, and inserting in place thereof the following section:-

Section 30B. The chief justice of the probate and family court department shall prescribe a form which shall provide all interested persons of an estate with information regarding the estate administration process as well as a description of their rights and ability to enforce such rights under such process. An individual seeking appointment as an executor, administrator, guardian, conservator or trustee of an estate shall provide such form to all ascertained interested persons at the time such individual seeks assent to such appointment. Anyone seeking appointment to such position shall provide proof, in a manner satisfactory to the court, that the form has been provided to all interested parties or that a reasonable effort to so provide such form has been made. Such proof shall be a condition precedent to the appointment of a person as executor, administrator, guardian, conservator or trustee of an estate. The form shall contain such information as the chief justice deems necessary to adequately inform such persons and shall include, but not be limited to, the following information:

(1) the name and address of the petitioner, executor, administrator, guardian, conservator or trustee of the estate;

(2) a statement that the notice is being sent to persons who have or may have some interest in the estate;

(3) a description of the court where papers relating to the estate are on file;

(4) requirements under chapter 195 relating to inventories of estates;

(5) any surety or bond required of the executor or administrator, the potential for waiving such requirement, an interested person's rights with regard to objecting to the waiver and any rights an interested person has with regard to bringing an action on the bond;

(6) requirements under chapter 206 relating to the rendering of accounts and the settlement and allowance of accounts relative to the estate, including any rights of an interested person and any procedures necessary for an interested person to review or object to the accounts or settlement statements, including any fees paid to the executor or administrator; and

(7) a statement describing the legal consequences including, but not limited to, any rights which may be waived, resulting from the giving of one's assent or consent during the estate administration process.

**SECTION 44.** Section 1 of chapter 218 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 80, the word "Manchester" and inserting in place thereof the following word:- Manchester-by-the-Sea.

**SECTION 45.** Section 34E of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out the preceding caption.

**SECTION 46.** Section 27A of chapter 261 of the General Laws, as amended by section 180 of chapter 127 of the acts of 1999, is hereby further amended by striking out the definition of "Indigent" and inserting in place thereof the following definition:-

"Indigent", (a) a person who receives public assistance under aid to families with dependent children, program of emergency aid for elderly and disabled residents or veterans' benefits programs or who receives assistance under Title XVI of the Social Security Act or the medicaid program, 42 U.S.C.A. 1396, et seq.; (b) a person whose income, after taxes, is 125 per cent or less of the current poverty threshold established annually by the Community Services Administration pursuant to section 625 of the Economic Opportunity Act, as amended; or (c) a person who is unable to pay the fees and costs of the proceeding in which he is involved or is unable to do so without depriving himself or his dependents of the necessities of life, including food, shelter and clothing, but an inmate shall not be adjudged indigent pursuant to section 27C unless the inmate has complied with the procedures set forth in section 29 and the court finds that the inmate is incapable of making payments under the plans set forth in said section 29.

**SECTION 47.** The first paragraph of section 64 of chapter 365 of the acts of 1996 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said corporation shall be constituted a quasi-public instrumentality of the commonwealth and shall be vested with all of the legal powers, authority, responsibilities, duties, rights, obligations, assets and liabilities of the industrial services program, economic stabilization trust, and of the former Bay State Skills Corporation, to the extent not already

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transferred to the industrial services program pursuant to section 634 of chapter 151 of the acts of 1996.

**SECTION 48.** Subsection (d) of section 10 of chapter 152 of the acts of 1997 is hereby amended by striking out, in lines 3 and 4, the words "June 30, 2002" and inserting in place thereof the following words:- June 30, 2003.

**SECTION 49.** Section 2F of chapter 55 of the acts of 1999 is hereby amended by striking out item number 8100-0001 and inserting in place thereof the following number:- 8100-0021.

**SECTION 49A.** Chapter 127 of the acts of 1999 is hereby amended by striking out section 68 and inserting in place thereof the following section:-

*Section 68.* Section 3 of said chapter 62, as so appearing, is hereby amended by striking out, in line 69, the word "Code." and inserting in place thereof the following words:- Code but, for purposes of this provision, the amount of allowable employment-related expenses may exceed those claimed under section 21 of the Code for taxable years beginning on or after January 1, 2001, but may not exceed a total of \$3,600 if there is one qualifying individual with respect to the taxpayer, or \$7,200 if there are two or more qualifying individuals with respect to the taxpayer for taxable years beginning before January 1, 2002 and may not exceed a total of \$4,800 if there is one qualifying individual with respect to the taxpayer, or \$9,600 if there are two or more qualifying individuals with respect to the taxpayer for taxable years beginning on or after January 1, 2002.

**SECTION 50.** Item 2320-0200 of section 2 of said chapter 127 is hereby amended by striking out the words "permitting and construction of a multiple lane voting access ramp" and inserting in place thereof the following words:- permitting and construction of a multiple lane boating access ramp.

**SECTION 51.** The first sentence of section 250 of said chapter 127 is hereby amended by inserting after the words "disproportionate share payments" the following words:- and service rate payments.

**SECTION 52.** Section 10 of chapter 195 of the acts of 2000 is hereby repealed.

**SECTION 53.** Chapter 235 of the acts of 2000 is hereby amended by striking out section 16 and inserting in place thereof the following section:-

*Section 16.* Section 6 of said chapter 64H is hereby amended by adding the following paragraph:-

(tt) Sales of tangible personal property purchased by a consultant contractor or subcontractor, or operating contractor or subcontractor, of any governmental body or agency, described in paragraph (d), for use in fulfilling a consulting or operating contract to provide qualified services in a public project, provided that the consultant contractor or subcontractor or operating contractor or subcontractor is required both to acquire such property and to be reimbursed for the cost of such property pursuant to such contract.

For purposes of this paragraph:



(A) A consultant contractor or operating contractor of any governmental body or agency described in paragraph (d) is a person who enters into a consulting or operating contract to provide qualified services, and agrees to act as the agent for, such governmental body or agency with respect to purchases of tangible personal property on behalf of such governmental body or agency.

(B) A consultant or operating subcontractor is any person who enters into a contract with a consultant or operating contractor to provide qualified services and agrees to act as the agent for a governmental body or agency with respect to purchases of tangible personal property on behalf of such governmental body in fulfilling a consulting contract. A consultant subcontractor or operating subcontractor shall be considered to be reimbursed for the cost of tangible personal property whether it receives such funds directly from any governmental body or agency described in paragraph (d) or indirectly through a consultant contractor or subcontractor or operating contractor or subcontractor, as the case may be.

(C) A consultant subcontractor or operating subcontractor who enters into a contract to provide qualified services with any higher-tiered consultant subcontractor or higher-tiered operating subcontractor is deemed to be a consultant subcontractor or operating subcontractor.

(D) A consulting or operating contract is a contract to provide qualified services under which any governmental body or agency described in paragraph (d) authorizes purchases of tangible personal property to be made on its behalf by a person who agrees to provide qualified services to such governmental body or agency. A governmental body or agency described in paragraph (d) shall be considered to have authorized such purchases to be made on its behalf by a person when it enters into such a contract that expressly authorizes the person to act as an agent or sub-agent of such governmental body or agency for purposes of making such purchases.

(E) Tangible personal property shall be considered to be used in fulfilling a consulting or operating contract if its acquisition has been authorized by the terms of such contract and any one or more of the following has occurred: (i) it is completely expended in the performance of a contract to provide qualified services; (ii) title to and possession of such property is turned over to a governmental body or agency described in paragraph (d) pursuant to the consulting or operating contract; or (iii) it becomes an ingredient and component part of tangible personal property that is turned over to said governmental body or agency pursuant to the consulting or operating contract; provided, however, that tangible personal property shall not be considered to be used in fulfilling a consulting or operating contract if it is used to administer, oversee, supply, maintain, or control any of the consultant contractor's or operating contractor's or consultant subcontractors or operating subcontractor's own offices, facilities, workshops, vehicles, equipment or business operations.

(F) Qualified services shall include:

- (i) studying the feasibility or environmental impact of a public project;
- (ii) providing engineering, architectural or other design services necessary to complete a public project;



(iii) managing the planning, design, or construction of a public project; or  
(iv) managing the operation or maintenance of any publicly owned mass transportation equipment or facilities.

(G) A public project is any project for the construction, alteration, remodeling, repair, remediation or operation of any public highway, tunnel, bridge, building, real property structure, public mass transportation equipment or facility, or other public work which is owned by or held in trust for the benefit of any governmental body or agency mentioned in paragraph (d) and the cost of which is funded, in whole or in part, by funds appropriated to or authorized for expenditure by any governmental body or agency described in paragraph (d).

**SECTION 54.** Section 35 of chapter 236 of the acts of 2000 is hereby repealed.

**SECTION 55.** Section 56A of said chapter 236 is hereby repealed.

**SECTION 56.** Section 28 shall apply to tax year 1996 and to all successive tax years beginning on or after January 1, 1996.

**SECTION 57.** Sections 39 and 40 shall take effect on July 1, 2000.

**SECTION 58.** Section 49A shall take effect as of July 1, 1999.

**SECTION 59.** Sections 48, 49, 51, 54 and 55 shall take effect as of June 30, 2000.

**SECTION 60.** Section 53 shall take effect on November 1, 2000.

Approved November 9, 2000.

#### **Chapter 314. AN ACT RELATIVE TO VETERINARIANS REPORTING CRUELTY TO ANIMALS.**

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

Chapter 112 of the General Laws is hereby amended by inserting after section 58A the following section:-

Section 58B. A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited under section 77 or section 94 of chapter 272 to a police officer, or a special state police officer appointed under section 57 of chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

Approved November 9, 2000.

#### **Chapter 315. AN ACT RELATIVE TO THE POWERS OF THE MALDEN REDEVELOPMENT AUTHORITY.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the

contrary, the redevelopment authority of the city of Malden shall, in addition to the powers granted to it under the provisions of chapter 121B of the General Laws, have the following powers:-

(a) at the request of the mayor of said city of Malden, the power to prepare and modify plans, designs, drawings, specifications and estimates of costs for the construction, development, redevelopment, rehabilitation, remodeling, alteration or repair of property in said city;

(b) the power to purchase, lease, acquire by gift, bequest, or grant, and hold any property located in said city of Malden, whether or not such property is located within an urban renewal area, and to improve, sell, convey, exchange, transfer, mortgage, lease, assign, or otherwise dispose of or deal with the same;

(c) the power to make mortgage loans on property in said city of Malden to facilitate the redevelopment or rehabilitation thereof and to deal with such loans and property in such manner as may be necessary to protect the interests of the Malden redevelopment authority in the property, including without limitation the power to sell such loans, to foreclose the same when in default, to bid for and purchase property at any foreclosure or other sale, and to take title to the property by deed in lieu of foreclosure;

(d) the power, in connection with the Malden redevelopment authority's authorized activities on behalf of or with respect to the NSC, to purchase, lease, acquire by gift, bequest, or grant, and hold property, located outside of the city of Malden, but in a municipality at the time a member of the North Suburban Consortium, hereinafter referred to as NSC, current members of which include the cities of Arlington, Chelsea, Everett, Melrose, Medford, Malden, and Revere, whether or not such property is located within an urban renewal area, if such property is to be used primarily for residential purposes, and to improve, sell, convey, exchange, transfer, mortgage, lease, assign, or otherwise dispose of such property, and the power to make mortgage loans on such property to facilitate its redevelopment or rehabilitation and to deal with such property in such manner as may be necessary to protect the interests of the redevelopment authority of said city of Malden in the property, including without limitation the power to sell such loans, to foreclose a mortgage on such property when in default, bid for and purchase property at any foreclosure or other sale, and to take title to the property by deed in lieu of foreclosure;

(e) the power to deal with property subject to a mortgage held by NSC securing a loan made as part of the HOME Investment Affordable Program in such manner as may be necessary to protect the interests of the NSC therein, including without limitation the power to sell such loan, foreclose such mortgage, to bid for and purchase property at any foreclosure or other sale, and to take title to the property by deed in lieu of foreclosure;

(f) following a vote in each case by the city council of said city of Malden, the power to act as an agent for said city in connection with exercise by said city of its eminent domain powers; and

(g) the power to enter into, execute and carry out contracts with any city or town for the purpose of providing services in connection with the creation and administration of rehabilitation loan programs, including lead paint abatement loan and grant programs.

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

Approved November 9, 2000.

**Chapter 316. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2001 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.**

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

**SECTION 1.** To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, to provide for certain other activities and projects, and to meet certain requirements of law, the sums set forth in section 2A are hereby appropriated from the general fund unless specifically designated otherwise herein, 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, 2001. The sums appropriated in section 2A shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**NO SECTION 2.**

**SECTION 2A.**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

7004-1000 For a one-time state supplement to the federal Low Income Home Energy Assistance Program for the purpose of assisting low income elders, working families and other households with the purchase of heating oil, propane and natural gas; provided, that funds from this item shall not be expended until all federal funds available for the purpose have been expended for the purpose; provided further, that all assistance awarded by said program shall be expended in the following order of priority: (1) all eligible households not previously awarded assistance by said federal program; (2) working families with incomes between 175 and 200 per cent of the federal poverty level; and (3) households previously awarded federally-funded assistance in fiscal year 2001; provided further, that the department may increase the maximum assistance for which a household is eligible to reflect the need of such household; and provided further, that any supplemental federal funds allocated to said program received during fiscal year 2001 shall be expended prior to any expenditures from this item . . \$12,000,000

**OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.**  
*Division of Energy Resources.*

7006-1004 For the operation of a one-time program to improve the supply of #2 heating oil stocks in the commonwealth and to reduce the risk of supply disruptions between October 1, 2000 and June 30, 2001; provided, that this program shall be available only to wholesale and retail distributors of #2 heating oil having actual or constructive possession of at least 10,000 barrels of storage capacity in the commonwealth, and who agree to purchase and resell #2 heating oil according to regulations to be promulgated by the division of energy resources in exchange for maintaining minimum inventories; provided further, that the regulations shall include prohibitions on the distribution outside of the commonwealth of any #2 heating oil held in the minimum inventories under the one-time program; provided further, that net revenues received by eligible wholesalers and retailers of #2 heating oil, from the sale of heating oil purchased pursuant to the program shall be divided evenly between the commonwealth and relevant wholesalers or retailers of #2 heating oil; provided further, that the commonwealth shall have no further obligations beyond the amount appropriated herein for the program; provided further, that the division of energy resources shall promulgate emergency regulations for the implementation of the program within 21 days of the effective date of this act; and provided further, that the division may make payments to the wholesale and retail distributors pursuant to the regulations for the purposes of this program ..... \$5,000,000

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

Approved November 9, 2000.

**Chapter 317. AN ACT ESTABLISHING THE MONTH OF APRIL AS PUBLIC HEALTH MONTH.**

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

Chapter 6 of the General Laws is hereby amended by inserting after section 15HHHH, inserted by chapter 288 of the acts of 2000, the following section:-  
Section 15IIII. The governor shall annually issue a proclamation setting apart the month of April as Public Health Month, in recognition for the achieved and future successes



in identifying and addressing patterns of disease, illness and injury and for the health benefits achieved by the approach to public health by ensuring healthy living and working environments, and recommending that said month be observed in an appropriate manner by the people.

Approved November 15, 2000.

### Chapter 318. AN ACT RELATIVE TO THE MELROSE POLICE RELIEF CORPORATION.

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

**SECTION 1.** Chapter 540 of the acts of 1991 is hereby amended by striking out, in line 4, the words "five thousand dollars" and inserting in place thereof the following figure:- \$15,000.

**SECTION 2.** The Melrose Police Relief Corporation, a corporation duly established under the laws of the commonwealth, may adopt a by-law requiring an applicant for membership in the corporation to pay the entry fee within one year of the applicant's graduation from the recruit police academy. After the period of one year, an applicant who has not joined the corporation, shall not be eligible to join the corporation.

**SECTION 3.** The Melrose Police Relief Corporation may establish a fund to be known as the Chief Robert T. Lloyd Memorial Scholarship Fund. The Fund shall be used to award scholarships to sons, daughters, grandsons and granddaughters of active members of the corporation who pursue a degree at an accredited institution of higher learning. The awards shall be by a vote of the members of the corporation. The Fund shall be kept separate and apart from all other monies of the corporation.

Approved November 16, 2000.

### Chapter 319. AN ACT FURTHER DEFINING THE PRACTICE OF MENTAL HEALTH COUNSELING.

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

Section 163 of chapter 112 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the definition of "Practice of mental health counseling" and inserting in place thereof the following definition:-

"Practice of mental health counseling", the rendering of professional services to individuals, families or groups for compensation, monetary or otherwise. These professional services include: applying the principles, methods and theories of counseling, human development, learning theory, group and family dynamics, the etiology of mental illness and

dysfunctional behavior and psychotherapeutic techniques to define goals and develop treatment plans aimed toward the prevention, treatment and resolution of mental and emotional dysfunction and intra or interpersonal disorders in all persons irrespective of diagnosis. The practice of mental health counseling shall include, but not be limited to, diagnosis and treatment, counseling and psychotherapy, of a nonmedical nature of mental and emotional disorders and the psychoeducational techniques aimed at prevention of such disorders and consultations to individuals, couples, families, groups, organizations and communities.

Practice of mental health counseling in independent practice with individuals diagnosed with psychosis may be undertaken by a licensed mental health counselor: (a) who is licensed under section 165 on or after March 1, 1992; or (b) who was licensed prior to March 1, 1992 and who meets the certification criteria for independent practice with individuals diagnosed with psychosis as established by the board of registration of allied mental health and human services professions.

Approved November 16, 2000.

## **Chapter 320. AN ACT RELATIVE TO THE ORGANIZATION AND SUPERVISION OF FRATERNAL BENEFIT SOCIETIES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith fraternal benefit societies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 1 of chapter 176 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

As used in this chapter, the following words shall have the following meanings:-

"Benefit contract", the agreement for provision of benefits authorized by section 17.

"Benefit member", an adult member who is designated by the laws of the society to be a member under a benefit contract.

"Certificate", any document issued as written evidence of the benefit contract.

"Commissioner", the commissioner of insurance.

"Fraternal benefit society or society", an incorporated society, order or supreme lodge, without capital stock, conducted solely for the benefit of its members and their beneficiaries, and not for profit, operated on a lodge system with a ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter. Fraternal benefit societies shall be governed by the provisions of this chapter and shall not be subjected to any provisions of chapter 176P.

"Laws", the society's articles of incorporation, constitution and by-laws however designated.

"Limited society", a domestic society or association that meets the requirements of section 45 or section 46 as in full force and effect immediately preceding August 15, 1958 and as codified in chapter 176P. Limited societies shall not include any society defined in this section. Limited societies shall be governed by said chapter 176P and shall not be subject to this chapter as modified, amended or added after August 15, 1958.

"Premiums", premiums, rates, dues or other required contributions by whatever name known, which are payable under the certificate.

"Rules", all rules, regulations or resolutions adopted by the supreme governing body or board of directors that are intended to have general application to the members of the society.

**SECTION 2.** Said chapter 176 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. A society has a representative form of government when:

(a) it has a supreme governing body constituted in one of the following ways:

(1) The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.

(2) The supreme governing body is a board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet at least quarterly to conduct the business of the society.

(b) the officers of the society are elected whether by the supreme governing body or by the board of directors.

(c) only benefit members are eligible for election to the supreme governing body, the board of directors or any intermediate assembly.

(d) each voting member shall have one vote and no vote may be cast by proxy.

**SECTION 3.** Subsection (1) of section 4 of said chapter 176, as so appearing, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:-



(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter, but any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious advantages may be set forth among the purposes of this society. Such purposes may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations; and.

**SECTION 4.** Said section 4 of said chapter 176, as so appearing, is hereby further amended by striking out, in lines 28 and 29, the words "to exceed the sum of twenty-five thousand dollars" and inserting in place thereof the following words:- less than \$300,000 and not more than \$1,500,000.

**SECTION 5.** Said section 4 of said chapter 176, as so appearing, is hereby further amended by striking out, in line 75, the words "twenty-five hundred dollars" and inserting in place thereof the following figure:- \$150,000.

**SECTION 6.** The second paragraph of section 9 of said chapter 176, as so appearing, is hereby amended by striking out the last sentence.

**SECTION 7.** Said section 9 of said chapter 176, as so appearing, is hereby further amended by adding the following three paragraphs:-

A society shall specify in its laws or rules eligibility standards for each and every class of membership, the process for admission to membership, the process for admission to membership for each membership class, and the rights and privileges of each membership class, but only the benefit members shall have the right to vote on the management of insurance affairs of the society.

Membership rights of a society are personal to the member and are not assignable.

A society may provide in its laws or rules for grievance or complaint procedures for members.

**SECTION 8.** Said chapter 176 is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. (a) The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for the payment of any benefits provided by a society.

(b) A person may be indemnified and reimbursed by a society for expenses reasonably incurred by, and liabilities imposed upon, such person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of the fact that the person is or was a director, officer, employee or agent of the society or for any firm, corporation or organization which the person served in any capacity at the request of the society. A person shall not be so indemnified or reimbursed (1) in relation to any matter in such action, suit or proceeding as to which the person shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employee or agent of the society; or (2) in relation to any matter in such action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement, unless in either such case the person acted in



good faith for a purpose the person reasonably believed to be in or not opposed to the best interest of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that the person's conduct was unlawful. The determination of whether the conduct of such person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in clause (1) or (2) of the preceding sentence may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to such action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of no contest, as to such person shall not in itself create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be inclusive of other rights to which such person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors and administrators.

(c) A society shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the society, or who is or was serving at the request of the society as a director, officer, employee or agent of any other firm, corporation or organization against any liability asserted against such person and incurred by the person in any such capacity or arising out of the person's status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

(d) No director, officer, employee, member or volunteer of a society serving without compensation, shall be liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of such person for the society unless such act or omission involved willful or wanton misconduct.

**SECTION 9.** Section 17 of said chapter 176, as so appearing, is hereby amended by striking out clause (g) and inserting in place thereof the following clause:-

(g) Such other benefits as authorized for life insurers and which are not inconsistent with this chapter.

**SECTION 10.** Said section 17 of said chapter 176, as so appearing, is hereby further amended by adding the following paragraph:-

A society shall specify in its rules those persons who may be issues, or covered by, the contractual benefits authorized in clauses (a) to (g), inclusive, consistent with providing benefits to members and their dependents.

**SECTION 11.** Said chapter 176 is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. (a) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of bene-

fiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate unless the certificate has become due and payable in conformity with the provision of the benefit contract.

(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member.

(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as provided in subsection (b), shall be payable to the personal representative of the deceased member, but if the owner of the certificate is other than the insured, such proceeds shall be payable to the owner.

**SECTION 12.** Said chapter 176 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:-

Section 24. (a) No certificate shall be delivered or issued for delivery in this commonwealth unless a copy of the form has been filed with the commissioner in the manner provided for like policies issued by life insurers in this commonwealth. Every life, accident, health, or disability certificate and every annuity certificate issued on or after January 1, 2001 shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers authorized to write any of these lines of insurance in this commonwealth, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of the issuance of the certificate which, if violated, will result in termination or reduction of benefits payable under the certificate.

(b) A society may specify the terms and conditions on which benefit contracts may be assigned.

**SECTION 13.** Section 26 of said chapter 176 is hereby repealed.

**SECTION 14.** Section 28 of said chapter 176, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the first paragraph, a society may reinsure the risks of another society in a consolidation, merger or assumption of reinsurance transaction approved by the commissioner pursuant to section 20 of chapter 175.

**SECTION 15.** Section 35 of said chapter 176, as so appearing, is hereby amended by inserting after the word "officer", in line 12, the following word:- , member.

**SECTION 16.** Subsection (1) of said section 35 of said chapter 176, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Any agent, representative or member of a fraternal benefit society, who devotes, or intends to devote, less than 50 per cent of the person's time to the solicitation and procure-

ment of insurance contracts for such society. Any person who in the preceding calendar year has solicited or procured any of the following contracts of insurance on behalf of any society is presumed to have devoted or intended to devote 50 per cent of the person's time to the solicitation and procurement of insurance contracts:

(1) life insurance contracts that, in the aggregate, exceed \$200,000 of coverage for all lives insured for the preceding calendar year;

(2) permanent life insurance contracts offering more than \$10,000 of coverage on an individual life;

(3) term life insurance contracts offering more than \$50,000 of coverage on an individual life;

(4) insurance contracts other than life that the fraternal benefit society may write that insure the lives of more than 25 individuals;

(5) variable life insurance or variable annuity contracts.

**SECTION 17.** Section 39 of said chapter 176, as so appearing, is hereby amended by adding the following paragraph:-

A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the law regulating life insurers establishing such accounts and issuing such contracts. To the extent the society deems it necessary in order to comply with the federal or state laws, or any rules issued under such laws, the society may adopt special procedures for the conduct of the business and affairs of such separate accounts. The society may also, for persons having beneficial interests in such accounts, provide special voting and other rights, including without limitation special rights and procedures relating to an investment policy, investment advisory services, selection of a committee to manage the business and affairs of the account and the society may further issue contracts on a variable basis to which the first and fifth paragraphs of section 23 shall not apply.

**SECTION 18.** Section 41 of said chapter 176, as so appearing, is hereby amended by inserting after paragraph (6) the following paragraph:-

(6½) The minimum standard valuation for certificates issued on or after January 1, 2001, shall be based in the following tables:

(a) for certificates of life insurance - the Commissioner's 1941 Standard Ordinary Mortality Table, the Commissioner's 1941 Standard Industrial Mortality Table, the Commissioner's 1958 Standard Ordinary Mortality Table, the Commissioner's 1980 Standard Ordinary Mortality Table or any more recent table made applicable to life insurers;

(b) for annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancellable accident and health benefits - such tables as are authorized for use by life insurers who are authorized to write accident and health insurance in the commonwealth.

All of the above valuations shall be under valuation methods, including interest assumptions, in accordance with the laws of this commonwealth applicable to life insurers issuing policies containing like benefits.



**SECTION 19.** The General Laws are hereby amended by inserting after chapter 176O the following chapter:-

**CHAPTER 176P.  
LIMITED SOCIETIES.**

Section 1. In this chapter, the following words shall have the following meanings:-  
"Commissioner", the commissioner of insurance.

"Fraternal benefit society", an incorporated society, order or supreme lodge, without capital stock, conducted solely for the benefit of its members and their beneficiaries, and not for profit, operated on a lodge system with a ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with chapter 176. Fraternal benefit societies shall be governed by said chapter 176 and shall not be subject to this chapter.

"Limited society or society", a domestic society or association that meets the requirements of section 45 or section 46 of chapter 176 as in full force and effect immediately preceding August 15, 1958 and codified in this chapter. Limited societies shall not include any society defined in section 1 of said chapter 176. Limited societies shall be governed by this chapter and shall not be subject to said chapter 176 as modified, amended or added after August 15, 1958.

Section 2. A society shall be deemed to be operating on the lodge system when it has a supreme governing or legislative body, and subordinate lodges or branches, by whatever name known, to which members are elected, initiated and admitted in accordance with its constitution, by-laws, and prescribed ritualistic ceremonies, and the subordinate lodges or branches are required by the by-laws of such society to hold regular or stated meetings at least once in each month.

Section 3. A society shall be deemed to have a representative form of government when it provides in its constitution and by-laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and by-laws if the elective members shall have not less than two-thirds of the votes nor less than the number of votes required to amend its constitution and by-laws, and if (a) the meetings of the supreme governing body and the election of officers, representatives or delegates shall be held as often as once in four years and (b) a complete stenographic record of the proceedings of each such meeting, so far as it relates to matters within the jurisdiction of the commissioner of insurance, shall be filed in the home office of the society within 30 days after the adjournment of such meeting. The constitution and by-laws of any such society may provide that the board of directors appoints a regularly ordained clergyman to act as chaplain, spiritual director or other religious officer, and may also provide that such appointee may serve ex officio as a member of the board of directors. The members, officers, representatives or delegates of a society shall not vote by proxy.

Section 4. A corporation which limits its membership to the members of a particular fraternal beneficiary corporation, fraternity or religious denomination, or to the graduates of



a designated professional or vocational school, or to the employees or ex-employees of cities or towns or of the commonwealth or of the federal government, or to the employees or ex-employees of a designated firm, business house or corporation, or to persons of the same foreign extraction retaining common national interests and designation, and their respective husbands and wives, irrespective of racial extraction, or to persons of the same occupation, may be on the lodge system, and if not on the lodge system, shall be governed by a direct vote of its members without the lodge system. A corporation not so limiting its membership shall be on the lodge system, with a representative form of government, as defined in sections 2 and 3.

Section 5. Societies shall be governed by this chapter, and shall be exempt from all other provisions of the insurance laws of the commonwealth except sections 16, 160 to 180, inclusive, and section 185 of chapter 175, not only in governmental relations with the commonwealth, but for every other purpose, and no law hereafter enacted shall apply to them unless they are expressly designated in such laws.

Section 6. Seven or more persons, residents of the commonwealth, may form a corporation for the purposes set forth in this chapter. The agreement of association shall state that the subscribers thereto associate themselves with the intentions of forming a corporation, the corporate name assumed, the purpose for which it is formed, and the city or town, which shall be in the commonwealth, in which it is established or situated. The name shall not so closely resemble the name of any corporation or insurance company already transacting business in the commonwealth so as to mislead the public or lead to confusion. Any lawful social, intellectual, education, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the corporation. If the corporation limits its membership as provided in section 4, the agreement of association shall state the maximum amounts of benefits to be paid, and shall designate to which one of the classes mentioned in said section its membership is restricted.

Section 7. (a) The first meeting of the associates shall be called by a notice, signed by one or more of the subscribers to the agreement, stating the time, place and purpose of the meeting. At least seven days before the day appointed for the meeting, a copy of the notice shall be given to each subscriber, or left at his usual place of business or place of residence, or deposited in the post office, postage prepaid, and addressed to the subscriber at the person's usual place of business or residence. Whoever gives such notice shall make an affidavit of his doings, which shall be recorded in the records of the corporation.

(b) At such first meeting, including any reasonable adjournment thereof, an organization shall be effected by the choice, by ballot, of a temporary clerk, who shall be sworn, and by the adoption of by-laws, and the election by ballot of directors, a president, a secretary and a treasurer, or other such officers, corresponding thereto, with powers and duties similar to those of such officers, and such other officers as the by-laws may provide. At such election no person shall be eligible as a director or other officer who has not subscribed to the agreement of association. The temporary clerk shall make and attest a record of the proceedings until the secretary has been chosen and sworn, including a record

of such choice and qualification. The president, secretary and a majority of the directors, or other officers corresponding thereto, shall forthwith make, sign, and swear to a certificate of organization in duplicate, setting forth a true copy of the agreement with the names of the subscribers thereto, the date of the first meeting and of the successive adjournments thereof, if any.

(c) The certificate of organization and duly certified copy of the by-laws, and copies of all proposed forms of benefit certificates, applications therefore and literature to be issued by the corporation shall be filed with the commissioner, who may require such further information as he deems necessary. If the purposes and by-laws of the corporation conform to the requirements of this chapter and all its provisions have been complied with, the commissioner shall so certify, and place on file the agreement of association, one of the duplicate certificates of organization, and a copy of the by-laws approved by the commissioner.

Section 8. (a) The commissioner shall then furnish the incorporators of any such society, if on the lodge plan, with a preliminary license, authorizing it to solicit members for the purpose of completing its organization.

(b) A society shall collect from each applicant the amount of not more than one periodical benefit assessment or payment, in accordance with its tables of rates as provided by its constitution and by-laws, and shall issue to every such applicant a receipt for the amount so collected. But no such society shall incur any liability other than for such advance payments, nor issue any benefit certificate, nor pay or allow or offer or promise to pay or allow, to any person any death or disability benefit until:

(1) actual bona fide applications for death or disability benefit certificates, as the case may be, have been secured from at least 500 persons; and

(2) all such applicants for death benefits have been regularly examined by legally qualified practicing physicians; and

(3) certificates of such examinations have been duly filed and approved by the chief medical examiner of the society; and

(4) ten subordinate lodges or branches have been established in which such 500 applicants have been initiated; and

(5) there has been submitted to the commissioner, on oath of the president and secretary or corresponding officers of such society, a list of such applicants, giving their names, addresses, date of examination, date of approval, date of initiation, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, and rate of regular payments or assessments, which for societies offering death benefits shall not be lower for death benefits than those required by the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress on August 23, 1899, or any higher standard at the option of the society, with an interest assumption not higher than 4 per cent per annum; and

(6) it shall be shown to the commissioner, by the sworn statement of the treasurer or corresponding officer of such society, that at least 500 applicants for death benefits have each

paid in cash one regular payment or assessment as provided in this section, and the payments in the aggregate shall amount to at least \$25,000, all of which shall be credited to the mortuary or disability or hospitalization and medical service fund on account of the applicants, and no part of which may be used for expenses.

(c) Such advance payments shall, during the period of organization, be held in trust for the applicants, and if the organization is not completed within one year as provided in this chapter, shall be returned to them.

(d) The commissioner may make such examination and require such further information, as the commissioner deems advisable, and upon presentation of satisfactory evidence that the society has complied with all the provisions of this chapter, the commissioner shall issue to the society a certificate to that effect.

Section 9. The society shall file a certificate of organization, with the certificate endorsed by the commissioner, and if on the lodge plan, also the certificate required by the preceding section, with the state secretary, who, upon the receipt of \$5, shall issue a certificate in a form approved by the state secretary.

The state secretary shall sign the name and cause the seal of the commonwealth to be affixed thereto, and the certificate shall be conclusive evidence of the existence of the corporation at the date of the certificate. He shall also cause a record of the certificate to be made, and a certified copy of the record may be given in evidence with like effect as the original.

Section 10. If a society fails to secure its certificate of incorporation and to begin business within one year after the date of receiving the certificate of the commissioner, as provided in section 7, its agreement of association and all proceedings thereunder shall become null and void. If a domestic corporation subject to this chapter ceases to do business for the period of one year, its charter or certificate of incorporation shall become null and void.

Section 11. A limited society may, with the approval of the commissioner, change the location of its place of business to another location in the commonwealth, or change the purposes for which it was incorporated so as to permit it to transact any business authorized by this chapter. Upon such approval, the presiding financial and recording officers, and a majority of its other officers having the powers of directors, shall file with the state secretary a certificate, with the approval of the commissioner endorsed thereon, setting forth the change in the location of its place of business or in the purposes of the corporation. The state secretary shall, upon receipt of \$5, cause such certificate to be filed in his office. Every domestic society may exercise all the rights, powers and privileges conferred by this chapter, including the powers specified in section 32, or its certificate of incorporation or charter, not inconsistent herewith, and shall be subject to this chapter, as if reincorporated hereunder.

Section 12. (a) No domestic society shall merge with or accept the transfer of the membership or funds of any other society, unless 90 days' notice of the proposed merger or transfer is given to the commissioner, who, within such period, shall make such recommendations to each of such societies. The merger or transfer shall be evidenced by a



written contract that sets out in full the terms and conditions of the merger or transfer, and shall be filed with the commissioner, together with a sworn statement by the president and secretary, or corresponding officers, of each of such societies of their financial conditions and a sworn certificate of such officers of each of the contracting societies that the merger or transfer has been approved by a vote of two-thirds of the members of the supreme legislative or governing body of each of such societies.

(b) Upon the submission of the contract, financial statements and certificates, the commissioner shall examine them, and if the commissioner finds that the financial statements are correct, and that the contract is in conformity with this section, and that the merger or transfer is just and equitable to the members of each of the societies, the commissioner shall approve the merger or transfer, issue a certificate to that effect, and thereupon the contract of merger or transfer shall be of full force and effect. No such merger proposed by two societies not incorporated in the same state shall go into effect until approved by the commissioner, or corresponding officer, of each state incorporating the societies involved in the proposed transaction, nor until their joint certificate of approval of the contract therefore is issued.

Section 13. A society may create, maintain, invest, disburse and apply a death fund, any part of which may, in accordance with the by-laws of a society, be designated and set apart as an emergency, a surplus or other similar fund, and a disability fund and a hospitalization and medical service fund. Such funds shall be held, invested and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein, or become entitled to any part thereof, except as provided in section 16, 17, or 19. The funds from which benefits shall be paid shall be derived and the fund from which the expenses of the society shall be defrayed may be derived from periodical or other payments by the members of the society and accretions of such funds. No society shall be incorporated, and no society not authorized on January 1, 1912 to do business in the commonwealth, shall be admitted to transact business therein, which does not provide for stated periodical contributions sufficient to meet the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress on August 23, 1899, or any higher standard, with interest assumption not more than 4 per cent per annum, except societies providing benefits for disability or death from accidents only.

Section 13A. A society, except one organized under section 46, whose rates and benefits are approved by the commissioner, may set up and provide under its by-laws a plan for the payment of hospital and medical expenses and for the services of surgeons, physicians and nurses, or for any one of these services or expenses, in connection with sickness, disease or accidents, or the results therefrom. The by-laws shall also provide that an independent hospitalization and medical service fund be created and maintained, with the accretions thereto, separate and apart from other funds of the society; that no benefits of any kind shall be paid until there is accumulated in the fund an amount not less than that received from three monthly contributions or one quarterly contribution, and that this amount shall be the



minimum of surplus below which additional contributions from members shall be required; that there shall be included in the liabilities of the fund reserves for unearned assessments and unpaid claims; and that no benefits shall be paid on any claim for a period exceeding one year.

Section 14. (a) Every provision of the by-laws of the society for payment by its members, in whatever form made, shall distinctly state the purposes of the same and the proportion thereof, which may be used for expenses. No part of the money collected for mortuary, disability, hospitalization, or medical service purposes or the net accretions of either or any of such funds shall be used for expenses. A society having admitted assets as shown by its annual statement filed with the commissioner, in excess of 105 per cent of its entire liabilities, including its required reserves, provided such reserves are at least equivalent to the amount required by the American Experience Table of Mortality with interest at 3 per cent per annum, may transfer or allocate such excess mortuary funds to the expense fund of the society, in accordance with its constitution and by-laws. The amount so transferred in any calendar year shall not exceed whichever is the smaller of (a) 75 per cent of the savings in mortality of the society during the preceding calendar year or (b) 10 per cent of the net mortuary assessments received by the society in the preceding calendar year, but no sum shall be transferred as aforesaid which reduces the actuarial solvency of said society below the aforesaid basis. Any sum thus transferred shall not exceed the incurred insurance expenses hereinafter specified during the preceding calendar year, and the sum shall be expended solely for the following insurance expenses of the society:-

- (a) actuarial services;
- (b) cost of preparing and mailing dividends;
- (c) billing department costs;
- (d) machine equipment;
- (e) maintaining automatic loan records;
- (f) certificates;
- (g) actuarial records.

(b) The term "net accretions" shall mean all interest, dividends and other income less the reasonable expenses incident to the investment, care and maintenance of the securities and other assets of such funds.

Section 15. (a) Deferred payments or installments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for establishing contributions and for valuation. A society shall at once, upon the filing of due proofs of the happening of the contingency, set apart a fund to meet such deferred payments, regardless of proposed future collections to meet any such payments, and hold such funds, with its interest accretions, in trust for the beneficiary entitled thereto.

(b) No society shall provide for such deferred payments or installments unless it possesses the full reserve specified in section 16, or if paying accident benefits only, has assets sufficient to pay all its liabilities.

Section 16. A society which shows by the annual valuation hereinafter provided for that is accumulating and maintaining the tabular reserve required by a table of mortality not lower than the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress on August 23, 1899, and 4 per cent interest, and which has provided for state periodical mortuary contributions based on said standard, or which shows that its stated periodical mortuary contributions for the five preceding years at rates at no time higher than those in use following said period, were sufficient to pay the actual claims and maintain the aforesaid reserve for said period without recourse to the reserves released by the lapsing of certificates, and without falling below said standard for any two consecutive years of said period, may grant to its members such extended or paid-up protection or such loans on any certificate of membership or such withdrawal equities as its constitution and by-laws may provide. Such grants shall be equitable, and shall in no case exceed in value the portion of the reserve derived from the payments of the individual member to whom they are made.

Section 17. Whenever it appears by a valuation certified to by a competent actuary that the actual assets of a society exceed its liabilities, including in such liabilities the tabular reserves computed on the basis specified in section 16, by an amount equal to 5 per cent of such reserves, increased by an amount equal to all its other mortuary liabilities, it may, by vote of its officers having the powers of directors, and for such period as its assets are maintained at the levels set forth in this section, waive the further collection of the regular mortuary contributions from its members. A society maintaining a surplus of assets in excess of such amount as enables it to waive contributions under this section may pay to its several members an equitable portion of such surplus in such manner as may be determined by vote of such officers.

Section 18. A society shall invest its funds in securities permitted by chapter 175 for the investment of the capital of insurance companies, except that it may invest an amount not exceeding 10 per cent of its funds in the shares of federal savings and loan associations located in the commonwealth, and in addition, invest and deposit in paid-up shares and accounts of and in co-operative banks chartered by the commonwealth, and may deposit any of its funds in any savings bank or savings department of a trust company, chartered under the laws of the commonwealth. A foreign society permitted or seeking to do business in the commonwealth may invest its funds in accordance with the laws of the state where it is incorporated, but a part of such funds, not exceeding 20 per cent of its death fund, may be invested in a building for use and occupation by the society as its home office. A society having branches situated in the Dominion of Canada may invest a part of its death fund in the public funds of the Dominion of Canada, or of any province of the Dominion of Canada, not exceeding in the aggregate an amount equal to the sum of its collected premiums for the four months last past.

Section 19. (a) Every society may provide for the payment of death benefits; may issue to its members, term, life, endowment and annuity certificates and combinations thereof; and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age, and provide further for

hospitalization and medical service, but the period of life at which the payment of benefits for disability on account of old age shall commence shall not be under 70 years of age. Such society may give a member, when permanently disabled, or on attaining the age of 70, all or such portion of the face value of his certificate as the by-laws of the society may provide. This chapter shall not prevent the issuing of benefit certificates, for a term of years less than the whole of life, which are payable upon the death or permanent disability of the member occurring within the term of which the benefit certificate is issued.

(b) Such society may, upon written application of a member, accept a part of the periodical contribution for mortuary purposes in cash and charge the remainder, not exceeding one-half of the periodical contribution, against the certificate, with interest payable or compounded annually at a rate not lower than 4 per cent per annum. This privilege shall not be exercised except by societies which have readjusted or may hereafter readjust their rates or contributions, and then only as to contracts affected by such readjustment. The yearly amount and the amount in the aggregate of such charges against the certificates of members, including interest charged, as cannot be collected on account of the lapsing of members against whose certificates such charges have been made, shall be stated in the records of the proceedings of the annual or other regular meetings of the society.

(c) Such society providing on January 1, 1912 for tombstones to the memory of deceased members may continue such provision, but not at an expense in excess of \$100 for any member.

Section 19A. A society operating on the lodge system which provides for stated periodic contributions of its members based upon a table of mortality not lower than the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress on August 23, 1899, and 4 per cent interest, may provide that the amount of the death benefit payable by it shall be payable as an annuity. The annuity payments under this section shall be based upon a table not lower than "McClintock's Table of Mortality among Annuitants", or on such higher table as the commissioner may from time to time prescribe, with interest at not more than 4 per cent per annum. In no case shall the amount payable to the beneficiary or to the beneficiary's estate be less than the amount of the death benefit specified in the certificate issued to the member.

Section 20. A certificate issued by any society shall specify the amount of death benefit provided by it. The certificate, the charter of the articles of organization, or, if it is a voluntary association, the articles of association, the constitution and by-laws of the society, the application for membership, the medical examination, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the members. Copies of such documents, certified by the secretary of the society or corresponding officer, shall be received as evidence of the terms and conditions thereof. Any changes, additions or amendments to the charter, articles of incorporation, or articles of association, constitution or by-laws duly made or enacted subsequent to the issuance of a benefit certificate shall bind the member and his beneficiaries, and shall govern and control



the agreement in all respects in the same manner as if such changes, additions or amendments had been made prior to and were in force at the time of the application for membership. The language in the preceding sentence shall be incorporated in substance in every benefit certificate hereafter issued.

Section 21. Death or annuity benefits shall be payable to any beneficiary designated by the member, but the society may by its by-laws make restrictions as to whom may be beneficiaries. Each member shall have the right to change his beneficiary from time to time in accordance with the by-laws of the society. No beneficiary shall have or obtain any vested interest in such benefits until the same have become due and payable upon the death of the member. No contract under this chapter, except where an incorporated charitable institution or home is made a beneficiary in accordance with the by-laws of the society, shall be valid that is conditioned upon an agreement or understanding that the person to whom the death or annuity benefit is made payable shall pay the periodic or other contributions of the member.

Section 22. A society may provide in its by-laws that a part of the amount payable as a death benefit may be used to pay the funeral expenses of the insured, but the amount so paid shall not exceed \$300 and shall be deducted from the amount payable as a death benefit.

Section 22A. No society shall by its by-laws or by any contract or policy made or issued by it in the commonwealth restrict the payment of benefits or any part thereof accruing under such by-laws, contract or policy upon the death of a member or of the person insured, as the case may be, to a designated funeral director or group of funeral directors. No society shall in any way deprive the personal representative or family of the deceased of freedom of choice in procuring and purchasing supplies and services in connection with the burial of the deceased. Such benefits or any part thereof shall be paid to such funeral director as the person or persons entitled to such benefits or the personal representative of the deceased shall direct. Every limited society shall be subject to this section notwithstanding any special law to the contrary.

Section 23. A society operating on the lodge system may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death, endowment or annuity benefits upon the lives of children less than 18 years of age, and may loan upon the security of the value of certificates of such benefits a sum not exceeding the legal reserve which it is required to maintain thereon. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required for such children, nor shall they have any voice in the management of the society.

Section 24. No death benefit certificate as to any child shall be issued unless the society shall simultaneously put in force at least 500 such certificates, on each of which at least one assessment has been paid, and so long as the number of lives presented by such certificates does not fall below 500. A society that has so put in force at least 500 certificates on each of which at least one assessment has been paid may, during the year after first putting



in force said number of certificates, continue to issue certificates notwithstanding withdrawals reducing the number of certificates in force to less than 500, if the number of such certificates does not remain below 500 for a period exceeding 90 days. The death benefit contributions to be made upon such certificate shall be based upon the Standard Industrial Mortality Table or the English Life Table Number Six, with a rate of interest not greater than 4 per cent per annum, or upon a higher standard. Contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws, but extra contributions shall be made if the reserves provided for in the following section become impaired. Such society may grant to the holder of such a certificate extended or paid-up protection or such withdrawal equities as its constitution and by-laws may provide, but in no case to exceed in value the reserve held against the individual certificate.

Section 25. A society entering into insurance agreements under section 23 shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section 24. The funds representing the benefit contributions and all accretions thereto shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for payment of the debts and obligations of the society other than the benefits authorized in sections 23 and 24. A society may provide that when a juvenile member reaches the minimum age for initiation into membership in such society, any benefit certificate issued under sections 23 to 28, inclusive, may be surrendered for cancellation and exchanged for any other form of certificate issued by the society. If it does not mature or expire prior to the attainment of such minimum age, any such benefit certificate may, notwithstanding any limitation in section 23, be continued in force, if in either case, such juvenile members shall present themselves for initiation as provided in the society's by-laws relative to the admission of adult members. All reserve accumulated under the certificate prior to the admission of any juvenile member to adult membership shall be transferred to the adult department to the credit of the transferring member. After the transfer of membership, the member shall have the sole right to designate a beneficiary, subject, however, to the by-laws of the society.

Section 26. The separation of assets, funds and liabilities required by section 25 shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section 25, as long as any certificates issued under sections 23 to 28, inclusive, remain in force. This requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition or status of the society.

Section 27. A society may provide in its by-laws and in the certificate issued under sections 23 to 28, inclusive, for specified payments on account of the expense or general fund, which may be mingled with the general fund of the society as its constitution and by-laws may provide.

Section 28. In case of the termination of membership in the society by the person responsible for the support of any child on whose account a certificate has been issued under

sections 23 to 28, inclusive, the certificate may be continued for the benefit of the estate of the child, or for the benefit of any other person responsible for the support and maintenance of such child if the contributions are continued.

Section 29. The beneficiary under a certificate issued by any society may maintain an action thereon in his own name.

Section 30. Money or other benefit, charity, or relief or aid, to be paid, provided or rendered by any society, shall not be attached or taken upon execution or other process or by operation of law to pay any debt or liability of a member or beneficiary, or of any other person who may have a right thereunder, either before or after payment. This section shall not be applicable to any indebtedness charged against the member's certificate under the authority of section 16.

Section 31. Except as provided in sections 23 to 28, inclusive, a society may admit to beneficial membership any person, not less than 16 and not more than 60 years of age, who has been examined by a legally qualified physician, if the examination has been supervised and approved in accordance with the by-laws of the society. A member of such society under 40 years of age who shall apply for a certificate providing for death benefits not exceeding the total sum of \$500, and a member of such society who shall apply for a certificate providing for benefits on account of disability from sickness or injury, hospitalization, medical service or death by accident only, need not be required to pass a medical examination therefore. Such society may accept, without medical examination, for a face amount of life insurance not more than \$3,000 on any one life, any person not more than 45 years of age who shall make acceptable declaration of the person's insurability. This section shall not prevent such society from accepting general or social members.

Section 32. (a) A society may, subject to this chapter, make a constitution and by-laws for its government, admission of members, management of its affairs, and the fixing and readjusting of the rates and contributions of its members from time to time, and may amend its constitution and by-laws. A society shall have such other powers as are necessary or incidental to carry into effect its objects and purposes.

(b) The constitution and by-laws may prescribe the officers and elected members of standing committees, who may be ex officio directors or other officers corresponding thereto, and may, with the approval of the commissioner, provide for a system of absentee voting, other than proxy voting, under which absent members entitled to vote may vote in the election of officers and directors or similar governing body and on the adoption of amendments to the constitution and by-laws. The commissioner shall not approve any provision for such a system of absentee voting unless:

(1) the society submitting such provision for approval satisfies the commissioner that absentee voting is necessary in order to have an adequate representation of the membership of the society at its election;

(2) not less than 30 days advance notice, with copies of the proposed amendments to the constitution and by-laws which are to be balloted upon, is forwarded to each member of the society; and

(3) the commissioner is satisfied that the proposed absentee voting system requires the ballots to be carefully guarded against any disclosure of their contents until the same have been counted at the central meeting place.

Section 32A. Whoever with fraudulent intent alters, defaces, mutilates, destroys or conceals any record of a fraternal benefit society made by or in the custody of the secretary thereof shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 33. A domestic society may provide that the meetings of its legislative or governing body may be held in any state or province wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in the commonwealth. Its principal office shall, however, be situated in this commonwealth.

Section 34. The constitution and by-laws of the society shall be binding on it, on its members, and on all beneficiaries of members, and shall provide that no subordinate body or any of its subordinate officers or members shall have power or authority to waive any provision thereof. There shall be no waiver except as the constitution and by-laws of the supreme body shall specifically permit.

Section 35. The recording officer of a society shall file with the commissioner a duly certified copy, in English, of any amendments of or additions to its constitution and by-laws, within 90 days after their adoption. Printed copies of the constitution and by-laws, as amended, changed or added to, and certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the same and of the legal adoption thereof.

Section 36. (a) The commissioner, or any person designated by him, may examine the affairs of any domestic society. The commissioner may employ assistants for the purpose of such examination and he or any person designated by him shall have free access to all the books, papers and documents relating to the business of the society, and may summon and qualify as witnesses on oath and examine its officers, agents and employees and other persons in relation to the affairs, transactions and condition of the society. The latest report of each examination made by the commissioner shall be read at the next succeeding convention of any society on the lodge system, as defined in section 2, and thereafter a copy thereof shall be filed at the home office of the society. Whoever, without justifiable cause neglects, when duly summoned, to appear and testify before the commissioner or his authorized representative, or whoever obstructs the commissioner or his representative in making an examination under this section, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year.

(b) Whenever the commissioner is satisfied that any domestic society (1) has failed to comply with any provision of this chapter; (2) has exceeded its powers; (3) is not carrying out its contracts in good faith; (4) is transacting business fraudulently; (5) that its management or condition is such as to render its further transaction of business hazardous to the public, its members or creditors; (6) that such a society after the existence of one year or more, has a membership of less than 400, or determines to discontinue its business; or (7)



whenever any such society, or any of its officers or agents, has refused to submit to an examination under this section or to perform any legal obligation relative thereto, the commissioner may present the relative facts to the attorney general, who shall, if he deems the circumstances warrant, begin a quo warranto proceeding in the supreme judicial court. The court may forthwith issue a temporary injunction restraining the society from further transacting any business. After a full hearing, if it then appears that the society should be dissolved, the court may make the injunction permanent, and appoint one or more receivers to take possession of the books, papers, moneys and other assets of the society, to settle its affairs and to distribute its funds to those entitled thereto, subject to such rules and orders as the court may prescribe.

(c) No such proceedings shall be begun by the attorney general until after the commissioner has given written notice to the chief executive officers of the society and has afforded a reasonable opportunity, on a date named in such notice, to show cause why such a proceeding should not be begun. Such a proceeding shall be entertained only if brought by the attorney general.

Section 37. (a) After an examination of any society, either domestic or foreign, has been begun, the commissioner shall not make public any financial statement, report or finding affecting the status, standing or rights of the society until a copy thereof has been served upon the society at its home office, and the society has been afforded a reasonable opportunity to be heard regarding the financial statement, report or finding. The commissioner may use such facts as come to his knowledge for the purpose of securing an injunction as provided in section 36.

(b) A report of an examination made under section 36 or 44 may, as far as material and relevant, be admitted, in the discretion of the court, in any judicial proceeding under section 36 or 43, as prima facie evidence of the facts set forth in such report. Nothing in this subsection shall be construed to require the commissioner to make an examination of a domestic society under said section 36 before presenting the facts to the attorney general under said section 36, or to make an examination of a foreign society under section 44 before refusing to issue a license to such a society under section 41 or revoking the license of such a society under section 43.

Section 37A. No society shall make any disbursements of \$15 or more, except disbursements on account of the return of dues paid in advance, unless: (1) such disbursements are evidenced by a voucher signed by or on behalf of the person receiving the money and correctly describing the consideration for the payment; and (2) an itemized statement of the disbursements is made if the disbursements are for services and disbursements setting forth the services rendered; and (3) a voucher is signed that correctly describes the nature of the matter and the interest of a society therein if the disbursements are in connection with any matter pending before any legislature or public body, or before any department, board, commission or officer of any government, whether local, state or national; or (4) an affidavit is executed stating the reason for not obtaining a voucher, and setting forth the information in the preceding clauses if such voucher cannot be obtained.



Section 38. A society shall annually, on or before March 1, file with the commissioner, in such form as he may require, a statement on oath of its president, secretary, treasurer and chief accountant, or corresponding officers, of its condition and standing on December 31 of the preceding calendar year, and of its transactions for the year ending on that date. A society shall also furnish such other information as the commissioner may deem necessary. The commissioner may at other times require any further statement relating to such society as the commissioner deems necessary.

Section 39. (a) In addition to the annual statement required by section 38, a society on the lodge system authorized to pay benefits in the commonwealth upon the death of its members, except those societies which do not pay benefits for death from natural causes, shall annually report to the commissioner a valuation of its certificates providing for death benefits in force on December 31 of the preceding calendar year. The report shall show, as contingent liabilities, the present mid-year value of the death benefits promised in the outstanding contracts of the society, and as contingent assets, the present mid-year value of the future net mortuary contributions as provided in the constitution and by-laws as the same are in practice actually collected, not including therein any value for the right to make extra assessments.

(b) At the option of any such society, in lieu of the method in subsection (a), the valuation may show the net mid-year value of the outstanding contracts. The net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years, the right to make extra assessments being excluded from consideration. The valuation shall be certified by a competent accountant or actuary, or at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society, and shall be filed with the commissioner on or before April 30 following the submission of the most recent annual statement. The legal minimum standard of valuation shall be the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress on August 23, 1899; or at the option of the society, any higher mortality table; or, at its option, it may use a mortality table based on the society's own experience of at least 20 years, and covering not less than 100,000 lives with interest assumption not higher than 4 per cent per annum, whichever mortality table is adopted. Every such report shall set forth clearly and fully the mortality and interest basis and the method of valuation. A society providing for disability or accidental death benefits, or both, shall keep the net contributions for such benefits in a fund separate and apart from all other benefit funds and from expense funds. The valuation provided for in this section shall not be considered or regarded in any action that may arise as a test of the financial solvency of the society, but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its liabilities, not including in the term "liabilities" any charge for reserve computed as required by this section.

(c) Such report of valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be sent to each member of the governing body of the

society not later than June 1 of each year, or in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper, and the issue containing the same shall be mailed to each beneficiary member of the society.

Section 39A. A society may, in the annual statement required by section 38, value its bonds or other evidences of debt having a fixed term and rate and not in default as to principal or interest and if amply secured, in accordance with the following rule:- if purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made. The purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and a society may return such bonds or other evidences of debt at either their market or their book value, but in no event at any aggregate value exceeding the aggregate of the values calculated according to the foregoing rule.

Section 40. (a) If the stated periodical contributions of the members of any society subject to section 39 are insufficient to pay all reported death, disability, hospitalization and the medical service claims in full, and to provide for the creation and maintenance of the funds required by its by-laws or by this chapter, additional contributions or additional, increased or extra rates of contribution shall be collected from its members to meet the deficiency, as the by-laws of the society shall so provide. Such by-laws may provide that upon the written application or consent of the members, their certificates may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding 5 per cent per annum.

(b) In rerating its members or for the purpose of placing itself on a sounder financial basis, any domestic society and any foreign society now admitted to this commonwealth, if it be not in conflict with the laws of its domicile, may, if "legally solvent" as set forth in section 39, establish by its constitution and by-laws a separate class of members who shall make mortuary contributions on the basis prescribed in section 8. All new members who from time to time join the society shall be assigned to such class, unless the new members elect otherwise. All present members may at their option be transferred at the prescribed rates to such class. The mortuary contributions of such class shall be placed in a separate account and used only for the benefit of the members of that class or of their beneficiaries. In the case of a society which has established such higher rate class whose contributions are held and used as set forth, the "additional contributions" or "extra rates" specified in this section shall be required only of the members of the class or classes respectively where the deficiency in contributions is apparent, and each class shall provide for its own deficiency. A class of a domestic society failing to do so shall be subject to the receivership provisions set forth in section 36. If a society can show, by an annual valuation, as provided in this section, that it is accumulating and maintaining for all of its members, who are not included in the separate class of members referred to in the tabular reserve required by a table of mortality not lower than the National Fraternal Congress Table of Mortality as adopted at the National Fraternal

Congress on August 23, 1899, and 4 per cent interest, and which has provided for stated periodical mortuary contributions on said standard, then such society may abolish the segregation of members and funds required by this section. A foreign society which has legally established such a class in its home state and whose constitution or by-laws require the segregation and use of the mortuary contributions of its members as set forth in this section may be admitted to this commonwealth with respect to such class upon compliance with the laws of the commonwealth not in conflict with this provision.

Section 41. (a) No foreign society shall transact any business in the commonwealth without a license from the commissioner. Such society applying for such a license shall file with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and by-laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner, as provided in section 42; a statement of its business and the names and addresses of its officers and agents, on oath of its president and secretary, or corresponding officers, in the form required by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the commissioner; a copy of its certificate of membership; and a certificate from the proper official of its home state, territory, district or country that the society is legally organized.

(b) The society shall also show that the benefits are provided for by periodical or other payments by persons holding similar contracts; that its assets are invested in accordance with the laws of the state or country where it is organized; and that it has the qualifications required of domestic societies on the lodge system incorporated under this chapter. A society which grants benefits for disability arising from accidental injury or from sickness or hospitalization or medical services shall be required to show that it has accumulated funds, usable only for the payment of such benefits and in excess of accrued claims for such benefits, not less in amount than three monthly contributions or one quarterly contribution from members entitled to such benefits. Such society shall further be required, as a condition for the maintenance of its authority to do business in this commonwealth, to maintain at all times after admission, as regards disability, hospitalization and medical service benefits, funds in amount as set forth in the preceding sentence, and shall furnish the commissioner such other information as he may deem necessary for the proper exhibit of its business and plan of working.

(c) Upon compliance with these requirements, such foreign society shall be entitled to a license to transact business in the commonwealth until July 1 of the following year, and such license shall, in compliance with this chapter, be renewed annually, but in all cases to terminate on July 1 of the following year, except that it shall continue in full force and effect until the new license is issued, or is refused after notice and hearing. For every such license or renewal the society shall pay to the commissioner \$20.

Section 42. A foreign society applying for admission to the commonwealth shall, by duly executed instrument filed with the commissioner, as provided in the third paragraph of



section 151 of chapter 175, appoint the commissioner as its attorney for the service of process upon it, which shall be served in accordance with said paragraph and section 154 of said chapter 175. All process against a foreign society shall be served at least 30 days before the return day named in the process.

Section 42A. (a) A foreign society, if formed under the law of any government or state other than of the United States, shall not be admitted and authorized to transact business in the commonwealth until, in addition to complying with the conditions of sections 41 and 42, it has satisfied the commissioner that it has made a deposit, as provided in this section, with (1) the state treasurer; (2) the proper board or officer of some other state of the United States; or (3) trustees who are citizens or corporations of the United States and approved by the commissioner, appointed under a deed of trust executed in a form approved by the attorney general and the commissioner and who have filed with the commissioner a bond, in a form approved by the attorney general and the commissioner, with a surety company authorized to transact business in the commonwealth as surety, and in such sum as the commissioner may require, conditioned upon the faithful performance of their duties and running to the commissioner, or his successor for the benefit of all the members, certificate holders and creditors within the United States of such society.

(b) Such deposit shall be in an amount not less than the reserves with respect to all its outstanding certificates of membership held by residents of the United States and may be made in the securities and subject to the limitations specified in sections 63 and 66 of chapter 175, or in cash or such other securities as the commissioner may approve. If made with the state treasurer, such deposit shall not be returned to the society until it has ceased to transact business in the commonwealth, nor until the commissioner is satisfied that the society is under no obligation to members, certificate holders or other persons in this commonwealth or in any other state of the United States for whose benefit such deposit was made, nor until he has given his written consent to such return. The commissioner may, in any case, authorize in writing the return to the society of any excess of any such deposit over the amount required by this section if he is satisfied that such return will not be prejudicial to the interests of its members, certificate holders or creditors.

Section 43. (a) Whenever the commissioner is satisfied that any foreign society (1) has exceeded its powers; (2) has failed to comply with any provision of this chapter; (3) is conducting businesses fraudulently; (4) is not carrying out its contracts in good faith; (5) that its condition or management is such as to render its further transaction of business hazardous to the public, to members or creditors; or (6) that it or its officers or agents have refused to submit to an examination under section 44 or to perform any legal obligation relative thereto, the commissioner shall notify the society of his findings, and state in writing the grounds of his dissatisfaction, and, after reasonable written notice to the society, shall require it, on a date named in such notice, to show cause why its license should not be revoked. If on said date the society does not present to the commissioner good and sufficient reasons why its license to transact business in the commonwealth should not be revoked, he may revoke such license.



(b) Whenever the commissioner refuses to issue a license to a foreign society under section 41, or revokes its license under this section, he shall reduce his ruling, order or decision to writing and file it in the division of insurance. He shall also furnish a copy thereof, together with a statement of the reasons for his action, to the officers of the society upon request.

(c) Any such society aggrieved by the refusal of the commissioner to issue a license to it, or by the revocation of its license, may, within 30 days after receiving written notice of such refusal or revocation, file a petition in the supreme judicial court for the county of Suffolk for a review of the commissioner's action. The court shall summarily hear and determine the case and may make an appropriate order or decree. If the order or decree is adverse to the petitioning society, it may appeal to the full court within ten days. In case of such an appeal, the refusal or revocation of the license shall continue in full force and effect until the final determination of the question by the full court.

(d) The termination of the license of such a society shall not prevent it from continuing in good faith all contracts made by it in the commonwealth during the time when it was legally authorized to transact business therein.

Section 44. The commissioner or his designee may examine any foreign society transacting business in the commonwealth or applying for admission. For this purpose, the commissioner or his designee shall have the powers given by section 36 relative to domestic societies. He may accept, in lieu of such examination, the examination of the insurance department of the state or country where the society is organized. The actual expenses of the examiners making any such examination shall be paid by the society, upon a statement furnished by the commissioner.

Section 45. (a) Domestic societies governed by direct vote of their members and limiting their membership as provided in section 4 and domestic fraternal benefit corporations limiting their membership to the permanent employees of cities or towns, the commonwealth or the federal government, and not paying death benefits, but paying annuities or gratuities contingent upon disability or long service, may continue to transact business in the commonwealth. Such corporations and like societies incorporated under this chapter shall be governed by sections 4 to 11, inclusive, sections 14, 18 and 21, so far as the same are applicable, sections 22, 29, 30, 32, 36 to 38, inclusive, sections 47, 47A, 48 and 49 of this chapter and section 5 of chapter 59, and in addition by the following provisions:

(1) the officers of such limited corporations shall be elected by ballot by the members as often as once in two years;

(2) proxies shall not be used in voting;

(3) no person under 16 years of age shall be admitted to membership;

(4) the recording officer of such a corporation shall file with the commissioner amendments to its by-laws, in English, within 30 days after their adoption and shall likewise file forthwith a duly certified copy of its by-laws whenever the commissioner requires in writing;

(5) such equitable assessments, either periodical or otherwise, shall be made upon the members as shall be necessary to carry out the purposes of the organization;

(6) paid agents shall not be employed in soliciting or procuring members, except that corporations which limit their certificate holders to a particular fraternity or which provide for stated periodical contributions sufficient to meet the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress on August 23, 1899, or any higher standard, with interest assumption not more than 4 per cent per annum, may pay members for securing new members, and any corporation may pay local collectors.

(b) A corporation subject to this section may furnish physicians and nurses for its members and their families or pay for the services of physicians or nurses engaged by its members for the care of themselves or their families. The expense incurred under this section by any such corporation in any year shall not exceed \$5,000 in the aggregate, and shall not exceed \$100 in the case of any member thereof and his family.

(c) No corporation formed after January 1, 1912, unless it confines its membership to that of a particular fraternity in any one country, or to a lodge of some fraternity, or to the employees or ex-employees of cities or towns or of the commonwealth or of the federal government, shall contract to pay benefits to its members until it shall satisfy the commissioner that it has received at least 500 bona fide applications for membership. With the written approval of the commissioner and the consent of each corporation expressed by vote at a duly-called meeting, any corporation governed by this section may transfer its membership and funds to any other domestic society organized under this chapter.

(d) Whoever violates any provision of this section shall be punished as provided in section 50.

Section 46. (a) A domestic society which limits its membership as provided in section 4, or which limits its membership to the members and ex-members of any social organization having a lodge system and secret form of work; or a secret order or fraternity which operates on the lodge system with a representative form of government and grants insurance benefits as incidental only to the work of the order or fraternity; or a purely charitable association or corporation existing on May 23, 1901, any one of which pays a death or funeral benefit limited to not more than \$200 disability benefits not exceeding \$10 a week, or any or all of such benefits, or a domestic society which limits its membership as provided in said section 4 to the employees of a designated firm, business house or corporation, or any department thereof, and pays disability benefits not exceeding \$15 a week, and which is not conducted as a business enterprise or for profit, and a subordinate lodge of a secret fraternity or order as defined in this section which is not conducted as a business enterprise or for profit, which pays death benefits to families or dependents of deceased members as fixed by its by-laws, but not more than \$200 if the lodge membership is 200 or less, and if over 200 not in excess of the amount of an assessment of \$1 upon each member thereof in good standing at the time of the death of the member, and a society, either domestic or foreign, which confines its membership to members of organizations defined in the second sentence of section 29 of

chapter 175, and which embraces therein only persons of the same occupation, may transact business in the commonwealth without conforming to the provisions of this chapter except this section and sections 29, 30, 36, 47, 47A and 49, or to said chapter 175. No proceeding shall be instituted under section 36 because such society has a membership of less than 400. Clause Seventh of section 5 of chapter 59 shall apply to such a society.

(b) A society transacting business under this section may, in the event of the death of the wife of a member, pay to the member a part of the amount payable at the member's death. The amount so paid shall be deducted from the amount payable at the member's death, and the total amount so paid, both at the death of the member and of the member's wife, shall not exceed the amount allowed by this section to be paid at the death of a member. Such society may also furnish physicians and nurses for its members and their families.

(c) Such limited society may be incorporated, and limited societies may be formed, in the manner prescribed in and subject to this section and to sections 6, 7, 9, 10, 11, 29, 30, 32, 36, 47A and 49 and clause Seventh of section 5 of chapter 59, but no proceeding shall be instituted under section 36 because such society has a membership of less than 400.

(d) With the written approval of the commissioner and the consent of each society expressed by a vote at a duly called meeting, any society subject to this section may transfer its membership and funds to any other domestic society organized under this chapter. A society to which the membership and funds of another society have been transferred as aforesaid may continue to transact business subject to this section, but may have a special class of members consisting of those persons who held membership in each of such societies immediately prior to the transfer, which members shall be entitled to dual benefits and shall pay dual membership dues and assessments. The class of membership shall not be expanded or replaced and shall not in any event receive disability benefits of more than \$20 per week and death benefits of more than \$400. Benefits not exceeding such amounts may be paid notwithstanding any other provisions of law to the contrary.

(e) The recording officer of any society subject to this section shall forthwith file with the commissioner, whenever he requires in writing, a duly certified copy of its by-laws.

(f) A society subject to this section shall within 30 days after a written request therefore by the commissioner file with him a financial statement, in such form and detail and of such date as he may prescribe, signed and sworn to by its president and secretary and treasurer. A society shall also annually on or before March 1 file with the commissioner a financial statement, in such form and detail as he shall prescribe, and as of December 31 of the preceding calendar year, certified to by its president and secretary and treasurer, showing its assets and liabilities, the names of banks used as depositories, and its total membership.

(g) A person violating any provision of this section, and any such society, or any officer or agent thereof, paying or agreeing to pay death or disability benefits in excess of the amounts prescribed in this section or collecting dues or assessments therefore, shall be punished as provided in section 50.

Section 46A. A subordinate lodge of a society with ritualistic form of work and representative form of government duly authorized to transact business in the commonwealth



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under this chapter may pay disability benefits not exceeding \$10 a week without conforming to this chapter or chapter 175.

Section 46B. An incorporated domestic society formed or transacting business under section 45 or 46 may acquire, hold, manage and dispose of real estate in the city or town in which its principal office is located, to such amount as the commissioner may, by certificate filed in his office, approve. All property so held and the income derived therefrom shall be used for the purposes of the corporation as set forth in its charter or certificate of incorporation or in any amendment thereof.

Section 46C. A society subject to section 45 and section 46 may provide for the payment of any part or all of the benefits payable to its members by such society by agreement in writing with an insurance company for the payment of such benefits. The premiums or charge for such insurance may be paid from the periodical or other payments by members of such society.

Section 46D. A grand or district lodge of a secret order or fraternity which operates on the lodge system with a representative form of government and doing business in this commonwealth under any provision of section 46 may pay a death or funeral benefit not exceeding \$2,000 without conforming to the provisions of this chapter except this section and section 46 if no such benefit is paid by the supreme or parent body of the organization or by the subordinate lodges under the jurisdiction of such grand or district lodge and if no assessments for any such benefit are levied or collected by the supreme or parent body of the organization.

Section 47. The superior court shall have jurisdiction in equity, upon an information filed by the attorney general at the request of the commissioner, to restrain all violations of this chapter and to endorse compliance with the provisions thereof and payment of all fines, forfeitures or penalties provided thereby. The remedy herein provided shall be in addition to all other remedies otherwise provided by law or by this chapter, and not in substitution thereof.

Section 47A. A contract of insurance or a benefit certificate made, issued or delivered by any society in violation of any provision of this chapter, or any provision of its charter, articles of association, constitution or by-laws, shall nevertheless be valid and binding upon it and its members, but the rights, duties and obligations of the parties thereto shall be determined by the provisions of this chapter and of the charter, articles of association, constitution and by-laws of the society.

Section 48. A person, officer, member or examining physician of any society who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or in order to obtain money from or benefit in any society, shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in a house of correction for not less than 30 days or more than one year, or by both such fine and imprisonment. A person willfully making a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder



in any society for the purpose of procuring payment of a benefit in the certificate of such holder shall be guilty of perjury. A person who willfully makes any false statement in any verified report or declaration on oath required or authorized by this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two and one-half years, or by both such fine and imprisonment.

Section 49. (a) Whoever solicits membership in any society not duly authorized to transact business in the commonwealth, or, whoever, for a person other than himself, or as an agent, solicitor, organizer, officer or other representative of any such society or of any local or subordinate lodge thereof, acts or aids in any manner in the issue, delivery, negotiation or continuance or renewal of any contract of insurance or benefit certificate in such society, or whoever, as such agent, solicitor, organizer, officer or other representative, acts or aids in any manner in the transaction of any business on behalf of such society or of any local or subordinate lodge or branch thereof, by the collection or transmission of dues or assessments, the calling or holding of meetings, or otherwise, shall be punished by a fine of not less than \$50 nor more than \$500.

(b) Whoever, by the means of cards, circulars, letterheads, advertisements, signs or other methods, represents or holds himself out to the public as being an agent, solicitor, organizer, officer or other representative of any such society or of any local or subordinate lodge or branch thereof shall be punished by a fine of not less than \$20 nor more than \$500.

Section 49A. A society operating on the lodge system with a representative form of government whose rates are on a basis of mortality not lower than the National Fraternal Congress Table as adopted by the National Fraternal Congress on August 23, 1899, or any society formed under section 45, if its constitution and by-laws so provide, may pay a pension to any employee who has been continuously in the service of the society for ten years or more and who has become incapacitated for further service by reason of physical or mental disability, and may pay a pension to any employee who has been continuously in the service of the society for 15 years or more and who is retired by reason of the infirmities of age or has attained the age of 65 years. All moneys expended for the purposes of this section shall be paid from the expense fund of the society. This section shall not apply to any society formed under section 46.

Section 50. Whoever violates any provision of this chapter for which a specific penalty is not provided shall be punished by a fine of not more than \$200.

**SECTION 20.** This act shall take effect as of January 1, 2001.

Approved November 16, 2000.

## **Chapter 321. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARC DESCHAMPS, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which

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is to establish forthwith a sick leave bank for a certain employee of the department of correction, 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 correction may establish a sick leave bank for Marc Deschamps, an employee of the department. Any employee of the department may voluntarily contribute one or more of his sick, personal or vacation days to the sick leave bank for use by Marc Deschamps.

Approved November 16, 2000.

**Chapter 322. AN ACT PROVIDING FOR A SEASONAL POLICE FORCE IN THE TOWN OF WEST SPRINGFIELD.**

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

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary, the town of West Springfield is hereby authorized to employ a force of not more than 150 police officers for any period not to exceed three months. The town shall not employ such an officer for more than two such periods during any one year period. The position in which any such officer is employed on either a full-time or less than full-time basis shall be a seasonal position as defined under section 1 of chapter 31 of the General Laws.

No member of the seasonal force shall be called into service as a police officer while there are members of the regular or the reserve or intermittent police force of the town available for service.

Members of the seasonal force shall have the same power to make arrests and perform other police functions as intermittent police officers and shall be subject to the same training requirements as such intermittent officers.

Any member of the seasonal force when called into service shall not be compensated for service except as determined by the board of selectmen but such members shall be compensated for medical treatment for injury incurred in the line of duty.

Any member of the seasonal force may be removed by the selectmen at any time for any reason and members of the force shall wear uniforms, carry insignia and equipment and be subject to rules and regulations as the selectmen may from time to time prescribe.

The members of the seasonal force shall be available for service in other places as provided by section 99 of chapter 41 of the General Laws.

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The selectmen of the town may forthwith appoint not more than 150 officers to the seasonal force and may thereafter fill such vacancies as may from time to time occur. Preference shall be given to residents of the town, if qualified, as determined by the selectmen.

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

Approved November 22, 2000.

## **Chapter 323. AN ACT DESIGNATING "ODE TO MASSACHUSETTS" AS THE ODE OF THE COMMONWEALTH.**

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

Chapter 2 of the General Laws is hereby amended by adding the following section:-  
Section 47. The words and music of "Ode to Massachusetts" by Joseph Falzone shall be the official ode of the commonwealth.

Approved November 22, 2000.

## **Chapter 324. AN ACT RELATIVE TO THE FILING DEADLINE FOR PROPERTY TAX APPEALS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a uniform procedure for the filing of property tax appeals, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Section 7 of chapter 58A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:

If any petition, including any petition, statement or appeal filed under this section or section 7A or 7B, is, after the period allowed for filing appeals with the board, delivered by United States mail, or by such alternative private delivery service as the board may by rule permit, to the board, the date of the United States postmark, or other substantiating mark permitted by rule of the board, affixed on the envelope or other appropriate wrapper in which such petition is mailed or delivered shall be deemed to be the date of delivery, if such petition was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly

addressed to the board. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

**SECTION 2.** Section 59 of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:

If any application for abatement of tax is, after the period or date prescribed by this section, delivered by United States mail, or by such alternative private delivery service as the commissioner of revenue may by regulation permit, to the assessors, the date of the United States postmark, or other substantiating date mark permitted by regulation of the commissioner of revenue, affixed on the envelope or other appropriate wrapper in which such application was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the assessors. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

**SECTION 3.** Section 64 of said chapter 59, as so appearing, is hereby amended by adding the following paragraph:

If any complaint under this section is, after the period or date prescribed by this section, delivered by United States mail, or by such alternative private delivery service as the county commissioners or the board authorized to hear and determine such complaints, may permit, to the clerk of the county commissioners, or to such board, the date of the United States postmark, or other substantiating date mark permitted by the county commissioners or such board, affixed on the envelope or other appropriate wrapper in which such complaint is mailed or delivered shall be deemed to be the date of delivery, if such complaint was mailed in the United States in an envelope or such appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the county commissioners or the board authorized to hear and determine such complaints. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

**SECTION 4.** Section 65 of said chapter 59, as so appearing, is hereby amended by adding the following paragraph:

If any such petition is, after the period or date prescribed by this section, delivered by United States mail, or by such alternative private delivery service as the appellate tax board may by rule permit, to such board, the date of the United States postmark, or other substantiating date mark permitted by rule of such board, affixed on the envelope or other appropriate wrapper in which such petition is mailed or delivered shall be deemed to be the date of delivery, if such petition was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the board. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

**SECTION 5.** Section 33A of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph: -



If any petition is, after the period or date prescribed under section 39, delivered by United States mail, or by such alternative private delivery service as the appellate tax board may by rule permit, to the appellate tax board, the date of the United States postmark, or other substantiating date mark permitted by rule of the board, affixed on the envelope or other appropriate wrapper in which such petition is mailed or delivered shall be deemed to be the date of delivery, if such petition was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the board.

Approved November 30, 2000

**Chapter 325. AN ACT AUTHORIZING THE CONVEYANCE OF REAL PROPERTY BY THE COMMONWEALTH IN THE TOWN OF FALMOUTH.**

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

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

**SECTION 1.** Notwithstanding the provisions of sections 40E to 40I, 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 asset management and maintenance may convey to the Falmouth Youth Hockey League, Inc., a certain parcel of land located in the town of Falmouth to be used for recreational purposes, consisting of a portion of Parcel D-10-F, acquired from James M. and Hildur E. Pafford in 1956, totaling approximately 21,470 square feet, shown on a plan of land entitled "The Commonwealth of Massachusetts PLAN OF LAND in the Town of Falmouth, Barnstable county, showing land to be conveyed to Falmouth Youth Hockey League, Inc., and Volta Oil Co., Inc." prepared by the department of highways.

**SECTION 2.** The consideration to be paid by the Falmouth Youth Hockey League, Inc., to the commonwealth shall be the full and fair market value as recreational land. The full and fair market value shall be determined by the commissioner of the division of capital asset management and maintenance based upon an independent professional appraisal. Said commissioner shall, 30 days prior to the conveyance authorized in section 1, submit the appraisal and a report thereon to the inspector general for his review and comment. The review and comment shall include an examination of the methodology utilized for the appraisal. Said inspector general shall prepare a report of his review of the appraisal and file the report with said commissioner, and copies of the same shall be filed with the house and

senate committees on ways and means and the chairmen of the joint committee on state administration. The Falmouth Youth Hockey League, Inc. shall be responsible for any costs for appraisals, survey and other expense relating to the conveyance of the land, and for any costs and liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel.

**SECTION 3.** Notwithstanding the provisions of sections 40E to 40I, 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 asset management and maintenance may convey to Volta Oil Co., Inc. a certain parcel of land located in the town of Falmouth to be used for commercial purposes, the first parcel consisting of a portion of Parcel D-10-F, acquired from James M. and Hildur E. Pafford in 1956, totaling approximately 5,575 square feet shown on a plan of land entitled "The Commonwealth of Massachusetts PLAN OF LAND in the Town of Falmouth, Barnstable county, showing land to be conveyed to Falmouth Youth Hockey League, Inc., and Volta Oil Co., Inc." prepared by the department of highways.

**SECTION 4.** The consideration to be paid by Volta Oil Co., Inc. to the commonwealth shall be the full and fair market value as commercial land. The full and fair market value shall be determined by the commissioner of the division of capital asset management and maintenance based upon an independent professional appraisal. Said commissioner shall, 30 days prior to the conveyance authorized in section 3, submit the appraisal and a report thereon to the inspector general for his review and comment. The review and comment shall include an examination of the methodology for the appraisal. Said inspector general shall prepare a report of his review of the appraisal and file the report with said commissioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committee on state administration. Volta Oil Co., Inc., shall be responsible for any costs for appraisals, survey and other expense relating to the conveyance of the land, and for any costs and liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel.

**SECTION 5.** Notwithstanding the provisions of sections 40E to 40I, 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 asset management and maintenance may convey to Volta Oil Co., Inc. a certain parcel of land located in the town of Falmouth to be used for commercial purposes, consisting of Parcel "A", acquired from James M. and Hildur E. Pafford in 1956, totaling approximately 5,764 square feet, shown on a plan of land entitled "The Commonwealth of Massachusetts PLAN OF LAND in the Town of Falmouth, Barnstable county, showing land to be conveyed to Falmouth Youth Hockey League, Inc., and Volta Oil Co., Inc." prepared by the department of highways.

**SECTION 6.** The consideration to be paid by Volta Oil Co., Inc. to the commonwealth shall be the full and fair market value as commercial land. The full and fair market value shall be determined by the commissioner of the division of capital asset management and maintenance based upon an independent professional appraisal. Said commissioner shall,

30 days prior to the conveyance authorized in section 5, submit the appraisal and a report thereon to the inspector general for his review and comment. The review and comment shall include an examination of the methodology utilized for the appraisal. Said inspector general shall prepare a report of his review of the appraisal and file the report with said commissioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committee on state administration. Volta Oil Co., Inc., shall be responsible for any costs for appraisals, survey and other expense relating to the conveyance of the land, and for any costs and liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel.

**SECTION 7.** If the land in section 1 ceases to be used at any time for the purposes delineated in this act it shall, at the discretion of the commissioner of the division of capital asset management and maintenance, revert back to the care and control of said division of capital asset management and maintenance and any further disposition of said real property land shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

Approved November 30, 2000.

## **Chapter 326. AN ACT REGULATING VIATICAL SETTLEMENTS AGREEMENTS.**

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

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by adding the following 12 sections:-

Section 212. Sections 212 to 223, inclusive, may be cited as the Viatical Settlements Act.

Section 213. As used in sections 212 to 223, inclusive, the following words shall, unless the context requires otherwise have the following meanings:-

"Accelerated benefits", a policy provision allowing full or partial payment of the death benefit before the death of the insured based on the physical condition of the insured.

"Catastrophic condition", a medical condition reasonably expected to result in death within 36 months, whether or not medical treatment is provided, where such condition has been certified to by a physician, including, but not limited to, metastasized cancers, renal failure in persons not candidates for transplants, heart or lung disease in persons not candidates for transplants and Acquired Immune Deficiency Syndrome.

"Commissioner", the commissioner of insurance.

"Financing entity", a person who is (1) an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider or viatical loan provider, credit enhancer, reinsurer, or who may be a party to a viatical settlement or a viatical loan, (2) who has a direct ownership or security interest in any policy or certificate which is the subject of a viatical settlement contract or viatical loan contract,



but (3) whose sole activity related to the transaction is providing funds to effect the viatical settlement or viatical loan and (4) who has an agreement in writing with a duly licensed viatical settlement provider or viatical loan provider to act as a participant in a financing transaction.

"Financing transaction", a transaction in compliance with federal and state securities laws in which a duly licensed viatical settlement provider or viatical loan provider or financing entity obtains financing for viatical settlement contracts, viatical loan contracts, viaticated policies or interests therein including, without limitation, any secured or unsecured financing, any securitization transaction or any securities offering, either registered or exempt from registration under federal and state securities law.

"Insured", an individual who is the subject of a life insurance policy or group life insurance contract. For the purposes of sections 212 to 223, inclusive it is the insured's privacy which shall be protected, regardless of whether the insured is also the policy owner or certificate holder.

"Person", a natural or artificial entity, including but not limited to, individuals, partnerships, associations, trusts or corporations.

"Viatical loan borrower", the owner of a life insurance policy or the certificate holder under a group life insurance contract insuring the life of a person with a catastrophic, life-threatening or chronic illness or condition who enters into a viatical loan contract with a viatical loan provider.

"Viatical loan broker", a person that, on behalf of a viatical loan borrower and for a fee, commission or other valuable consideration, offers or attempts to negotiate viatical loan contracts between a viatical loan borrower and one or more viatical loan providers. Irrespective of the manner in which the viatical loan broker is compensated, a viatical loan broker is deemed to represent only the viatical loan borrower and owes a fiduciary duty to the viatical loan borrower to act according to the borrower's instructions and in the best interest of the borrower. A viatical loan broker does not include an attorney, accountant or financial planner retained to represent the borrower and whose compensation is paid directly by or at the direction of the borrower regardless of whether the viatical loan is completed.

"Viatical loan contract", a written agreement through which a person owning a life insurance policy or who owns or is covered under a group policy insuring the life of a person who has a catastrophic, life-threatening or chronic illness or condition secures a loan from a viatical loan provider by using the policy as collateral. The secured loan is an amount less than the face value of the policy, with the difference between the loan principal and the face value of the policy being used to pay, among other things, the accrued loan interest. Upon repayment of the viatical loan, the viatical loan provider's collateral interest in the policy terminates and the security interest is released to the original policyholder, or his or her designee. Viatical loans do not include loans taken against the cash value of a life insurance policy for the purpose of paying premiums due.

"Viatical loan provider", a person, other than a viatical loan borrower, that enters into a viatical loan contract. A viatical loan provider does not include:



(1) a natural person who enters into not more than one loan agreement in a calendar year for any value less than the expected death benefit;

(2) a family member or friend, who is not in the business of providing or obtaining viatical loans, who enters into a loan agreement for any value less than the expected death benefit; or

(3) a financing entity.

"Viatical loan representative", a person who is an authorized agent of a duly licensed viatical loan provider or viatical loan broker and who acts or assists in any manner in the solicitation of a viatical loan on behalf of such viatical loan provider or viatical loan broker, as applicable. A viatical loan representative does not include:

(1) an attorney, an accountant, an investment or financial planner or any person exercising a power of attorney granted by a viatical loan borrower;

(2) a person who is retained to represent a viatical loan borrower and whose compensation is paid by or at the discretion of the viatical loan borrower regardless of whether the viatical loan transaction is completed; or

(3) a credit union, trade union, not-for-profit entity or an employer or association that makes information about viatical loans available to its employees or members unless such information is distributed in exchange for financial consideration.

A viatical loan representative is deemed to represent only the viatical loan provider or viatical loan broker, as applicable.

"Viatical settlement broker", a person that, on behalf of a viator and for a fee, commission or other valuable consideration, offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. Irrespective of the manner in which the viatical settlement broker is compensated a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. A viatical settlement broker does not include an attorney, accountant or financial planner retained to represent the viator whose compensation is paid directly by or at the direction of the viator regardless of whether the viatical settlement is completed.

"Viatical settlement contract", a written agreement entered into between a viatical settlement provider and a viator. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the viatical settlement provider.

"Viatical settlement provider", a person, other than a viator, who enters into a viatical settlement contract, or who obtains financing from a financing entity for the purchase, acquisition, transfer or other assignment of one or more viatical settlement contracts, viaticated policies or interests therein or who otherwise sells, assigns, transfers, pledges, hypothecates or otherwise disposes of one or more viatical settlement contracts, viaticated policies or interests therein. A viatical settlement provider does not include:

(1) a bank, savings bank, savings and loan association, credit union or other licensed lending institution which takes an assignment of a life insurance policy as collateral for a loan;

(2) the issuer of a life insurance policy providing accelerated benefits and pursuant to the contract;

(3) a natural person who enters into not more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;

(4) a family member or friend who is not in the business of providing or obtaining viatical settlements, who enters into a viatical settlement agreement for any value less than the expected death benefit; or

(5) a financing entity.

"Viatical settlement representative", a person who is an authorized agent of a duly licensed viatical settlement provider or viatical settlement broker, as applicable, and who acts or assists in any manner in the solicitation of a viatical settlement on behalf of such viatical settlement provider or viatical settlement broker. A viatical settlement representative shall not include:

(1) an attorney, accountant, investment or financial planner or any person exercising a power of attorney granted by a viator;

(2) a person who is retained to represent a viator and whose compensation is paid by or at the discretion of the viator regardless of whether the viatical settlement transaction is completed; or

(3) a credit union, trade union, not-for-profit entity or an employer or association that makes information about viatical settlements available to its employees or members, unless such information is distributed in exchange for financial consideration.

A viatical settlement representative is deemed to represent only the viatical settlement provider or viatical settlement broker, as applicable.

"Viaticated policy", a life insurance policy or certificate that has been the subject of a completed viatical settlement contract or viatical loan contract.

"Viator", the owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a catastrophic, life-threatening or chronic illness or condition who enters or seeks to enter into a viatical settlement contract.

Section 214. (a) No person may act as a viatical settlement or loan provider, or as a viatical settlement or loan broker, without first having obtained a license from the commissioner. A viatical settlement or loan representative may act under the authority of the license of the viatical settlement or loan provider or viatical settlement or loan broker which appoints said representative. The appointment of a viatical settlement or loan representative must be registered with the commissioner, on a form prescribed by the commissioner, by the appointing viatical settlement or loan provider or viatical settlement or loan broker. Application for a viatical settlement or loan provider license, or viatical settlement or loan broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee in an amount equal to the fee pre-

scribed for each license or renewal thereof to an insurance agent of any company under section 163, as determined annually by the commissioner of administration under the provision of section 3B of chapter 7. Licenses may be renewed from year to year, on the anniversary date, upon payment of the annual renewal fee in an amount equal to the fee for renewal of each license to an insurance agent of any company under section 163, as determined annually by the commissioner of administration under said section 3B. Failure to pay the fee within the terms prescribed shall result in the expiration of the license.

(b) The applicant shall provide such information as the commissioner may require on forms prescribed by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, members, officers and employees. The commissioner may, in the exercise of discretion, refuse to issue a license in the name of any firm, partnership or corporation if not satisfied that any officer, employee, stockholder, member, or partner thereof, who may materially influence the applicant's conduct, meets the standards of sections 212 to 223, inclusive.

(c) Applicants for licenses and licensees seeking renewal of a license shall be required to demonstrate that they have had sufficient education and training to be qualified to act as viatical settlement or loan providers or viatical settlement or loan brokers. The commissioner may promulgate regulations regarding the standards of education and training necessary to obtain and renew a license, and the procedure for meeting those standards.

(d) A license issued to a partnership, corporation, limited liability company or other entity authorizes all members, officers and designated employees to act as viatical settlement or loan providers, viatical settlement or loan brokers, or viatical settlement or loan representatives, as applicable, under the license, and all those persons must be named in the application and any supplements to the application.

(e) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and may issue a license if the commissioner finds that the applicant:

- (1) has provided a detailed plan of operation;
- (2) is suitable, competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;
- (3) has a good business reputation so as to be qualified in the business for which the license is applied for;
- (4) has met the standards of education and training established by the commissioner pursuant to sections 212 to 223, inclusive; and
- (5) if a legal entity, provides a certificate of good standing from its state of domicile.

The commissioner shall not issue any license to any nonresident applicant, unless a written designation of an agent for service of process is filed and maintained with the commissioner or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.



Section 215. (a) The commissioner shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement or loan provider or viatical settlement or loan broker if the commissioner finds that:

- (1) there was any material misrepresentation in the application for the license;
- (2) the holder of the license has been guilty of fraudulent or dishonest practices, is subject to a final administrative action or is otherwise shown to be untrustworthy or incompetent to act as a viatical settlement or loan provider or viatical settlement or loan broker;
- (3) the viatical settlement or loan provider demonstrates a pattern of unreasonable payments to viators or borrowers; or
- (4) the licensee has been found guilty of, or has pleaded guilty or nolo contendere to, a felony, or a misdemeanor involving fraud or moral turpitude;
- (5) the viatical settlement or loan provider or viatical settlement or loan broker has entered into viatical settlement or loan contracts that have not been approved pursuant to sections 212 to 223, inclusive;
- (6) the viatical settlement or loan provider or viatical settlement or loan broker has failed to honor contractual obligations set out in viatical settlement or loan contracts;
- (7) the licensee no longer meets the requirements for initial licensure;
- (8) the viatical settlement or loan provider has assigned or pledged a viaticated policy to a person other than to a duly licensed viatical settlement or loan provider or a financing entity; or
- (9) the licensee has violated any of the provisions of sections 212 to 223, inclusive, of this chapter.

(b) Before the commissioner shall deny a license application or revoke or refuse to renew the license of a viatical settlement or loan provider or a viatical settlement or loan broker, the commissioner shall conduct a hearing in accordance with chapter 30A. The commissioner shall also have the right to suspend a license for up to 30 days following the issuance of a cease and desist order demanding the licensee show cause within said 30 days why such license should not be revoked or non-renewed.

Section 216. No person may use any viatical settlement or loan contract in this state or provide a viator or borrower a disclosure statement form unless it has been filed with and approved by the commissioner. Any viatical settlement or loan contract form or disclosure form filed with the commissioner shall be deemed approved if it has not been disapproved within 60 days of the filing. The commissioner shall disapprove a viatical settlement or loan contract form if, in the commissioner's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator or borrower.

Section 217. Each viatical settlement or loan provider shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner may prescribe by regulation.



Section 218. (a) The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

(b) Names, individual identification data and descriptions of the particular catastrophic, life-threatening or chronic illnesses or conditions for all insureds shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.

(c) Records of all transactions of viatical settlement or loan contracts shall be maintained by the viatical settlement or loan provider and shall be available to the commissioner for inspection during reasonable business hours.

A viatical settlement or loan provider shall maintain records of each viatical settlement or loan until five years after the death of the insured.

Section 219. (a) A viatical settlement or loan provider, viatical settlement or loan broker, or viatical settlement or loan representative shall disclose in writing the following information to the viator or viatical loan borrower no later than the time of application:

(1) possible alternatives to viatical settlement or loan contracts for persons with catastrophic, life-threatening or chronic illnesses or conditions, including, but not limited to, any accelerated benefits offered under the viator's or borrower's life insurance policy;

(2) the fact that some or all of the proceeds of the viatical settlement may be taxable, and that assistance should be sought from a personal tax advisor;

(3) the fact that the viatical settlement or loan could be subject to the claims of creditors;

(4) the fact that receipt of a viatical settlement or loan may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements, and that advice should be obtained from the appropriate agencies;

(5) the viator's or borrower's right to rescind a viatical settlement or loan contract within 15 days of the receipt of the viatical settlement or loan proceeds by the viator or borrower, as provided in section 220;

(6) the procedure for contacts with the insured for the purpose of determining the health status of the insured after the viatical settlement or loan has occurred, and the fact that health monitoring contacts will be limited to once every three months for insureds with a life expectancy of more than one year and to no more than one per month for insureds with a life expectancy of one year or less;

(7) for viatical settlements, that the funds will be sent to the viator within two business days after the viatical settlement provider has received the insurer's or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated pursuant to the viatical settlement

contract. For viatical loans, that the funds will be available to be drawn on at the borrower's request within two business days after the viatical loan provider has received the insurer's or group administrator's acknowledgment verifying that the absolute assignment and beneficiary of the policy or interest in the certificate have been changed pursuant to the viatical loan contract; and

(8) entering into a viatical settlement or loan contract may cause other rights or benefits, including, but not limited to, conversion rights and waiver of premium benefits which may exist under the policy or certificate, to be forfeited by the viator or viatical loan borrower, and assistance should be sought from a financial adviser.

(b) A viatical settlement provider or viatical loan provider shall disclose the following information to the viator or viatical loan borrower at least two business days prior to the date the viatical settlement or loan contract is signed by all parties:

(1) The affiliation, if any, between the viatical settlement or loan provider and the issuer of an insurance policy which is the subject of the viatical settlement or loan.

(2) If an insurance policy which may be the subject of the viatical settlement or loan has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator or viatical loan borrower must be informed of the possible loss of coverage on the other lives and be advised to consult with the company issuing the policy for advice.

(3) The dollar amount of the current death benefit payable under the policy or certificate. The viatical settlement or loan provider shall also disclose the availability of any additional guaranteed insurance benefits, and the viatical settlement or loan provider's interest in those benefits.

Section 220. (a) A viatical settlement or loan provider entering into a viatical settlement or loan contract with a viator or viatical loan borrower shall first obtain:

(1) if the viator or viatical loan borrower is the insured, a written statement from a licensed attending physician that the viator or borrower is of sound mind and under no constraint or undue influence to enter into the contract;

(2) a witnessed document in which the viator or viatical loan borrower consents to the viatical settlement or loan contract, acknowledges that the insured has a catastrophic, life-threatening or chronic illness or condition, represents that the viator or borrower has a full and complete understanding of the viatical settlement or loan contract, that the viator or borrower has a full and complete understanding of the benefits of the life insurance policy, and that the viator or borrower has entered the viatical settlement or loan contract freely and voluntarily; and

(3) a document in which the insured consents to the release of his or her medical records to a viatical settlement or loan provider or broker.

(b) All medical information solicited or obtained by any licensee or any financing entity shall be subject to the applicable provision of law relating to confidentiality of medical information. The insured shall be offered the choice of (1) requiring that the insured's written, informed consent be obtained in each instance of disclosure of patient identifying

information, or (2) signing a general consent document for the release of medical records and patient identifying information, which would remain in effect for any subsequent transactions involving the policy. If the insured elects the option in clause (2), the insured shall receive notice by first class mail of any further disclosure of patient identifying information. It is the responsibility of the party divulging the patient identifying information to notify the insured of the disclosure. "Patient identifying information" means an insured's name, address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information which is likely to lead to the identification of the insured. Patient identifying information may be disclosed to purchasers of or investors in a policy after they have signed a contract or agreement to purchase a policy. Such purchasers or investors shall be bound by section 220.

(c) All viatical settlement and loan contracts entered into in the commonwealth shall provide the viator or viatical loan borrower with an unconditional right to rescind the contract for 15 days from the receipt of the viatical settlement or loan proceeds. If the insured dies during the rescission period, the viatical settlement or loan contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement or loan provider of any viatical settlement or loan proceeds, if repaid within 90 days from the date of death of the insured.

(d) Immediately upon receipt from the viator or viatical loan borrower of documents to effect the transfer or assignment of the insurance policy, the viatical settlement or loan provider shall pay the proceeds of the settlement or loan to an escrow or trust account in a state or federally chartered financial institution, pending acknowledgment of the transfer or assignment by the issuer of the policy. Immediately upon receipt of confirmation by the viatical settlement provider or viatical loan provider that the insurer has acknowledged the transfer or assignment of the policy, the trustee or escrow agent shall be required to transfer to the viator or viatical loan borrower: (1) all of the proceeds due if to be made in a lump sum payment; or (2) the first installment if proceeds due are to be made in installment payments pursuant to the viatical settlement or loan contract.

(e) Failure to tender consideration to the viator or viatical loan borrower for the viatical settlement or loan contract by the date disclosed pursuant to paragraph (7) of subsection (a) of section 219 renders the viatical settlement or loan contract voidable by the viator or borrower for lack of consideration until such time as consideration is tendered to and accepted by the viator or borrower.

(f) Contacts for the purpose of determining the health status of the insured by the viatical settlement or loan provider or viatical settlement or loan broker after the viatical settlement or loan has occurred shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than one per month for insureds with a life expectancy of one year or less. The limitations set forth in this subsection shall not apply to any contacts with an insured under a viaticated policy for reasons other than determining the insured's health status.

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(g) Viatical settlement or loan providers, viatical settlement or loan brokers, and viatical settlement or loan representatives are prohibited from paying any commission or finder's fee to any person that is providing or has previously provided care or services to the insured under an insurance policy which is to be viaticated, including, but not limited to, any medical or mental health provider, social services provider, attorney, accountant, financial adviser or planner, investment adviser or planner, or any other person who has a demonstrable conflict of interest in collecting a finder's fee.

Section 221. The commissioner shall have the authority to:

(a) promulgate regulations implementing sections 212 to 223, inclusive;

(b) establish standards for evaluating the reasonableness of payments under viatical settlement or loan contracts, including authority to regulate discount rates used to determine the amount paid in exchange for assignments, transfer, sale, devise, or bequest of a benefit under a life insurance policy;

(c) establish appropriate licensing requirements, fees, and standards for viatical settlement and loan providers, viatical settlement and loan brokers, and viatical settlement and loan representatives;

(d) require a bond or other mechanism for financial accountability of viatical settlement or loan providers and establish the amount thereof; and

(e) adopt rules governing the relationship and responsibilities of insurers and viatical settlement and loan providers and viatical settlement and loan brokers during the viatication of a life insurance policy or certificate.

Section 222. A violation of sections 212 to 223, inclusive, shall be considered an unfair trade practice under chapter 176D, subject to the penalties contained therein.

Section 223. Within the office of consumer affairs and business regulation, the director of consumer affairs and business regulation shall establish a procedure for consumers involved in the viatical settlement and loan process to report problems and complaints about viatical settlement or loan providers or viatical settlement or loan brokers. Upon inquiry, consumers shall also be able to obtain information as to whether a complaint has been lodged against a particular viatical settlement or loan provider or viatical settlement or loan broker. The director shall share information about consumer complaints with the commissioner in order for the commissioner to investigate possible misconduct by licensees and enforce sections 212 to 223, inclusive.

**SECTION 2.** Notwithstanding this act or any general or special law to the contrary, the securities division in the office of the state secretary shall have the authority to regulate viatical settlements as securities pursuant to chapter 110A of the General Laws.

**SECTION 3.** This act shall take effect on March 1, 2001.

Approved November 30, 2000.



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**Chapter 327. AN ACT AUTHORIZING ADVISORY BALLOT QUESTION TO BE PLACED ON THE BALLOT AT A SPECIAL TOWN ELECTION IN THE TOWN OF ROCKLAND.**

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

**SECTION 1.** Notwithstanding section 18A of chapter 53 of the General Laws or any other general or special law, rule or regulation to the contrary, the town of Rockland may place the following nonbinding advisory question on the ballot at the next special town election to be held in said town following the effective date of this act: "Shall the board of selectmen and Rockland representatives of the South Shore Tri-Town Development Corporation be advised to continue efforts to locate a Millis Mall as part of the Reuse Plan for the Former Naval Air Station at South Weymouth?"

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

Approved December 4, 2000

**Chapter 328. AN ACT AUTHORIZING THE TOWN OF HOLDEN TO ESTABLISH A PUBLIC WORKS DEPRECIATION FUND.**

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

**SECTION 1.** The town of Holden may create and maintain a special fund to be known as the Public Works Depreciation Fund.

The town of Holden may appropriate to the Public Works Depreciation Fund by a majority vote at an annual or special town meeting in any year such amount as it deems appropriate. If the budget for the public works department of the town of Holden for any fiscal year, as approved at an annual or special town meeting, contains an item entitled "capital depreciation fund", then the dollar amount designated for such item shall be deemed to be a specific appropriation to the fund and may not thereafter be expended, except in accordance with the provisions of section 2.

The treasurer of the town of Holden shall be the custodian of the fund and may invest the assets of the fund in any investment authorized for the Infrastructure Investment Fund of the town of Holden under chapter 365 of the acts of 1993. Any interest and earnings resulting from the investments shall be added to, and become a part of, the Public Works Depreciation Fund.

**SECTION 2.** The Public Works Depreciation Fund may be appropriated at an annual or special town meeting by a majority vote, only for renewals in excess of ordinary repairs, extensions, reconstructions, enlargements and additions to the capital equipment of the public works department of the town of Holden. So much of the fund as the town may from time to time approve at an annual or special town meeting may also be used to pay notes, bonds or certificates of indebtedness, issued to pay for the cost of such renewals, in excess

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of ordinary repairs, extensions, reconstructions, enlargements and additions to the capital equipment of the department when such notes, bonds or certificates of indebtedness become due.

Notwithstanding the foregoing, the Public Works Depreciation Fund may be appropriated for any lawful purpose at an annual town meeting by a four-fifths vote and at a special town meeting by a nine-tenths vote.

Approved December 7, 2000.

**Chapter 329. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Fairhaven may issue to Uno Restaurants, Inc. a license to sell all alcoholic beverages to be drunk on the premises at 218-220 Huttleston Avenue in said town of Fairhaven under the provisions of section 12 of said chapter 138. The license shall be subject to all of the provisions of said chapter 138 except said section 17. The license may not be transferred to another location but may be transferred to another person at the same location.

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

Approved December 7, 2000.

**Chapter 330. AN ACT RELATIVE TO DEPARTMENT HEADS IN THE TOWN OF COHASSET.**

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

**SECTION 1.** Paragraph (iii) of subsection (C) of section 4 of chapter 34 of the acts of 1997, as amended by section 1 of chapter 421 of the acts of 1998, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A department head not protected by civil service law or union contract shall have the right to appeal to the board of selectmen 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 town of Cohasset's personnel by-law.

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

Approved December 7, 2000.

**Chapter 331. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JAMES F. BROUGHTON, JR., AN EMPLOYEE OF THE DEPARTMENT OF YOUTH SERVICES.**

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

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

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department of youth services is hereby authorized and directed to establish a sick leave bank for James F. Broughton, Jr., 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 James F. Broughton, Jr. Said James F. Broughton, Jr. may use said sick leave bank after he has exhausted all leave available to him from the extended illness leave bank administered by the human resources division.

Approved December 7, 2000.

**Chapter 332. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND IN THE TOWN OF TEWKSBURY.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to convey forthwith certain land in the town of Tewksbury for sewer 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.** The commissioner of the division of capital asset management and maintenance may, notwithstanding the provisions of sections 40E to 40I, inclusive, of chapter 7 of the General Laws, convey a certain sewer easement and construction easement in land of the commonwealth acquired for hospital purposes located in the town of Tewksbury to the Maple Estates Trust. The easements are shown on a plan of land entitled

"Plan of easements in Tewksbury, Mass. for Sewer Main Construction and Maintenance", dated May 17, 1993, drawn by William G. Troy and Associates, which is on file in the office of the board of selectmen of said town.

**SECTION 2.** The consideration paid by the Maple Estates Trust for the easements shall be the full and fair market value of the property determined by the commissioner of the division of capital asset management and maintenance based upon the independent appraisal, for the use as described herein. The inspector general shall review and approve the appraisal and the review shall include a review of methodology utilized for the appraisal. Said inspector general shall prepare a report of his review and file the report with said commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 5.

**SECTION 3.** The Maple Estates Trust shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the easements, or for any costs and liabilities and expenses of any nature and kind for their maintenance or operation. In the event the easements cease to be used at any time for the purposes contained herein, the easements shall terminate and all interests therein shall automatically terminate and revert to the care and control of the division of capital asset management and maintenance upon the execution and recording with the Middlesex registry of deeds by the commonwealth of a written notice of such termination and reversion.

**SECTION 4.** The sale price paid as consideration pursuant to section 2 shall be deposited in the General Fund.

**SECTION 5.** The commissioner of the division of capital asset management and maintenance 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 chairmen of the joint committee on state administration at least 15 days prior to execution.

Approved December 7, 2000.

### **Chapter 333. AN ACT DESIGNATING THE 181<sup>st</sup> ENGINEERING BATTALION BUILDING IN THE TOWN OF NORTHBRIDGE AS THE ROSAIRE J. RAJOTTE NATIONAL GUARD ARMORY.**

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

The Massachusetts National Guard building in the town of Northbridge shall be designated and known as the Rosaire J. Rajotte National Guard Armory, in honor of Mr.



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Rajotte's unwavering dedication and service to the Massachusetts National Guard and his long-time support of the 181<sup>st</sup> Engineering Battalion. The Massachusetts National Guard is hereby authorized and directed to erect and maintain a suitable marker bearing said designation in compliance with the standards of the Massachusetts National Guard.

Approved December 7, 2000.

### **Chapter 334. AN ACT VALIDATING THE ACTIONS TAKEN AT THE TOWN ELECTION HELD IN THE TOWN OF ERVING.**

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

**SECTION 1.** Notwithstanding the provisions of section 10 of chapter 39 of the General Laws or any general or special law to the contrary, the acts and proceedings taken by the town of Erving at the town election held on May 1, 2000, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission in posting the warrant for said election.

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

Approved December 7, 2000.

### **Chapter 335. AN ACT RELATIVE TO THE SALARY OF THE MAYOR OF THE CITY OF BROCKTON.**

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

**SECTION 1.** The salary for the mayor of the city of Brockton shall be \$102,500 per annum effective July 1, 2000. The salary shall be adjusted annually commencing July 1, 2002 by the most recent annualized percentage increase or decrease of the Consumer Price Index-All Urban Consumers, for the Boston-Brockton-Nashua, MA-NH-ME-CT area. In addition, the mayor shall have the use of a city owned motor vehicle so long as the same is provided for by the ordinances of the city of Brockton.

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

Approved December 7, 2000.

### **Chapter 336. AN ACT ESTABLISHING THE PITTSFIELD CIVIC AUTHORITY.**

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

**SECTION 1.** It is hereby declared that there is an urgent need within the city of

Pittsfield to provide a suitable, additional structure and related facilities for large public and private gatherings which are civic, cultural, athletic, commercial or entertainment in nature. These shall include facilities which will accommodate indoor and outdoor professional and amateur athletic and sporting events and training, performing arts and cultural events, entertainment, education, convention exhibitions, trade shows, large meetings and banquets. The provision of such suitable, additional facilities at reasonable cost will enhance economic growth and development within the city, increase the general welfare of the public, increase the level of employment and increase assessed commercial and residential property values.

**SECTION 2.** The following words as used in this act shall, unless the content or context otherwise requires, have the following meanings:

"Appointing authority", the entity authorized to appoint members to the Pittsfield Civic Authority Board.

"Authority", the body corporate public and politic to be known as the Pittsfield Civic Authority, the purpose of which shall be to acquire property for the use of a facility or facilities and to plan, design, finance, construct and maintain and operate a facility or facilities.

"Berkshire Central Labor Council", the AFL-CIO Labor Council of the Berkshires, or its successor, located in Berkshire County.

"Bonds", bonds, notes or other evidences of indebtedness issued under this act.

"Board", the Pittsfield Civic Authority Board established pursuant to section 4.

"Chamber of Commerce", the Chamber of Commerce of the Berkshires, or its successor, located in the county of Berkshire.

"City", the city of Pittsfield.

"City council", the city council for the city of Pittsfield.

"Director", the executive director of the Authority as prescribed in section 5.

"Facility", a multi-purpose facility consisting of one or more single or multi-purpose structures and all land and appurtenant structures designed and constructed or acquired by the Authority to provide accommodations for large public and private gatherings which are civic, cultural, athletic, commercial or entertainment in nature, including a facility which will accommodate indoor and outdoor athletic and sporting events and training, performing arts and cultural events entertainment, education, conventions, exhibitions, trade shows, large meetings and banquets and similar and related activities and ancillary facilities supportive of such activities. A facility shall be publicly owned and either publicly or privately operated and the same may be open to the public use with or without charge as provided under this act and to private use for a fee.

"Mayor", the mayor of the city of Pittsfield.

**SECTION 3.** The city, by majority vote of its city council, may, subject to the provisions of this act, create a body corporate to be known as the Pittsfield Civic Authority. The purpose of the Authority shall be to acquire property within the city of Pittsfield for the use of a facility or facilities, and to plan, design, finance, construct or acquire, and maintain

and operate a facility or facilities. The Authority shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities which shall be open at all times for inspection by the city or by any officer or duly appointed agent of the commonwealth. The Authority shall be considered a municipal entity for purposes of chapter 268A. The city, however, shall not be liable for (i) causes of action brought against the Authority for activities related to the acquisition of real property by eminent domain, or (ii) general liability relating to the operation and maintenance of a facility. The city shall also not be liable for any debt of the Authority issued as a general obligation, or for the costs of operation and maintenance of a facility.

**SECTION 4.** (a) The city, upon recommendation of the mayor and the approval of city council, may subject to this act, establish a Pittsfield Civic Authority Board, in this act called the Board, for the purpose of planning, designing, financing, constructing, operating and maintaining, through the Authority in this act, a facility or facilities within the city. Said Authority shall be under the management and control of the Board. The Board shall consist of nine members who have their primary residence located in Pittsfield, unless such appointment is approved by the mayor and majority vote of the city council. Three members shall be appointed by the mayor; four shall be appointed by a majority vote of the city council; one shall be appointed by the president of the Central Berkshire Chamber of Commerce through a majority vote of the board of directors of that body; and one shall be appointed by the president of the Berkshire Central Labor Council through a majority vote of the board of directors of that body. Of the three mayoral appointments, one shall be experienced with or knowledgeable about the financing or issuance of bonds and debt obligations of public entities and shall be appointed to serve for a term of five years; one shall be experienced with or knowledgeable about economic development and planning, and shall be appointed and serve for a term of four years; and one shall reside in or represent the interest of the neighborhoods which will be most directly affected by the activities of the Authority and shall be appointed and serve for a term of three years. The city council, shall by a majority vote, appoint four at-large members, two of whom shall serve for terms of four years, and two of whom shall serve terms of three years, respectively. The Chamber of Commerce and the Berkshire Central Labor Council shall each appoint one at-large member who shall each serve for a term of three years. A record of such appointments by the city shall be filed with the city clerk and thereupon be effective. The chairperson of the Board shall be elected from among the members of the Board by a majority vote of the members.

(b) At the expiration of the term of any member or upon the resignation, disqualification or death of any member, the appointing authority shall appoint a new member for an equivalent term as the member whose seat the new member is replacing. Each member whose term has expired shall serve until the qualification of a successor. A member, other than one serving a five-year term, may be reappointed for one additional consecutive term. A vacancy in the Board shall be filled through the procedures set forth in subsection (a).

(c) A member of the Board may be removed for cause for misfeasance, malfeasance or willful neglect of duty pursuant to reasonable notice to the member in question which shall include a statement of facts forming the basis for consideration of removal, unless such hearing is expressly waived by the member in question in writing. Removal for cause may be initiated by (i) any member of the city council and then confirmed by a two-thirds vote of the city council, or (ii) by two or more members of the Board and confirmed by a majority vote of the Board.

(d) The Board shall adopt by-laws, rules and regulations, which are consistent with the provision hereof or of any applicable statute or ordinance, for conducting its business and meetings and otherwise carrying out the purposes of this act. The by-laws and any amendments thereto shall be provided to the mayor and city council.

(e) Five members of the Board shall constitute a quorum and the affirmative vote of at least five members shall be necessary and shall suffice for any action taken by the Board including the adoption of by-laws, rules and regulations. The Board members shall annually in the month of April select a chairperson, vice-chairperson, and secretary, from among the membership who shall act as an executive committee.

(f) Members of the Board shall serve without compensation, but shall be allowed their reasonable and necessary expenses incurred in the performance of their duties as such members, subject to the approval of the executive committee of the Board.

(g) The Board shall annually determine the amount required for the payment of principal and interest on bonds and notes issued or to be renewed by the Authority which shall be due during the ensuing calendar year and shall also determine such other amounts as may be necessary to maintain and operate the Authority during such year, including capital outlay items the cost of which is not to be funded and for all other matters for which the Authority is required to raise money, and, after determining such payments and amounts, shall promptly prepare a report which shall be provided to the mayor. The Board shall retain an independent accounting firm to audit the financial records of the Authority each year. The results of that audit shall be included in the report submitted pursuant to subsection (h).

(h) The Board shall make a report each year of its activities, including complete financial statements, for the preceding year and, before February 1, shall submit a copy of the report to the state auditor and to the city council and mayor. Such report shall be made available to the public.

**SECTION 5.** The Board shall appoint and determine the compensation of an Authority director who shall be the chief executive officer of the Authority and shall administer the affairs and direct the work of the Authority as approved by the Board. The Board shall set forth the powers and duties of the director in its by-laws. The director may, upon approval of the Board or as otherwise provided in the Authority's by-laws, enter into agreements for professional construction services to be provided to the Authority by private contractors and may enter into project labor agreements with labor organizations for any such construction. The director shall be familiar with economic development and shall possess the education, training and experience appropriate for the position and such other qualifications as are determined by the Board.



**SECTION 6.** The Board shall appoint and may, at its pleasure, remove a treasurer, a clerk, and legal counsel who shall not be members of the Board. The treasurer shall give the Board a bond payable to the Authority issued by a surety company authorized to transact business within the commonwealth, and in an amount satisfactory to the Board. This bond shall be conditioned on the faithful performance of the duties of treasurer. The duties of the treasurer and the clerk shall be those usually pertaining to such offices and, in addition, such as may be from time to time prescribed by the Board. The Board may retain legal counsel for any and all appropriate purposes; provided, however, that no person or law firm may serve as legal counsel while said person or a partner, employee, or agent of said law firm serves as a member of the Board.

**SECTION 7.** The director, with the approval of the Board, shall from time to time appoint or employ such other persons as deemed necessary including but not limited to experts, consultants, agents, officers, clerks and other employees or independent contractors as deemed necessary and shall determine their duties. The salaries or compensation of all persons appointed or employed under authority of this section shall be determined by the Board and along with other expenses shall be paid by the Authority and shall be considered a cost of the operation and maintenance of the Authority. The Board shall establish a business office within the city, where day to day activities of the Authority shall be conducted, where plans, documents, records and other papers relating to its business, assets, and operations shall be located.

**SECTION 8.** Initial organization of the Board established under the provisions of section 4 shall take place within 180 days after the affirmative vote of the city council for the formation of the Authority. If the Board does not organize itself and form the Authority within 180 days, the action of the city council shall be null and void.

**SECTION 9.** The Authority shall possess independent authority to incur debt in the form of bonds or notes incurred in connection with a facility. This debt shall be considered the debt of the Authority, attributable to and incurred by the Authority in accordance with applicable laws and regulations, and on such additional terms and conditions as may be determined by the Authority. Nothing in this act shall be interpreted as giving rise to any liability, or other obligation on behalf of the city, the commonwealth or any agency or political subdivision of the commonwealth, exclusive of the Authority. The Authority, by vote of the Board, may issue, from time to time, general obligation serial bonds or notes to pay for the costs of capital outlays in connection with activities at real estate acquired by the Authority and in connection with the construction and operation of a facility and such other works as may be required. These shall include, but not be limited to, damages relating to land connected to a facility, and costs of demolition of existing structures on lands that may be acquired. The bonds shall be issued in amounts as the Authority, acting by and through the Board, may determine. The Authority may refund or repay any such bonds and notes to the extent allowed by applicable law. The serial bonds and notes may be callable with or without premium, shall contain terms and conditions, bear interest, and be saleable in the open market in amounts as determined by the Board.

Each issue of bonds and notes shall be payable in annual installments, the first of which shall be payable not later than two years after its date of issuance and the last of which shall be payable not more than 30 years after the date of issuance. If the Board votes to issue serial bonds or notes, they may authorize the issuance of general obligation temporary notes, in the name of the Authority, for a period of not more than two years in anticipation of the proceeds to be received from the sale of serial bonds or notes. The issuance of general obligation temporary notes shall not serve as a means by which bonds authorized by the Board may be delayed beyond the time fixed in the order authorizing such temporary bonds or notes.

For the purpose of paying the expenses of operations including, without limitation, any principal or interest due or about to become due on any serial bond or note issued by the Authority for which funds are not available, the Board in the name of the Authority may issue, from time to time, general obligation temporary notes of the Authority in anticipation of any revenues, gifts, grants or receipts from any public or private source. General obligation temporary notes in anticipation of any revenues, gifts, grants or receipts shall be payable not more than one year from their date of issue and shall not exceed in principal amount the amount of the reasonably known and measurable revenues, gifts, grants or receipts in anticipation of which they are issued. General obligation temporary notes issued under this section for a shorter period than the maximum permitted may be renewed by the issuance of other general obligation temporary notes maturing within the required period; provided, however, that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or before maturity. Notes or serial bonds authorized by this section shall be signed by the treasurer of the Board and countersigned by the chairperson of the Board and serial bonds and notes shall have the Authority's seal affixed. Section 16B of chapter 44 of the General Laws shall be applicable to such serial bonds and notes.

Bonds issued under this act shall be payable without the necessity of obtaining any other permission or approval therefor.

Bonds issued under this act shall be payable solely from the revenues and other assets of the Authority. 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. Bonds issued under this act may be secured by a resolution or by a trust or security agreement 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, or by a trust or security agreement directly between the Authority and the purchasers of the bonds, and such resolution or trust or security agreement shall be in such form and executed in a manner as may be determined by the Authority. The trust, security agreement or resolution may pledge or assign, in whole or in part, the revenues from any facilities already existing or thereafter

coming into existence and whether then held or thereafter acquired by the Authority, 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 Authority, 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 Authority 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 proceeds, the establishment of reserves, the construction and operation of a facility of the Authority, and the making and amending of contracts relating to the bonds. It shall be lawful for any bank or trust company to act as 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, lines of credit or other credit facilities as may be required by the Authority acting under this act. 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.

**SECTION 10.** Notwithstanding sections 44A to 44J, inclusive, of chapter 149 of the General Laws or any other general or special law to the contrary, the Authority may contract with one or more persons to design and to manage the construction of the multipurpose stadium, or to design and construct the same provided that the selection process by the Authority shall be in accordance with the applicable requirements of section 6 of chapter 30B of the General Laws and shall be governed by the relevant provisions of sections 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18 and 19 of said chapter 30B. This section applies only to the construction and management of said stadium and does not apply to the construction and management of any other facility.

**SECTION 11.** To meet the costs of design, construction, maintenance and operation of a facility authorized by this act, the Authority may file for and accept any federal and state funds, proceeds, loans, grants or financial assistance in whatever form, under any federal or state law or regulation. Nothing in this section shall be construed to limit the ability of the Authority to accept monetary gifts, grants or contributions from any public, private or charitable source. These shall include but not be limited to construction goods and building materials for a facility, volunteer services and any other in-kind donations directly related to a facility. All such private gifts, grants and contributions shall be recorded and held in a separate account from that holding public funds and be accounted for accordingly.

**SECTION 12.** The Authority, with the written consent of the property owner, may enter upon any land within the city of Pittsfield for the purposes of making engineering surveys, environmental site assessments, and any other generally accepted activities to determine site suitability for a facility. The Authority may, for the purpose of carrying out the intent of this act after a vote of the Board, and in the absence of a veto exercised by the



city council, as provided in this section, purchase, lease or otherwise, temporarily occupy any lands, or take property by eminent domain under chapter 79 of the General Laws; provided, however, that the Authority shall not be authorized to acquire or take by eminent domain land currently subject to a conservation restriction, or land classified or protected under chapter 61, 61A or 61B of the General Laws.

On the day of the Authority's approval of an order of taking, the Authority shall mail notice of such action to the mayor and city council, the owner of the property, and others with an interest in the property. On or before the date which is 21 days after the date of the Authority's approval of the order of taking, the city council, upon petition of a member of the city council, and vote of a majority of its members, may vote to veto the Authority's order of taking; which shall have the effect of making such order of taking null and void. Notwithstanding section 3 of said chapter 79, the Authority shall not record any order of taking until the passing of said 21 day period without a veto having been executed by the city council. If the Authority acquires any land under the powers granted in this section, and oil and hazardous material are present in amounts regulated under chapter 21E of the General Laws, the Authority shall be considered an eligible person as defined in said chapter 21E. The Authority is hereby authorized after a vote of the Board to acquire in the name and on behalf of the Authority, for the purposes of this act, private or public real or personal property rights above, at, or below the surface of the earth, which it deems necessary or desirable for a facility. This may be accomplished by purchase, gift, lease, bequest, devise, grant or the exercise of eminent domain under any law. Wherever possible and practicable, real property acquired under this act shall be acquired in fee simple. The Authority may, after a vote of the Board, sell, lease, exchange, physically alter, or otherwise dispose of property and property rights acquired under this act if in doing so the interest of the public will be best served and the land is no longer needed for the purposes of a facility; but in the event of such disposition, the Authority shall offer a right of first refusal to purchase to the previous owner of the property. Section 16 of chapter 30B of the General Laws shall not apply to the Authority in the conduct of activities permitted by this section. The Authority 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 a facility. The right of eminent domain, if exercised, shall be exercised by the Authority under chapter 79 of the General Laws except as otherwise provided in this section. Any contracts for acquisition by purchase shall be made by the Authority after a vote of the Board. The conveyance of any city owned land to the Authority shall occur only after a two-thirds vote in favor of such an action by the city council.

**SECTION 13.** (a) Notwithstanding the provisions of any general or special law or ordinance to the contrary, the Authority in furtherance of the purposes of this act may:

(1) maintain, operate, insure, promote, repair and improve a facility for such uses as are provided for in this act;



(2) establish rules, regulations and policies, and fix penalties for violation thereof, for the use and occupancy of a facility in accordance with the purposes provided for in this act, and revise the same from time to time. Penalties enforced or other damages recovered by judicial process or otherwise shall be collected and held in a revolving account for repayment of debt service on any bonds that have been issued, or for use in the operation and maintenance of a facility;

(3) assess, charge and collect fees, rates in rentals and other charges for admission to, or the use or occupancy of a facility or any part thereof, and for the grant of concessions therein and for the things furnished or services rendered by the Authority, whether a facility is operated directly by the Authority or under or through contract or lease with any other persons or entities. The Authority shall fix such fees, rates, rentals or other charges for admission to, or the use and occupancy of a facility under this act as in its reasonable judgment are best suited to insure maximum income to meet the expenses of the Authority as established in its annual budget as provided for in subsection (f) of section 4 and to provide such facility at reasonable cost. The Authority will have the ability to change and revise fees, rates in rental, and admission charges after notice has been given to the city council and the mayor at least 90 days before they become effective, and the Board has approved them by vote at least 45 days after such notice has been given. The fees, rates, rentals and other charges established and assessed by the Authority shall not be subject to supervision or regulation of any department, division, authority, board, bureau or agency of the commonwealth or of the city except as otherwise provided herein; and

(4) do all other things reasonable, necessary or advisable in connection with the fulfillment of the purposes of this act.

(b) Except as otherwise expressly provided in this act, all contracts made pursuant to this act shall be in accordance with section 29 of chapter 43 of the General Laws.

(c) Members of the Authority shall not be employees of the city, and chapter 31 of the General Laws shall not apply to any persons employed by the Authority.

**SECTION 14.** (a) The Authority may maintain and operate a facility or contract with any person or business entity, public or private, for the maintenance and operation of a facility, or any portion thereof. Any such contract shall not exceed a term of three years and shall be subject to the limitations and procedures established by section 29 of chapter 43 of the General Laws, and sections 26 to 27H, inclusive, of chapter 149 of the General Laws.

(b) Any such contract may provide for the management of advance reservations of a facility and shall be on such terms and conditions as the Authority acting by and through its Board shall deem proper. Contracts executed pursuant to this act shall be valid and binding on both parties thereto when executed by any such person and upon approval by a majority of the members of the Board. The Authority's power to execute contracts under this act may be delegated by the Board to the director for contracts in the amount of \$200,000 or less, or for a term of no greater than two years.

**SECTION 15.** Any receipts from the operation of a facility shall be kept in a separate fund by the treasurer apart from any other money, funds, or other property of the Authority, and may be used subject to the approval of the Board for the purpose of managing, operating, promoting, maintaining, repairing and improving a facility and for the payment of bond and note indebtedness as provided in this act and for a capital reserve fund.

**SECTION 16.** (a) Notwithstanding any limitation on the number of licenses which may be issued under the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the city may issue to a person or entity operating a facility under a lease pursuant to clause (3) of subsection (a) of section 13 or who has been granted a concession, lease or other right of occupancy by the Authority for the sale of food and alcoholic beverages pursuant to said clause (3) or clause (4) of said subsection (a) of said section 13 a license or licenses as a common victualler to serve all alcoholic beverages to be drunk on the premises of a facility or any part thereof and section 16C of said chapter 138 shall not apply to such premises. The licensee shall not be required by said licensing board under the provisions of section 12 of said chapter 138 to have licensed premises open during any hours when there is no activity being conducted in a facility nor, unless otherwise authorized by the Authority, shall the licensee be permitted to serve food or alcoholic beverages to strangers, travelers or members of the general public who are not attending any activity then being conducted in such facility.

(b) Notwithstanding any general or special law or ordinance to the contrary, said licensing authority may issue to any person or persons operating a facility under a lease pursuant to clause (3) of subsection (a) of section 13 or who has been granted a concession by the Authority for the sale of food or beverages pursuant to clause (3) or clause (4) of said subsection (a) of said section 13 a common victualler's license for the premises of a facility or of any part thereof pursuant to section 2 of chapter 140 of the General Laws, and section 5 of said chapter 140 shall not apply to any license so issued.

(c) A license issued under this section shall not be transferable to any other person or location and such license shall be renewed annually subject to chapter 138 of the General Laws consistent with this act.

(d) A license issued under this section shall expire and be returned by the licensee to the Authority upon the termination of the licensee's lease or concession to carry out a permitted purpose under this act.

**SECTION 17.** This act shall take effect upon its passage.

Approved December 13, 2000.

**Chapter 337. AN ACT PROVIDING THAT THE TITLE OF EXECUTIVE SECRETARY BE CHANGED TO TOWN ADMINISTRATOR FOR THE TOWN OF ACUSHNET.**

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

**SECTION 1.** Section 1-3-1 of the charter of the town of Acushnet, which is on file in the office of the archives of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out, in line 2, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 2.** Section 3-3-1 of said charter is hereby amended by striking out, in line 6, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 3.** Section 3-6-2 of said charter is hereby amended by striking out, in line 5, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 4.** Section 3-8-4 of said charter is hereby amended by striking out, in lines 5 and 6, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 5.** The title of chapter 5 of said charter is hereby amended by striking out the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 6.** Section 5-1-1 of said charter is hereby amended by striking out, in line 1, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 7.** Section 5-3-1 of said charter is hereby amended by striking out, in line 1, the words "executive secretary" and inserting in place thereof the following words:- town administrator.

**SECTION 8.** Section 9-7-1 of said charter is hereby repealed.

Approved December 13, 2000.

### **Chapter 338. AN ACT AUTHORIZING THE TOWN OF MILLBURY TO ISSUE TWO ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Millbury may 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. The licenses shall be subject to all the provisions of said chapter 138, except said section 17.

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

Approved December 13, 2000.

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## **Chapter 339. AN ACT PROVIDING FOR THE ENTRY OF THE COMMONWEALTH INTO THE INTERSTATE EMERGENCY MANAGEMENT ASSISTANCE COMPACT.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the entry of the commonwealth into the Interstate Emergency Management Assistance Compact, 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:*

A compact is hereby entered into with all jurisdictions legally joining therein in substantially the following form:-

### **INTERSTATE EMERGENCY MANAGEMENT ASSISTANCE COMPACT. ARTICLE I. PURPOSES AND AUTHORITIES.**

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this contract, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resources shortages, community disorders, insurgency or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

### **ARTICLE II. GENERAL IMPLEMENTATION.**

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies that require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of emergency or



disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management shall establish procedures necessary to implement this compact.

**ARTICLE III. PARTY STATE RESPONSIBILITIES.**

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, manmade disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the state boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services and resources, both human and material;

6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another party by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspections, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time that will be needed; and

3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

#### **ARTICLE IV. LIMITATIONS.**

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided, however, that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

#### **ARTICLE V. LICENSES AND PERMITS.**

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance under this compact is requested by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster shall be valid in the requesting state, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

#### **ARTICLE VI. LIABILITY.**

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therein. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

#### **ARTICLE VII. SUPPLEMENTARY AGREEMENTS.**

Inasmuch as it is probable that the pattern and the detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall

preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

#### **ARTICLE VIII. COMPENSATION.**

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

#### **ARTICLE IX. REIMBURSEMENT.**

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, however, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party without charge or cost; and, provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Expenses under Article VIII shall not be reimbursable under this article.

#### **ARTICLE X. EVACUATION.**

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuating might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out of pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

#### **ARTICLE XI. IMPLEMENTATION.**

Enactment and Withdrawal



A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States government.

#### **ARTICLE XII. VALIDITY.**

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the application thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

#### **ARTICLE XIII. ADDITIONAL PROVISIONS.**

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President of the United States is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

Approved December 15, 2000.

### **Chapter 340. AN ACT RELATIVE TO SEWER BETTERMENT ASSESSMENTS IN THE TOWN OF ACTON.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the board of assessors of the town of Acton may, at the request of the owner of the land assessed, apportion all assessments for sewer projects in the town or unpaid balances thereof into a number of equal portions equal to the number of years for which bonds for a project are issued. Such equal portions may be further apportioned and collected by the town on quarterly tax bills or a single tax bill at the option of the town. An owner of land assessed may pay the total amount due without a prepayment penalty.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the town of Acton may charge interest on an unpaid balance of a sewer assessment



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at a rate equal to the net rate of interest chargeable to the town for the project to which the assessment relates.

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

Approved December 15, 2000.

## Chapter 341. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WALPOLE.

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

**SECTION 1.** Section 1-3 of Article I of the charter of the town of Walpole, as appearing in section 1 of chapter 5 of the acts of 1999, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

This instrument may be cited as the Walpole charter.

**SECTION 2.** Section 3-4 of Article III, as so appearing, 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 seven members elected by vote of the registered voters of the town for three years overlapping terms, so arranged that the terms of at least two members shall expire each year.

Approved December 15, 2000.

## Chapter 342. AN ACT RELATIVE TO THE COMPENSATION OF AN INTERIM POLICE CHIEF IN THE TOWN OF SEEKONK.

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

**SECTION 1.** Notwithstanding sections 91 and 91A of chapter 32 of the General Laws or any other general or special law to the contrary, Edward Souza may continue to serve as chief of police as authorized by the town of Seekonk and, through December 31, 2000, may continue to receive the compensation provided for that position without any reduction or extinguishment of the retirement allowance that he receives.

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

Approved December 15, 2000.

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## **Chapter 343. AN ACT TO ROLL BACK THE STATE INCOME TAX RATE TO 5 PERCENT BY THE YEAR 2003.**

*Be it enacted by the People, and by their authority, as follows:*

**SECTION 1.** Section four of chapter sixty-two of the General Laws as appearing in the 1996 Official Edition, is hereby amended by striking out paragraph (b) and inserting in place thereof a new paragraph:-

(b) For taxable years commencing on or after January first, two thousand and one and before January first, two thousand and two, Part B taxable income shall be taxed at the lowest rate otherwise set by law for such years or portion thereof but not to exceed 5.60 percent. For taxable years commencing on or after January first, two thousand and two and before January first, two thousand and three, Part B taxable income shall be taxed at the lowest rate otherwise set by law for such years or portion thereof but not to exceed 5.30 percent. For taxable years commencing on or after January first, two thousand and three, Part B taxable income shall be taxed at the lowest rate otherwise set by law for such years or portion thereof but not to exceed 5.00 percent.

**SECTION 2.** The provisions of this law are severable, and if any clause, sentence, paragraph or section of this chapter, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

*This law was approved by the people at the November 7, 2000 state election under Article XLVIII of the Amendments to the Constitution*

## **Chapter 344. AN ACT TO ENCOURAGE CHARITABLE GIVING.**

*Be it enacted by the People, and by their authority, as follows:*

**SECTION 1.** The purpose of this law is to encourage the people of Massachusetts in their support of charitable organizations through charitable giving.

**SECTION 2.** Whereas taxpayers should be allowed a deduction for charitable contributions, chapter 62 of the General Laws shall be amended by adding the following new section:

"Sec. 6I. Each taxpayer shall be allowed a deduction in determining the Part B taxable income, in addition to the deductions under Section 3, in an amount equal to the taxpayer's charitable contributions for the year, as defined under the Code and without regard to whether the taxpayer elected to itemize deductions on his or her federal income tax return."

**SECTION 3.** The provisions of this act shall apply to taxable years beginning on or after January 1, 2001.

*This law was approved by the people at the November 7, 2000 state election under Article XLVIII of the Amendments to the Constitution*

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**Chapter 345. AN ACT PROVIDING THAT CERTAIN HEALTH CARE PLANS AND POLICIES SHALL COVER PAYMENT FOR COSTS ARISING FROM SPEECH, HEARING AND LANGUAGE DISORDERS.**

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

**SECTION 1.** Chapter 32A of the General Laws is hereby amended by adding the following section:-

Section 23. The commission shall provide to any active or retired employee of the commonwealth who is insured under the commission coverage for expenses incurred in the medically necessary diagnosis and treatment of speech, hearing and language disorders by individuals licensed as speech-language pathologists or audiologists under chapter 112, if such services are rendered within the lawful scope of practice for such speech-language pathologists or audiologists regardless of whether the services are provided in a hospital, clinic or private office, and if such coverage shall not extend to the diagnosis or treatment of speech, hearing and language disorders in a school-based setting. The coverage provided by this section shall be subject to the same terms and conditions established for any other medical condition covered by the commission.

**SECTION 2.** Chapter 175 of the General Laws is hereby amended by inserting after section 47T the following section:-

Section 47U. An individual policy of accident and sickness insurance issued pursuant to section 108 that provides hospital expense and surgical expense insurance and any group blanket policy of accident and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical expense insurance, delivered, issued or renewed by agreement between the insurer and the policyholder, within or without the commonwealth, shall provide benefits for residents of the commonwealth and all group members having a principal place of employment within the commonwealth for the expenses incurred in the medically necessary diagnosis and treatment of speech, hearing and language disorders by individuals licensed as speech-language pathologists or audiologists under the provisions of chapter 112, if such services are rendered within the lawful scope of practice for such speech-language pathologists or audiologists regardless of whether the services are provided in a hospital, clinic or private office, and if such coverage shall not extend to the diagnosis or treatment of speech, hearing and language disorders in a school-based setting. The benefits provided by this section shall be subject to the same terms and conditions established for any other medical condition covered by such individual or group blanket policy.

**SECTION 3.** Chapter 176A of the General Laws is hereby amended by inserting after section 8T the following section:-

Section 8U. Any contract between a subscriber and the corporation under an individual or group hospital service plan that provides hospital expense and surgical expense insurance, delivered, issued or renewed by agreement between the insurer and the policyholder, within or without the commonwealth, shall provide benefits for residents of the commonwealth and all group members having a principal place of employment within the commonwealth for the expenses incurred in the medically necessary diagnosis and treatment

of speech, hearing and language disorders by individuals licensed as speech-language pathologists or audiologists under chapter 112, if such services are within the lawful scope of practice for such speech-language pathologists or audiologists regardless of whether the services are provided in a hospital, clinic or private office, and if such coverage shall not extend to the diagnosis or treatment of speech, hearing and language disorders in a school-based setting. The benefits provided by this section shall be subject to the same terms and conditions established for any other medical condition covered by such individual or group hospital service plan.

**SECTION 4.** Chapter 176B of the General Laws is hereby amended by inserting after section 4T the following section:-

Section 4U. Any subscription certificate under an individual or group medical service agreement which provides hospital expense and surgical expense insurance, delivered, issued or renewed by agreement between the insurer and the policyholder, within or without the commonwealth, shall provide benefits for residents of the commonwealth and to all group members having a principal place of employment within the commonwealth for the expenses incurred in the medically necessary diagnosis and treatment of speech, hearing and language disorders by individuals licensed as speech-language pathologists or audiologists under chapter 112, if such services are rendered within the lawful scope of practice for such speech-language pathologists or audiologists regardless of whether the services are provided in a hospital, clinic or private office; and if such coverage shall not extend to the diagnosis or treatment of speech, hearing and language disorders in a school-based setting. The benefits provided by this section shall be subject to the same terms and conditions established for any other medical condition covered by such individual or group medical service agreement.

**SECTION 5.** Chapter 176G of the General Laws is hereby amended by inserting after section 4M the following section:-

Section 4N. Any individual or group health maintenance contract that provides hospital expense and surgical expense insurance, delivered, issued or renewed by agreement between the insurer and the policyholder, within or without the commonwealth, shall provide benefits for residents of the commonwealth and to all group members having a principal place of employment within the commonwealth for the expenses incurred in the medically necessary diagnosis and treatment of speech, hearing and language disorders by individuals licensed as speech-language pathologists or audiologists under chapter 112, if such services are rendered within the lawful scope of practice for such speech-language pathologists or audiologists regardless of whether the services are provided in a hospital, clinic or a private office, and if such coverage shall not extend to the diagnosis or treatment of speech, hearing and language disorders in a school-based setting. The benefits provided by this section shall be subject to the same terms and conditions established for any other medical condition covered by such individual or group health maintenance contract.

Approved December 21, 2000.



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**Chapter 346. AN ACT AUTHORIZING THE TOWN OF BEDFORD TO ESTABLISH A POST RETIREMENT INSURANCE LIABILITY FUND.**

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

**SECTION 1.** The town meeting of the town of Bedford may appropriate funds in order to offset the anticipated cost of premium payments for or direct payments to retired employees and the eligible surviving spouses or dependents of deceased employees. Such amount shall be credited to a special fund to be known as the Post Retirement Insurance Liability Fund. Any interest or other income earned by the fund shall be added to and become part of the fund. The treasurer of the town shall be the custodian of the fund and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth. Amounts shall be appropriated to or expended from such fund by any town meeting by majority vote only in accordance with an actuarial schedule developed by the town. Such schedule shall be designed to reduce to zero any unfunded liability attributable to the payment of such premiums or direct payments. Such schedule shall also be designed to maintain appropriations as a fixed ratio of the current and predicated future payroll of the town. The treasurer may employ any qualified bank, trust company, corporation, firm or person for advice on the investment of the fund and to prepare an actuarial study and may pay for such advice and service from the fund.

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

Approved December 21, 2000.

**Chapter 347. AN ACT RELATIVE TO THE SOUTH GRAFTON WATER DISTRICT.**

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

Section 9 of chapter 485 of the acts of 1948 is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:- At the meeting at which said water commissioners are first elected and at each annual district meeting held thereafter, the district shall elect by ballot, for a term of one year, a clerk of the district. At the first meeting of the water commissioners after the annual district meeting, the water commissioners shall appoint, for a term of one year, a treasurer of the district.

Approved December 21, 2000.

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**Chapter 348. AN ACT FURTHER DEFINING PRIVILEGED AND CONFIDENTIAL COMMUNICATIONS WITH A PSYCHOLOGIST.**

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

**SECTION 1.** Section 129A of chapter 112 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word "therapeutic", in line 7, the following words:- , or a graduate of, or student enrolled in, a doctoral degree program in psychology at a recognized educational institution as that term is defined in section 118, who is working under the supervision of a licensed psychologist.

**SECTION 2.** Section 20B of chapter 233 of the General Laws, as so appearing, is hereby amended by inserting after the word "psychologists", in line 8, the following words:- ; a graduate of, or student enrolled in, a doctoral degree program in psychology at a recognized educational institution as that term is defined in section 118, who is working under the supervision of a licensed psychologist;.

Approved December 21, 2000.

**Chapter 349. AN ACT RELATIVE TO THE CIVIL LIABILITY OF QUALIFIED PSYCHIATRIC NURSE MENTAL HEALTH CLINICAL SPECIALISTS.**

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

Chapter 123 of the General Laws is hereby amended by striking out section 22, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 22. Physicians, qualified psychologists, qualified psychiatric nurse mental health clinical specialists and police officers shall be immune from civil suits for damages for restraining, transporting, applying for the admission of or admitting any person to a facility or the Bridgewater state hospital, if the physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist or police officer acts pursuant to this chapter.

Approved December 21, 2000.

**Chapter 350. AN ACT RELATIVE TO VACANCIES OF TOWN MEETING MEMBERS IN THE TOWN OF SAUGUS.**

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

Section 7 of chapter 55 of the acts of 1928, as amended by chapter 23 of the acts of 1976, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- When a vacancy occurs in the full number of town meeting

members from any precinct, the vacancy shall be filled by the candidate in the last election, for the office, who received the highest number of votes of all candidates who failed to be elected, but who received at least 30 votes in the election.

Approved December 21, 2000.

**Chapter 351. AN ACT RELATIVE TO ESTABLISHING THE BECKET WOODS ROAD AND MAINTENANCE DISTRICT IN THE TOWN OF BECKET.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, there may be established in accordance with this act the Becket Woods Road and Maintenance District, hereinafter referred to as the "district" in the town of Becket which shall constitute a body politic and corporate.

(A) (1) The district shall be comprised of the land described in the following deeds, which land areas comprise the subdivision known as Becket Woods:

(i) Deed from Robert E. Hamilton and John Valigorsky to the Ponderosa, Inc., dated July 10, 1969 and recorded in the Berkshire middle district registry of deeds in Book 879, Page 286;

(ii) Deed from Robert E. Hamilton and John Valigorsky to the Ponderosa, Inc., dated July 10, 1969 and recorded in the Berkshire middle district registry of deeds in Book 879, Page 287;

(iii) Deed from Roger C. Fairchild to Barbara Hamilton, dated October 29, 1965 and recorded in the Berkshire middle district registry of deeds in Book 808, Page 444;

(iv) Deed from Barbara Hamilton to the Ponderosa, Inc., dated July 20, 1970 and recorded in the Berkshire middle district registry of deeds in Book 892, Page 376;

(v) Deed from Robert E. Hamilton to the Ponderosa, Inc., dated August 20, 1970 and recorded in the Berkshire middle district registry of deeds in Book 894, Page 78; and

(vi) Deed from Albert R. Palmer et ux to the Ponderosa, Inc., dated August 20, 1970 and recorded in the Berkshire middle district registry of deeds in Book 894, Page 79;

Excepting from the foregoing that parcel conveyed to Western Mass Associates, Ltd. by deed of the Ponderosa, Inc. on October 5, 1977 recorded in the Berkshire middle district registry of deeds in Book 995, Page 617, which parcel constitutes all or a portion of the subdivision known as Becket Estates.

(2) The land areas are further shown on plans recorded in the Berkshire middle district registry of deeds, as follows:

(i) A plan of land entitled "Section A- Sheet 1, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated May 18, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is re-

corded in the Berkshire middle district registry of deeds in Book 417F, Page 201A;

(ii) A plan of land entitled "Revision to Lots #7, #8, and #9 on Sheet 1 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated July 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 189. Such plan modifies the boundaries of Lots 7, 8 and 9;

(iii) A plan of land entitled "Revision to Lots #20 and #2 on Sheet 1 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated July 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 189A. Such plan modifies the boundaries of Lots 2 and 20;

(iv) A plan of land entitled "Revision to Lots #1 and #2 on Sheet 1 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 191. Such plan modifies the boundaries of Lots 1 and 2;

(v) A plan of land entitled "Revision to Sheet 1 of Section A, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated July 5, 1973 and prepared by Gordon E. Ainsworth and Associates, Inc., So. Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 228. Such plan divides Lot 16 into new Lots 16A and 16B;

(vi) A plan of land entitled "Revision to Lot No. 6 on Sheet 1 of Sect. A, Becket Woods, Becket, Massachusetts, for Tor, Inc.", which plan is dated April 13, 1988 and prepared by C.T. Male Associates, P.C., Greenfield, MA, which plan is recorded in the Berkshire middle district registry of deeds in Book 417M, Page 162. Such plan divides Lot 6 into new Lots 6A and 6B;

(vii) A plan of land entitled "Section A- Sheet 2, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated May 18, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 202;

(viii) A plan of land entitled "Revision to Sheet 2 of Section A, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated June 17, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 190. Such plan modifies the boundaries of Lots 28, 29 and 30;

(ix) A plan of land entitled "Revision to Lots #29 and #30 on Sheet 2 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated January 18, 1973 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 190A. Such plan modifies the boundaries of Lots 29 and 30;



(x) A plan of land entitled "Section A- Sheet 3, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated May 19, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 205;

(xi) A plan of land entitled "Section A- Sheet 3 (Revised), Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated March 27, 1972 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 235. Such plan eliminates Lots A through Z and A-1 and creates new Lots A through D, the "Common and Pond Area" and the "Meadow Land";

(xii) A plan of land entitled "A Plan of Land in Becket, (Berkshire Co.) Mass., prepared for John Egee", which plan is dated April 5, 1984 and prepared by Gordon E. Ainsworth and Associates, Inc., South Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Drawer F, Page 58. Such plan eliminates a portion of the "Meadow Land" and creates new Lots 153 through 157, not including Lot 153A;

(xiii) A plan of land entitled "Section A- Sheet 4, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated June 10, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 202A;

(xiv) A plan of land entitled "Revision to Lot #39 on Sheet 4 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 192. Such plan divides Lot 39 into new Lots 39 and 38A;

(xv) A plan of land entitled "Revision to Lot #39 on Sheet 4 of Section A, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated October 12, 1972 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 191A. Such plan divides new Lot 39 into new Lots 39A and 39B;

(xvi) A plan of land entitled "Section A- Sheet 5, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated June 15, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 204A;

(xvii) A plan of land entitled "Section B- Sheet 1, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated September 3, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 205A;

(xviii) A plan of land entitled "Survey - Becket, Mass., prepared for Alice and Jack Siegel.", which plan is dated June 26, 1990 and prepared by Thomas E. Conlon, Westfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Plat C,

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Page 170. Such plan creates Lots 52A and 51B, which become part of Lots 52 and 51, respectively;

(xix) A plan of land entitled "Section B- Sheet 2, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 206;

(xx) A plan of land entitled "Revision to Lot #84 on Sheet 2 of Section B, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated November 2, 1972 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417D, Page 203. Such plan divides Lot 84 into new Lots 84A and 84B;

(xxi) A plan of land entitled "Section B- Sheet 3, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 206A;

(xxii) A plan of land entitled "Revision to Lot #108 on Sheet 3 of Sect. B, Becket Woods, Becket, Massachusetts", which plan is dated November 18, 1987 and prepared by C.T. Male Associates, P.C., Greenfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Drawer O, Page 254. Such plan divides Lot 108 into new Lots 108A and 108B;

(xxiii) A plan of land entitled "Section C- Sheet 1, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 230A;

(xxiv) A plan of land entitled "Section C- Sheet 1 (Revised), Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated September 4, 1973 and prepared by Gordon E. Ainsworth and Associates, Inc., So. Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417G, Page 102. Such plan revises the entire plan, eliminating Lots 153 and 154 and creating new Lot 153A;

(xxv) A plan of land entitled "Revision to Lots #153 and #154 on Sheet 1 of Section C, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated August 19, 1976 and prepared by Gordon E. Ainsworth and Associates, Inc., So. Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417I, Page 86. Such plan changes the course line description of Lot 153A, but not its actual boundaries;

(xxvi) A plan of land entitled "Revision to Lots #143, #144, and #145 on Sheet 1 of Section C, Becket Woods, Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated November, 1977 and prepared by Gordon E. Ainsworth and Associates, Inc., South Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in

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Book 417I, Page 179. Such plan eliminates Lots 143, 144 and 145 and creates new Lots 143A, 143B, a part of 143A, 144A, 145A, 145B, a part of 145A, 147A, a part of 147 and 147B, a part of 147;

(xxvii) A plan of land entitled "Revision to Lot 150, Section C, Sheet 1 (Revised), Becket Woods, a subdivision in Becket, MA., prepared for Shirley Sabbeth", which plan is dated December 18, 1986 and prepared by C.T. Male Associates, P.C., Greenfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Drawer 0, Page 84. Such plan divides Lot 150 into new Lots 150A and 150B;

(xxviii) A plan of land entitled "Section C- Sheet 2, Becket Woods, a subdivision in Becket, Mass., prepared for The Ponderosa Corp.", which plan is dated December 6, 1971 and prepared by Gordon E. Ainsworth and Associates, Inc., Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417F, Page 231;

(xxix) A plan of land entitled "Section E, Becket Woods, a subdivision in Becket, Mass., prepared for Robert E. Hamilton", which plan is dated June 6, 1977 and prepared by Gordon E. Ainsworth and Associates, Inc., So. Deerfield, Mass., which plan is recorded in the Berkshire middle district registry of deeds in Book 417J, Page 1;

(3) The above-described parcels of land now contain the following Lots located in the subdivision known as Becket Woods: Lots A, B, C, D, 1 through 5, 6A, 6B, 7 through 15, 16A, 16B, 17 through 38, 38A, 39A, 39B, 40 through 50, 51, 51A, a part of 51, 52, 52B, a part of 52, 53 through 83, 84A, 84B, 85 through 107, 108A, 108B, 109 through 117, 118A, 118B, 119 through 139, 140A, 140B, 141, 142, 143A, 144A, 145, 145B, a part of 145, 146, 147, 147A, a part of 147, 147B, a part of 147, 148, 149, 150A, 150B, 151, 152, 153, 153A, and 154 through 159, plus those areas designated as "Common and Pond Area", "Meadow Land", hiking trails, pond Lots and common areas.

(B) The "25 acre parcel" comprised of Lots 183, 184, 185, 186 and 187, as they appear on a Plan of land entitled "Section E - Becket Woods, a Subdivision in Becket, Massachusetts, prepared for Robert E. Hamilton, dated June 6, 1977, revised March 23, 1978", "the Plan", recorded in the Berkshire middle district registry of deeds in Book 417-J, Page 1, shall not be a part of the district unless and until Squirrel Hill Road, as shown on said Plan shall be constructed, as provided for in a certain deed from The Ponderosa, Inc. to Howard Lazar dated May 15, 1978 and recorded in the Berkshire middle district registry of deeds in Book 1003, Page 850. Upon the construction of Squirrel Hill Road and the division of the 25-acre parcel into lots, the presently excepted land area shall be added to the district, and each lawful building lot therein created, shall be an included lot subject to assessment as hereinafter provided.

(C) Farmstead Road; Beech Tree Lane; Fox Hollow Drive; Access Road; Woodmere Road; Woodchuck Road; Oak Drive; Stage Coach Road; Gentian Hollow; Spruce Drive; Longview Road; Deer Knoll Drive; Knoll Drive; and any other streets or ways as shown on the plans and maps described in paragraphs A and B, except that portion of Fred Snow road lying within the perimeter boundary of the district shall be excluded therefrom.

(D) The following parcels and the improvements thereon, if any, including swimming



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ponds, tennis courts, basketball courts, or other such improvements that may be added from time to time in accordance herewith, constitute the common areas of Becket Woods, which are owned by Becket Woods Community Association, Inc., hereinafter, "BWCA", and shall be maintained by the district for the benefit of all members of the district:

(1) Lot 5, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417F, Page 201A, Section A, Sheet 1;

(2) Lot 6A, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417M, Page 162, Revision of Section A, Sheet 1;

(3) Lot 8, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417D, Page 189, Revision of Section A, Sheet 1;

(4) Lot 158, otherwise known as the "Common and Pond Area", as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417F, Page 235, Revision of Section A, Sheet 3;

(5) Lot 159, the remaining portion of the "Meadow Land", as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417F, Page 235 and in Drawer F, Page 58, Revision of Section A, Sheet 3;

(6) Lot 2, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417D, Page 191, Revision of Section A, Sheet 1;

(7) Lot 20, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417D, Page 189A, Revision of Section A, Sheet 1;

(8) Lot 84B, as shown on Plan recorded in the Berkshire middle district registry of deeds in Book 417D, Page 203, Revision of Section B, Sheet 2; and

(9) Any additional parcels or Lots which may be irrevocably designated as common areas by BWCA in the future.

**SECTION 2.** (A) Membership in the district shall consist of the record owner, hereinafter referred to as the "proprietor", from time to time of one or more lots lying within the district. 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, realty trusts and federal, state and local governmental units. Further, any mortgagee of record in possession of any one or more lots shall be deemed a proprietor under this act. Persons or entities who shall jointly own a lot within the district shall collectively constitute a proprietor of that lot for all purposes hereunder.

(B) As used herein, "lot" shall mean each separate lot as shown on the Plans and enumerated in paragraph (2) of subsection (A) of section 1; provided, however, that if one or more lots have heretofore been combined to constitute a single building lot as set forth in paragraph (1) of subsection (A) of section 5, then the lots so combined will constitute a single lot.

**SECTION 3.** (A) The district, upon establishment in the manner hereafter set forth, shall have the following powers:

(1) 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, exclusive of any public way.

(2) To upgrade, repair and maintain all common lands and recreational facilities located within the district, or such portions thereof, as the district shall determine in accordance with this act.

(3) To make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power permitted to the district by this act.

(4) To adopt an annual budget and to raise and appropriate funds in amounts necessary to carry out the purposes for which the district is formed.

(5) To acquire, dispose of and encumber real and personal property for the purposes of the district.

(6) To construct, acquire by lease or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies, facilities and services as shall be required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns in the commonwealth from time to time under the General Laws.

(7) To apply for, accept and expend financial assistance from the federal government, the commonwealth, Berkshire county and the town of Becket either directly or jointly with and through said town, for or in aid of the purposes of this district.

(8) To apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances, for or in aid of the purposes of this district.

(9) To employ such persons including advisors, consultants, and experts, as may be deemed necessary, in its judgment, in carrying out the purposes of the district, and to fix their compensation.

(10) To adopt by-laws for the regulation of its affairs and the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with other applicable provisions of the General Laws.

(11) To reimburse the town of Becket or the BWCA, with respect to monies advanced or expended for legal and legal related expenses for the formation of the district, which expenditures are required to be made or incurred prior to the effective date of this act and the formation of the district pursuant hereto.

(12) To borrow at the first or any subsequent meeting of the district for the purpose of meeting preliminary or current expenses such sums as may be necessary and to issue therefore general obligation temporary notes for a period of not more than two years, provided that such notes shall be issued only in anticipation of assessments and other revenues of the district of the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise hereafter permitted in this act.

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

district may indemnify its officers and employees to the extent provided in said chapter 258.

(14) 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.

(15) 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 as the district shall deem necessary and appropriate and with one or more insurers who shall be licensed to furnish such insurance in the commonwealth.

(16) To perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provision of the General Laws.

**SECTION 4.** (A) Within 45 days after the effective date of this act the selectmen of the town of Becket shall call a meeting of the proprietors of the lands to be included in the district as set forth under section 1. For the purposes of establishing an initial list of proprietors, the selectmen of the town of Becket shall consult with its board of assessors and such board shall furnish to the selectmen a listing of all record property owners as of January first in the year of enactment who are owners of one or more lots or who within the reasonable knowledge or belief of the assessors are owners of one or more lots as set forth in paragraph (3) of subsection (A) of section 1. The selectmen, upon receiving such lists, shall prepare and mail by certified mail a notice to each such proprietor signed by the selectmen and setting forth a time and place of a meeting to occur within said 45 day period but not less than 14 days from the date of mailing of said notice. The costs of mailing any notice required to be given under this act shall be paid by the district. 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 further, 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 publicly accessible locations within the town of Becket and within the subdivision known as Becket Woods. The meeting shall be held at the town hall in the town of Becket. At the first meeting of the district, one selectman from the town of Becket shall initially preside and shall call the meeting to order.

(B) Said selectman shall thereupon determine whether or not the proprietors representing a majority of the lots entitled to vote as defined in section 5, are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. Any original consent to special legislation for the formation of the Becket Woods road and maintenance district, or copy thereof, signed by a proprietor in anticipation of the formation of the district shall be accepted by the selectman presiding as a valid proxy for the purpose of meeting the quorum requirements and for the purpose of voting for the formation of the district, as well as any other matters voted upon at such meeting. Lacking such a majority, the meeting shall have no power to act, but the selectmen of the town may continue the meeting to a date, time and place certain, for the same purpose, within a further 45 day period.

(C) If a quorum has been determined to be present in the manner above specified, the meeting shall proceed to the following order of business:

(1) Election of a temporary clerk, who shall be sworn by one of the selectmen present, and a moderator who shall thereupon preside.

(2) The taking of a vote to determine whether or not the district authorized by this act shall be established and organized, which vote shall require an affirmative vote of two-thirds of the proprietors present and voting in person or by proxy, entitled to vote, as defined in section 5. If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in the affirmative and upon the required two-thirds majority, the meeting shall next proceed to consider the order of business set forth in clause (3) to (6), inclusive, all to be effective as of April 1, 2001.

(3) The adoption of district by-laws and a form of district seal.

(4) The election by ballot of a district clerk, who shall be a legal resident of the commonwealth, and a district treasurer, who may be the same person, to hold office for one year until the next succeeding annual meeting and at each annual meeting after the first a clerk and treasurer shall be elected by ballot for one year. There shall also be elected by ballot seven members of the prudential committee, constituted in its entirety as hereafter set forth, said seven members to hold office, three for three years, two for two years, and two for one year until the next succeeding annual meeting. At each annual meeting after the first, replacement members of the prudential committee shall be elected by ballot for three years. At any district meeting after the initial meeting, the number of members of the prudential committee may be increased to a maximum of 11 or decreased to a minimum of five by affirmative vote of the district. The aforesaid officers of the district shall hold office until their successors are elected and qualified. Persons eligible for nomination and election to the prudential committee shall be at least 18 years of age and shall include persons entitled to vote as proprietors or as representatives of proprietors at district meetings. If so elected or appointed, an individual may serve contemporaneously as a district officer and a member of the prudential committee.

(5) The adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by assessment upon the proprietors in support thereof.

(6) The consideration of such other business as shall be consistent with the power and authority conferred by this act.

The district clerk shall retain all proxy votes cast at the initial meeting, together with the minutes of the meeting and as part of the permanent record of the district. The clerk shall further prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within 30 days after the adjournment of the meeting.

**SECTION 5. (A)** At the initial district meeting, at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section.



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(1) Persons or entities owning one or more lots within the district shall be entitled to cast one vote for each lot owned by such person, persons or entities, on any matter or issue to be voted upon at any such meeting, exclusive of lots designated as common areas, recreational facilities, and the following lots which have been combined with others to constitute a single lot for BWCA dues assessment purposes: Lot 29 combined with Lot 76, Lot 31 combined with Lot 32, Lot 147, including Lots 147A and 147B, combined with Lot 146. No further combination of lots for district assessment purposes shall be permitted. If at any time the above-mentioned combined lots are reconfigured to create more than one lot, then each separate lot so created shall be a lot subject to assessment by the district.

(2) Joint owners of lots, and proprietors which are not natural persons, shall designate in writing to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf of the proprietor of such lot at such meeting and such person shall be conclusively presumed as qualified and authorized to represent the proprietor. A person owning one or more lots together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote.

(3) The authority of a person to cast a proxy vote on behalf of a proprietor shall likewise be determined by the clerk, except that at the initial meeting, such determination shall be made by the selectman presiding thereat. At the initial meeting, the consent to special legislation for the formation of the Becket Woods road and maintenance district duly executed by the respective lot owners in anticipation of the formation of the district shall be accepted by the selectman presiding as a valid proxy entitling the BWCA to exercise such proxy, for the purpose of meeting the quorum requirements, and for the purpose of voting for the formation of the district, as well as any other matters voted upon at such meeting. At any annual or special meetings, all proxies must be tendered in writing prior to the commencement of such meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting 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.

(4) Any matter to be voted upon at the initial district meeting or at any annual or special meeting of the district shall require only a majority of those proprietors representing lots entitled to be voted as set forth in paragraph (1) of subsection (A), present in person or by proxy and voting on the question, except for the following actions which shall require a two-thirds vote of those proprietors representing lots entitled to be voted as set forth in paragraph (1) of subsection (A), present in person or by proxy and voting on the question: whether or not the district authorized by this act shall be established and organized; a vote to petition for dissolution of the district; a vote to purchase or otherwise acquire real property; a vote to finance any undertaking which is authorized by the act to be financed in whole or in part by the issuance by the district of long term notes or bonds; and a vote to establish or change the method or means of assessing upon the proprietors their pro rata share of district expenses.



(5) All actions permitted to be taken by the prudential committee shall require a majority vote of the committee members present at said meeting who shall constitute a quorum in accordance with this act.

**SECTION 6.** (A) (1) Annual meetings of the district shall be held on the Saturday or Sunday within four days of the observed Independence Day in July each year or at such other date as the district shall establish from time to time by action of the prudential committee or in its by-laws.

(2) Annual and other special meetings of the district shall be called by warrant of the prudential committee, notice of which shall be given 14 days at least before such meeting. The warrant shall be mailed first class, postage pre-paid to each proprietor of record in the district and a copy of same shall be directed to a constable of the town of Becket 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 of Becket or by advertising in a newspaper published at least weekly within Berkshire county and having a general circulation within the town of Becket.

(3) 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 of 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 20 or more proprietors.

(4) The prudential committee may call a special district meeting at its behest and shall call a special meeting upon request in writing of not less than 20 proprietors or proprietors representing at least 20 per cent of the lots entitled to be voted as set forth in paragraph (1) of subsection (A) of section 5. Special meetings so requested shall be held not later than 45 days after the receipt of such request.

(5) No action taken at the annual or any special district meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more district meetings for distinct purposes may be called for by the same warrant. At every district meeting, a moderator shall be chosen by ballot and shall have the powers of the moderator of a town meeting.

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

(7) The board of assessors of the town of Becket shall, not less than 30 days prior to the annual district meeting, prepare and forward to the prudential committee a true and complete alphabetical listing with addresses of the proprietors reflected in their records as of January first of that year and from the records maintained by the assessors pursuant to chapter 59 of the General Laws and other related provisions. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the prudential committee or the district clerk and shall further be available for inspection at the annual meeting and any special meeting of the district. The board of assess-

ors shall likewise maintain a list of proprietors within their town by separate list or special designation on their list of all assessed parcels.

(8) Quorum requirements for annual meetings and special meetings of the district shall be as specified for the initial district meeting set forth above or otherwise as the district shall determine from time to time in its by-laws; provided, however, that the quorum requirements at such meeting will not be reduced below a number of proprietors representing one-third of the lots entitled to be voted as set forth in paragraph (1) of subsection (A) of section 5, whether voting in person or by proxy as aforesaid.

**SECTION 7.** (A) The prudential committee shall have and shall exercise, the following powers and duties:

(1) The expenditure for the purposes permitted to the district, of the money raised and borrowed by the district.

(2) The preparation of an annual budget for the management and operation of the district and the submission of such budget to the annual district meeting for its approval. Such annual budget shall include the committee's estimate of those monies required to be raised and appropriated by means of assessment upon the district proprietors, by borrowing, or otherwise to be received.

(3) To apply in the name of the district for grants, loans, and other assistance from both governmental and nongovernmental entities, for or in aid of the purposes of this district.

(4) Subject to prior appropriation therefore, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act.

(5) Subject to prior appropriation therefore, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent who shall have charge on a day to day basis of all district employees and who shall be responsible to the prudential committee for the conduct and supervision of any and all work to be performed by or on behalf of the district pursuant to this act. Compensation and benefits for the district superintendent and all other employees shall, subject to prior appropriation therefore, be as determined from time to time by vote of the prudential committee.

(B) The prudential committee shall 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, in person or by telephone, for the conduct of any business thereat and shall consist of a majority of the members. The initial meeting of the prudential committee shall occur not later than 30 days following the establishment of the district. Thereafter, the committee shall schedule one meeting to occur in each year immediately following the adjournment of the annual district meeting. At such initial meeting and at all subsequent meetings following the annual district meeting, the committee shall elect from its members a chairman who shall preside at all committee meetings and who shall serve until his successor shall be elected at

the meeting following the annual district meeting. The committee shall also elect a vice-chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for a like term, and elect such other officers as it shall determine necessary to fulfill its duties. The district, may, subject to a prior appropriation therefor, provide appropriate compensation for district officers including members of the prudential committee and including the expense of travel, meals and lodging for such officers and committee members residing outside the district.

(C) Without limiting its powers as set forth above in this act, 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 the authority conferred upon it by district by-law, except as otherwise expressly provided in this act.

(D) (1) The district treasurer shall receive and 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 persons shall pay any district bill, but 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 district treasurer shall further have the authority given to an auditor by section 50 of chapter 41 of the General Laws and shall annually render a true account of his receipts and disbursements and report of his official acts to the district. The district treasurer shall give bond annually for the performance of his 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 he fails to give such bond within ten days after his election or appointment, or if within ten days after the expiration of said bond or any renewal of said bond, he fails to file a renewal thereof, the prudential committee shall declare the office vacant and the vacancies shall be filled by the committee in the manner set forth in subsection (E).

(2) The district 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 a manner provided for the maintenance of records of minutes of town meetings and of meetings by the board 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.

(E) Any vacancy occurring in the office of clerk, treasurer or member of the prudential committee elected by the district may be filled by the district for the remainder of the unexpired term at any special meeting called for that purpose. The prudential committee may appoint a person to fill said vacancy until an election can be held or the disability is removed. Said election need not be held earlier than the next annual meeting. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure thereof. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

**SECTION 8.** (A) (1) At its initial meeting, and at the annual meeting each year thereafter, the district shall adopt by a majority vote a method to be employed during the fis-



cal year to which the meeting relates for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt any of the following methods of financing, or combination thereof:

(i) The district may raise, by assessments upon the proprietors and by accepting voluntary contributions, the total sum required to meet such estimated expense.

(ii) The district may pay the whole of such expense from time to time as the work, material, labor and services shall be performed and for this purpose may incur debt by a temporary loan in anticipation of the collection of assessments from the district members during the fiscal year in which said debt is incurred or during the next succeeding fiscal year and except as further modified on the initial fiscal year in clause 15 of subsection (A) of section 3.

(iii) At such district meeting or at a special meeting called for the purpose, the district may incur debt to the amount necessary to pay that portion of such expense which relates solely to proposed long term district improvements or major equipment purchases and may issue therefor notes or bonds, and may, if the district further so approves, issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than five years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than 25 years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities and equipment to be so funded.

(2) Indebtedness incurred by the district under the provision of this subsection shall be subject to chapter 44 of the General Laws and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds and thereafter it shall receive an appropriation from another governmental entity to cover all or any part of the expenses of such improvements, the district, in its discretion, unless otherwise mandated by the terms and conditions of the grant from such governmental unit, may make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities and equipment. Bonds or notes issued under this section shall be the general obligations of the district.

(3) That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which will become due during the ensuing fiscal year together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the costs of which are not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall be raised by assessment upon the lots owned by the proprietors within the district. Each lot within the district shall be assessed an equal share of the portion of the budget to be funded by assessment,



except that the lots designated as common areas, recreational facilities, and the combined lots, Lots 29, 31 and 147 including Lots 147A and 147B, shall not be subject to assessment.

(4) Following the adjournment of the initial district meeting and each annual district meeting thereafter, the clerk of the district shall certify to the assessors of the town of Becket all sums of money voted to be raised by district assessment, which vote will have been adopted by a majority vote as provided above in this act, together with the amount to be paid by each proprietor according to the determination made by such votes. The assessors of the town of Becket shall without further vote, assess such amounts upon the lands of the proprietors within the district and commit the same to the collector of taxes of the town of Becket, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The billing of such assessments shall be done on an annual basis, and be made contemporaneously with the billing of the second installment of real estate taxes in each fiscal year by the town. The collector shall remit weekly to the district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed therefor, 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.

(5) Collection of assessments on lots which are owned by BWCA and which are subject to assessment, shall be deferred until such time as such lot is sold or otherwise conveyed by BWCA. The proceeds from the sale of such lot shall be applied first to any due and unpaid real estate taxes with respect to such lot, and then to uncollected district assessments on the lot, in each case together with any interest or other charges due thereon.

**SECTION 9.** (A) The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns in the commonwealth. The first fiscal year of the district shall commence on April 1, 2001 and end on June 30, 2001. Thereafter, the district's fiscal year shall commence on July 1 and end on June 30, unless the fiscal year used by the town of Becket shall change.

**SECTION 10.** The district shall include in its initial and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the town of Becket, pursuant to the provisions of section 108B of chapter 41 of the General Laws with respect to their duties and expenses hereunder.

**SECTION 11.** Notwithstanding their membership on the prudential committee, if any, neither the town of Becket nor any agency or department of the commonwealth shall be obligated for any debts of the district, nor shall they by virtue of this act be required to pay for any liability, obligation or expense made, suffered or incurred by the district. In like manner, the proprietors of the district shall not be individually liable or obligated with respect to debts or other obligations made, suffered or incurred by the district except with respect to the payment of assessments upon their land as provided for in this act.

**SECTION 12.** The district shall establish in its initial budget and in all subsequent fiscal year budgets an overlay account and a reserve fund as provided for towns under the

provisions of section 25 of chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws. Except for the initial fiscal year, or portion thereof, of the operation of the district, the district may add to the amount to be raised by district assessment a sum voted by the district for not more than 20 per cent thereof for the purposes of and subject to the limitations as set forth in said section 25 of said chapter 59. The district is further authorized to establish and maintain a stabilization fund under the provisions of section 5B of said chapter 40. 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 13.** Immediately upon the formation of the district, the district clerk, shall, in addition to the other duties to be performed by such district officer, cause a review to be made at that time and from time to time thereafter of the records required to be maintained by the board of assessors for the town of Becket, including copies of deeds furnished to said board by the Berkshire middle district registry of deeds, and shall otherwise take such actions as shall be reasonably necessary to verify the list of proprietors to be included within the district. The clerk shall further cause to be prepared one or more maps based in whole or in part upon the maps required to be maintained by the assessors of the town of Becket on which shall be shown the location of all proprietors' lands initially included as well as those which upon such review should, in the opinion of the district clerk be included within the district. Thereafter, at any special meeting called for that purpose and not later than the next annual meeting, the district clerk shall furnish the prudential committee with a list of proprietors proposed for inclusion in the district and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district. The committee shall furnish written notice in the manner provided for furnishing notice to a proprietor of a district meeting to the record owners of such parcels proposed for inclusion in the district. At the district meeting called for such purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be included within the district and shall furnish the record owners thereof with full opportunity to be heard prior to such vote as though such persons were proprietors of record, entitled to vote thereon.

Any original proprietor of the district and any record owner of real estate hereafter included within the district as a proprietor in the manner set forth above in this section, shall have the right to petition the district through its prudential committee for exclusion from the district based upon an alleged lack of sufficient direct benefit to said proprietor's land with respect to the purposes for which the district has been established. Such petition shall be in writing and shall set forth in summary form the reasons relied upon in support thereof. The committee shall, upon receipt of such petition, conduct such investigation thereof as it shall deem appropriate, and shall, at its next regular meeting, or sooner at a special meeting, and upon at least seven days written notice to the petitioner, consider the petition and vote thereon. A vote by the prudential committee to exclude the land of the petitioner from the district shall be final. The prudential committee shall, upon a vote to exclude the land of petitioner, so notify the assessors of the town of Becket. In the event that the prudential committee shall vote to disapprove the petition or shall fail to act thereon prior to the next

annual meeting of the district, the petition shall be included in the warrant for said meeting and the district shall vote on same at that time. If the district shall vote to disallow the petition, the petitioner may appeal to the superior court of Berkshire county for a remedy. Upon such appeal, the court shall, if it is found by the court that the decisions made by both the prudential committee and the district were arbitrary and capricious, and clearly erroneous, grant such exclusion. Such exclusion, if the petition shall have been filed in writing therefor prior to December 31 of the then current fiscal year, result in an abatement of district assessment from the commencement of such fiscal year; otherwise, such abatement shall not be effective until the commencement of the next fiscal year.

**SECTION 14.** Once established pursuant to this act, the district shall not dissolve without specific authorization by the general court, which shall not be given until provision has been made for the payment of the obligations of said district. Such dissolution may be initiated by the general court, by two-thirds vote at a regular or special district meeting or by petition by the town of Becket under the provisions of section 8 of Article 89 of the Amendments to the Constitution of the Commonwealth.

**SECTION 15.** Section 3 shall take effect on April 1, 2001. The remainder of this act shall take effect upon its passage.

**SECTION 16.** If the initial meeting of the Becket Woods and Maintenance District shall not occur and the certified vote evidencing the establishment of the district shall not be filed with the attorney general within one year after its passage, this act shall cease to be operative.

Approved December 21, 2000.

## **Chapter 352 AN ACT ESTABLISHING THE UPPER CAPE REGIONAL WATER SUPPLY COOPERATIVE.**

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

**SECTION 1.** It is hereby declared essential for the benefit of the people of the towns of Falmouth, Bourne, Sandwich and Mashpee, in order to sustain and protect their welfare, prosperity and their living conditions, that the towns establish a supplementary water supply system, that accurate, appropriate, and self-sustaining fees, rates and charges for said supplementary water supply be established; that said supplementary systems for said municipalities be operated in a modern, efficient and financially self-sustaining manner to further their sound financial, environmental and physical condition; that conservation of water sources be encouraged; that water supplies be protected and improved; and that the towns be provided a means to insure the continued availability of water; all to the public benefit and good, and to the extent and in the manner provided herein.



**SECTION 2.** For the purposes specified in section 1, the Bourne water district, the town of Falmouth, the Mashpee water district and the Sandwich water district may create a water supply agency to be known as the Upper Cape Regional Water Supply Cooperative which, as created in accordance with this section, shall be a body politic and corporate and a public instrumentality, hereinafter referred to as the cooperative. The cooperative shall be created when this act has been accepted by at least the town of Falmouth and any other water district enumerated above, or by any two water districts enumerated above. Such acceptance shall be, in the case of the town of Falmouth, by a vote taken in accordance with section 4 of chapter 4 of the General Laws and in the case of the Mashpee water district, the Sandwich water district or the Bourne water district, by a vote of its inhabitants at an annual or special ballot election. Upon creation, the cooperative shall have, any general or special law notwithstanding, as hereinafter provided and in accordance with this act, the power and authority to extract groundwater supplies as the board of managers may determine is appropriate, and to locate wells, determine rates of extraction, construct, operate, and maintain a public water supply and appurtenant water distribution works within the geographical area described as follows:

That land located in the towns of Sandwich, Bourne, and Mashpee, Falmouth, owned by the commonwealth and known as the Massachusetts Military Reservation; provided, however, that the cooperative shall take no action which will interfere with the lawful operations of: (i) the Department of the Army pursuant to a lease between the commonwealth and the United States of America dated July 1, 1976; (ii) the Department of the Air Force pursuant to a lease dated July 1, 1974 between the commonwealth and the United States of America, as superseded by lease contract No. DACA51-5-75-293 between the United States of America and the commonwealth, and as modified by a supplemental agreement between the commonwealth and the United States of America dated July 1, 1976, lease contract No. DACA51-5-75-293, Modification No. 3, and Supplemental Agreement No. 4 dated April 11, 1995; (iii) the Department of Transportation, U.S. Coast Guard, pursuant to a lease between the commonwealth and the United States of America dated July 1, 1976; (iv) the Massachusetts army national guard, pursuant to a license from the secretary of the Army to the commonwealth dated July 2, 1976; or (v) the Massachusetts air national guard pursuant to a license from the secretary of the Air Force to the commonwealth dated November 30, 1983.

If any municipal entity, once having accepted this act in accordance with the provisions of this section, desires to withdraw from the cooperative, it may do so with 24 months prior written notice to the board of managers, and in the same manner provided for acceptance of this act; provided, however, that such withdrawing municipal entity shall be obligated to pay its pro rata share on the municipal entity's obligations for the fiscal year in which it withdraws, together with its pro rata share on all bonds or notes which have been approved prior to the date upon which such municipal entity gives notice of its intention to withdraw from the cooperative. In the event that any municipal entity which has not accepted this act within one year of its effective date, desires thereafter to do so, it may do so in accordance with this section, provided that the board of managers, in consultation with the



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board of selectmen or water commissioners of such municipal entity, shall first fix and determine an equitable share of capital expenses incurred to that date by the cooperative, which sums shall be payable upon such terms as may be agreed between the board of managers and such municipal entity. In the event that the board of managers and the municipal entity desiring to join the cooperative are unable to agree on such equitable share, the matter shall be submitted to arbitration by a panel consisting of one member of the board of managers, or its designee, one member of the board of selectmen or water commissioners for the municipal entity or their designee, and a third party selected by the first two members of the panel. Said third party shall be a disinterested person without any business interest or residence in any of the municipal entities. Said arbitration panel shall hear the arguments and information submitted by the board of managers and the municipal entity desirous of joining the cooperative. After consideration of the respective positions of the board of managers and the municipal entity desirous of joining the cooperative on what constitutes an equitable share of capital expenses incurred to that date by the cooperative, the arbitration panel shall determine the amount of such equitable share and, if the parties are unable to agree, the terms of payment therefore, and such determination shall be final and conclusive upon the board of managers and the municipal entity desirous of joining the cooperative. The availability of water from the cooperative shall not be considered an alternative to the development of municipal supplies of water by any of the municipal entities for the purposes of section 62B of chapter 30 of the General Laws, irrespective of whether or not the municipal entity seeking approval of such municipal water supplies has joined the cooperative or not, nor shall the availability of such water form any basis for the decision of an agency of the commonwealth to make a finding pursuant to section 61 of said chapter 30.

**SECTION 3.** The management and control of all property acquired by, and the exercise of all powers, privileges and duties conferred upon the cooperative pursuant to the provisions of this act shall be vested in and exercised by a board of managers, which shall consist of two members appointed by the board of water commissioners, in the case of any water district which has accepted this act, and by the board of selectmen, in the case of any town which has accepted this act. The cooperative shall be deemed a governmental body pursuant to chapter 30B of the General Laws. Notwithstanding any general or special law to the contrary, the administrators of the cooperative who are procurement officers for said cooperative 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. Of the two representatives of each town or district which has accepted this act, one member shall serve for a term of two years, and the other shall serve for a term of three years. Members of the board of managers shall be paid \$1,000 annually, and the chairman shall be paid \$1,500 annually. Members may be removed for cause by their appointing authority. Members of the board of managers, together with its agents, employees, and professional staff shall be indemnified against personal liability by the cooperative. The cooperative shall be deemed a public employer pursuant to chapter 258 of the General Laws. The cooperative acting through its initial board of managers shall promptly adopt by-laws describing by whom and how meetings of the board may be called, notified and conducted; establish rules and regulations for the management of its affairs not

inconsistent with this act or any other provision of law; shall appoint for such term as it may determine, a corporate treasurer of the cooperative, and such other officers and employees not specifically provided for in this act as it may deem necessary and proper, and shall fix their compensation. The treasurer shall not be a member of the board of managers, and shall give bond to the cooperative in such an amount as may be approved by said board with a surety company authorized to transact business in the commonwealth as a surety. The cooperative may contract with any of the municipal entities for treasurer services upon terms mutually agreeable to the cooperative and the municipal entity. A majority of appointed managers shall constitute a quorum of the board of managers. Vacancies occurring in the membership of the board of managers from any cause may be filled for the remainder of the unexpired term by the appointing authority. No vacancy occurring in the membership of the board of managers shall disqualify the board of managers from taking any action authorized by this act.

The board of managers shall annually prepare and provide to the board of selectmen of the town of Falmouth and the water commissioners of the towns of Bourne, Mashpee, and Sandwich that have accepted this act, and to each user of water of the cooperative who requests the same, a written report of the condition of the system, the actions of the board of managers, and receipts and expenditures of the cooperative for the preceding fiscal year.

**SECTION 4.** The cooperative, acting by and through its board of managers, shall have all the rights and powers necessary or convenient to carry out and effectuate the purposes of this act including, but without limiting the generality of the foregoing, the following rights and powers:

(a) to adopt the by-laws for the regulation of its affairs and the conduct of its business, to promulgate rules, regulations and procedures in connection with the performance of its functions and duties, and to fix, enforce, and collect penalties for the violations thereof;

(b) to adopt an official seal and alter the same at its pleasure;

(c) to maintain an office at such place or places as it may determine;

(d) to apply for, receive, accept, administer, expend, and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation any grant, gift or loan from agencies of local, state, and federal governments, donation or appropriation of any property or money in aid of the purposes of the cooperative, and to accept contributions of money, property, labor, or other things of value;

(e) to acquire by purchase, lease, lease purchase, sale and lease back, gift, or devise, or to obtain options for the acquisition of, any property, real or personal, easements, water, or water rights, or any interest therein, in the exercise of its powers and the performance of its duties;

(f) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options for any such purposes with respect to, any water, water rights, and any other property, real or personal, tangible or intangible, or any interest therein;

(g) to enter onto any land within the geographical boundaries of the cooperative to

make surveys, borings, soundings and examinations thereof, provided that the cooperative shall insofar as possible restore the land to the same condition as prior to the making of such surveys, borings, soundings, and examinations;

(h) to construct, improve, extend, enlarge, maintain, and repair the water works system located within the geographical jurisdiction of the cooperative;

(i) to make contracts of every name and nature, and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

(j) to fix, revise, charge, collect and abate fees, rates, rents, delinquency charges and other charges for water and other services, facilities and commodities furnished or supplied by it;

(k) to sue and be sued and to prosecute and defend actions relating to its properties and affairs, provided that only property of the cooperative other than revenues pledged to the payment of bonds or notes shall be subject to attachment or levied upon execution or otherwise;

(l) to from time to time sell such of the property of the cooperative as shall, in the opinion of its board of managers, be no longer useful in the conduct of the affairs of the cooperative;

(m) to employ personnel and to engage architectural, engineering, accounting, management, legal, financial, and environmental consulting and other professional services;

(n) to establish specific construction standards and specifications for the water distribution supply system;

(o) to charge a systems development charge to customers who are not municipal entities seeking to connect into the water supply system; in such amount as the board of managers may determine; provided, however, that no systems development charge shall be made to Otis air national guard Base, 102FIW/DEEV, Building 971, Otis air national guard Base, MA 02542-5028 any successor registrant for any connection to the water supply system which provides an amount of water equal to or less than the amount of 197.10 MGY Total Annual Volume withdrawal for which the Otis air national guard Base registered with the department of environmental protection pursuant to registration no. 4-22-225.02, dated May 28, 1999, but the said Otis air national guard Base, or any successor registrant may be charged a systems development charge for any supply of water over or above the volume set forth in said registration; and

(p) to do all things necessary, convenient or desirable for carrying out the purposes of this act for the purposes expressly granted or necessarily implied in this act.

**SECTION 5.** Fees, rates, rents, assessments, and other charges for water or other services, facilities, and commodities furnished or supplied by the cooperative shall be fixed and adjusted by the board of managers so as to provide funds at least sufficient in each fiscal year, together with other revenues and funds of the cooperative, if any, available therefore, to pay the full cost of operation of the cooperative for that fiscal year, including all current expenses; all debt service on bonds or notes of the cooperative; all costs of maintenance, repair and replacement, including the establishment of reasonable sinking funds, overlay funds,



stabilization funds, replacement reserves, and other similar funds in accordance with generally accepted accounting principles, as determined by the board of managers to be necessary or desirable to be funded as current expenses; and all other amounts which the cooperative may be obligated to pay or provide for by law or by contract. Notwithstanding any general or special law to the contrary, the board of managers may establish rates, including differential rates, rents, assessments, fees and other charges authorized by this act which may vary depending on whether the customer is a municipal entity as referred to in section 2, or is a customer which is not a municipal entity.

**SECTION 6.** The cooperative, for the purpose of paying expenses of maintenance and operation not covered by charges for water may, any other general or special law notwithstanding, and in accordance with this section, from time to time assess sums against the municipal entities that have accepted this act in accordance with section 2. If the board of managers of the cooperative desires to make such assessments, the board of managers shall determine what sum, in the aggregate, is necessary to pay for expenses of the cooperative not covered by fees charged in accordance with section 5, and shall apportion such amount in accordance with the proportional annual use by each municipal entity of the total amount of water being supplied by the cooperative. Upon determining such amounts, the board of managers shall certify, to the board of selectmen in the town of Falmouth, and to the board of water commissioners of the Bourne water district, Sandwich water district or Mashpee water district who shall have accepted the provisions of this act in accordance with section 2, that the board of managers have authorized an assessment against such municipal entities, and the amount to be assessed against each municipal entity therefore. The board of selectmen or the board of water commissioners, as the case may be, of each municipal entity, shall cause to be placed on the warrant for the next available special or annual town or district meeting, an article in the form specified by the board of managers, seeking authorization from the town or district meeting to raise and appropriate such amounts, for payment over to the cooperative. Upon approval by the town or district meeting of two-thirds of such municipal entities, notwithstanding any other general or special law to the contrary, all municipal entities that have been assessed by the board of managers in accordance with this section, shall raise and appropriate, and pay over to the cooperative, such sums as have been assessed. Any sums assessed by the cooperative and raised and appropriated by a municipal entity in accordance with this section shall not be subject to sections 20A, 20B and 21C of chapter 59 of the General Laws.

**SECTION 7.** The cooperative, for the purpose of paying necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, may, any other general or special law notwithstanding, and in accordance with this section, from time to time borrow such additional sums as may be necessary, not exceeding, in the aggregate \$50,000,000 and issue bonds or notes therefore which shall bear on their face the words Upper Cape Regional Water Supply Cooperative Loan Act of 2000 and such other distinguishing designation as may be determined by the board of managers, and each authorized issue shall constitute a separate loan and such loans shall be payable in not more



than 40 years from their dates, notwithstanding any other provision of law. The cooperative may borrow from time to time such funds as may be necessary for the purposes of this act in anticipation of revenue without the necessity of complying with this section. Indebtedness incurred under this act shall, except as otherwise provided herein, be subject to chapter 44 of the General Laws.

Prior to the issuance of such bonds or notes, other than borrowings in anticipation of revenue, the board of managers shall apportion the cost of repayment of each bond or note, which cost shall be apportioned to each municipal entity which has accepted this act pursuant to section 2 in accordance with the proportional annual use by each such municipal entity of the total amount of water supplied by the cooperative. Upon determining such amounts, the board of managers shall certify, to the board of selectmen in the town of Falmouth, and the board of water commissioners of the Bourne water district, Sandwich water district or Mashpee water district, who shall have accepted this act in accordance with section 2, that the board of managers have authorized the issuance of such bonds or notes, and the amount to be assessed against each municipal agency therefore. The board of selectmen or board of water commissioners, as the case may be, of each municipal entity, shall cause to be placed in the warrant for the next available special or annual town or district meeting, an article in the form specified by the board of managers, seeking authorization from the town or district meeting for the cooperative to issue such bonds or notes, and the amount to be assessed therefore against each municipal agency. Upon approval by the town or district meeting of two-thirds of such municipal entities, the cooperative may issue such bonds or notes as have been approved. Such bonds or notes shall be issued upon the full faith and credit of the cooperative, and of all municipal entities who have accepted this act in accordance with section 2, notwithstanding any other provision of law. If two-thirds of the municipal entities which have accepted this act in accordance with section 2 shall approve the issuance of bonds or notes as set forth herein, all municipal entities which have accepted this act in accordance with section 2 shall, notwithstanding their refusal to approve such bonds or notes at an annual or special district or town meeting, as the case may be, be obligated to pay all sums certified by the cooperative pursuant to this section. The indebtedness on bonds or notes issued by the cooperative and the municipal entities pursuant to this act shall not be subject to section 10 of chapter 44, and sums assessed by the cooperative to repay such bonds or notes shall not be subject to sections 20A, 20B and 21C of chapter 59 of the General Laws.

The fiscal year of the cooperative shall commence July 1 and end June 30, or as otherwise provided in the by-laws of the cooperative.

**SECTION 8.** Whoever intentionally corrupts, pollutes or diverts any water obtained or supplied under this act, or intentionally injures any reservoir, well, standpipe, aqueduct, pipe or other property owned or used by the cooperative for any of the purposes of this act, or tampers with any metering device owned or utilized by the cooperative, shall forfeit and pay to the cooperative three times the amount of damages assessed therefore, to be recovered in an action of tort, together with reasonable attorney's and engineering costs and expenses

incurred by the cooperative in the investigation, assessment, and prosecution of such action. Whoever is convicted of any of the above acts shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than one year, or both.

**SECTION 9.** In the event that the board of managers desires to terminate the cooperative and dispose of its assets, a majority of the board of managers then existing shall first vote to do so, and give notice of such vote, in writing, to the board of selectmen, and board of water commissioners, of any municipal entity which has accepted this act in accordance with section 2. Each municipal entity shall thereafter provide, at its next regular or special election, a ballot vote which shall contain the question "Shall the Upper Cape Regional Water Supply Cooperative be dissolved, and its assets disposed of in accordance with the vote of its board of managers?". If a majority of municipal entities which have accepted this act vote in the affirmative, the cooperative shall be dissolved, but not otherwise. In the event of such affirmative vote, the board of managers shall be empowered to dispose of the assets of the cooperative in accordance with the General Laws.

**SECTION 10.** If the cooperative authorized by section 2 is not created in the manner described in said section 2 within ten years from the effective date of this act, then this act shall be without further legal effect.

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

Approved December 21, 2000.

### **Chapter 353. AN ACT AUTHORIZING THE TOWN OF STOCKBRIDGE TO CONTINUE THE EMPLOYMENT OF POLICE SERGEANT LOUIS J. PEYRON, SR.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, Louis J. Peyron, Sr., sergeant of the police department of the town of Stockbridge, may continue in such position until December 26, 2005 or until the date of his retirement, whichever occurs first, if he is mentally and physically capable of performing the duties of such office. Louis J. Peyron, Sr. shall, at said town's expense, be examined by an impartial physician designated by the town to determine such capability. No further deductions shall be made from the regular compensation of Louis J. Peyron, Sr. under chapter 32 of the General Laws for service subsequent to December 26, 2000, and upon his retirement he shall receive a superannuation retirement 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 December 21, 2000.

**Chapter 354. AN ACT MAKING APPROPRIATIONS TO FUND CERTAIN COLLECTIVE BARGAINING AGREEMENTS AND PROVIDING FOR SIMULCAST WAGERING ON HORSE AND DOG RACING IN THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to fund forthwith certain collective bargaining agreements and providing for simulcast wagering on horse and dog racing, 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 unanticipated obligations of the commonwealth, to provide for alterations of purpose for current appropriations, to provide for certain other activities and projects and to meet certain requirements of law, the sums set forth in section 2A are hereby appropriated from the general fund unless specifically designated otherwise herein, 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, 2001, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**NO SECTION 3.**

**SECTION 2A.**

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

*Reserves.*

- 1599-3944 For a reserve to meet the commonwealth's obligations for fiscal years 2001 to 2003, inclusive, pursuant to the provisions of section 19B-3 of article 19B of the collective bargaining agreements between the commonwealth and the National Association of Government Employees (Units 1, 3, and 6) regarding a training and career ladders program, section 23.16 of article 23 of said agreements regarding an alternative dispute resolution program, and section 26.6 of article 26 of said agreement regarding a labor management committee; provided, that the secretary of administration and finance may allocate during said fiscal years from the sum appropriated herein such amounts as are necessary to meet the cost of said obligations; and provided further, that this appropriation shall expire on June 30, 2003 ..... \$1,643,000
- 1599-3950 For a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Hampden County Superior Correctional Officers Association, and to meet the fiscal year

	2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 . . . . .	\$504,000
1599-3951For	a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Non-Uniformed Correctional Association, and to meet the fiscal year 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 . . . . .	\$1,816,000



- 1599-3957 For a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Graduate Employee Organization, Local 2322/UAW, and to meet the fiscal year 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 . . . . . \$1,595,000
- 1599-3958 For a reserve to meet the fiscal year 2001 costs of salary adjustments authorized by the collective bargaining agreement between the Essex county sheriff and the International Brotherhood of Correctional Officers, and to meet the fiscal year 2001 costs of salary adjustments necessary to provide equal adjustments to employees employed in "confidential" positions which otherwise would be covered by said agreements to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 this appropriation shall expire on June 30, 2001 . . . . .	\$170,000
1599-3968	For a reserve to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester county sheriff and the Sheriff's Office of Worcester County Superior Officers' Association, and to meet the fiscal years 2000 and 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . .	\$417,000
1599-3969	For a reserve to meet the fiscal year 2001 cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff and the Hampshire Sheriff's Office Non-Uniform Correctional Association, and to meet the fiscal year 2001 cost 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the	

sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 . . . . . \$174,000

1599-3970 For a reserve to meet the fiscal year 2001 cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff and the Hampshire Sheriff's Office Jail and House of Correction Senior Correctional Officers Association, and to meet the fiscal year 2001 cost 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 . . . . . \$181,000

1599-3972 For a reserve to meet the fiscal year 2001 cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Nurses Association (Unit 7), and to meet the fiscal year 2001 cost 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 \$75,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of section 30.3 of article 30 of said agreement and shall not expire until June 30, 2003 .....	\$11,895,000
1599-3973 For	a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of higher education and the Massachusetts Teachers Association / Massachusetts Community College Council, and to meet the fiscal year 2001 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and other economic benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, the personnel administrator, with the approval of the secretary of administration and finance, shall determine such adjustments and benefits for such "confidential" employees in accordance with the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for said fiscal year such amounts as are necessary to meet said costs 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 \$200,000 of the sum appropriated herein shall be made available to meet the board's obligations pursuant to subsection 7 of section D of article 21.01 of said agreement and shall not expire until June 30, 2002 .....	\$22,923,000
1599-4001 For	a reserve to meet the fiscal year 2000 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county	



sheriff's department and the NAGE/International Brotherhood of Correctional Officers, Local 248, and to meet the fiscal year 2000 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means .....	\$1,687,000
1599-4002 For a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the NAGE/International Brotherhood of Correctional Officers, Local 248, and to meet the fiscal year 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 .....	\$3,194,000

- 1599-4003 For a reserve to meet the fiscal years 1999, 2000, and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Association of University Police Officers, for the University of Massachusetts Lowell campus, and to meet the fiscal years 1999, 2000 and 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 ..... \$332,000
- 1599-4004 For a reserve to meet the fiscal years 2000 and 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin county sheriff's department and the General Teamsters, Local Union 404, and to meet the fiscal years 2000 and 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs where the amounts otherwise a-

	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 . . . . .	\$156,000
1599-4005	For a reserve to meet the fiscal year 2001 costs of certain salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Correction Officers Federated Union (Unit 4), and to meet the fiscal year 2001 costs of certain 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 a total of \$2,146,500 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of section 18 of article 20 of said agreement and memorandums of understanding signed July 26, 2000, and shall not expire until June 30, 2002; and provided further, that a total of \$300,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of memorandums of understanding signed October 13, 2000 and shall not expire until June 30, 2004 . . . . .	\$8,515,000
1599-4006	For a reserve to meet the fiscal year 2000 and 2001 costs of certain salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the International Brotherhood of Correctional Officers, National Association of Government Employees (Unit 4A), and to meet the fiscal years 2000 and 2001 costs of certain 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 a total of \$36,000 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of section 1J of article 19 of said agreement and memorandums of understanding signed August 28, 2000, and shall not expire until June 30, 2002; and provided further, that a total of \$10,040 of the sum appropriated herein shall be made available to meet the commonwealth's obligations pursuant to the provisions of memorandums of understanding signed August 28, 2000, and shall not expire until June 30, 2003 . . . . \$1,359,000

1599-4007 For a reserve to meet the fiscal year 2000 costs of certain economic benefits authorized by the memorandum of agreement between the commonwealth and the International Brotherhood of Correctional Officers, National Association of Government Employees (Unit 4A), and to meet the fiscal year 2000 costs of certain economic benefits necessary to provide equal adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and



	allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . .	\$132,000
1599-4008	For a reserve to meet the fiscal year 2000 and 2001 costs of certain salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Worcester Sheriff's department and the United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, AFL-CIO, Local 422, and to meet the fiscal years 2000 and 2001 costs of certain 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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 may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . .	\$310,000
1599-4009	For a reserve to meet the fiscal year 1998, 1999, 2000 and 2001 costs of certain economic benefits authorized by the contract amendment between the University of Massachusetts and the International Brotherhood of Police Officers, Locals 432A and 432B signed on September 18, 2000; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 . . . . .	\$377,000

- 1599-4010 For a reserve to meet the fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin Sheriff's Office and the International Brotherhood of Teamsters, Local 404 and to meet the fiscal year 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 ..... \$365,000
- 1599-4011 For a reserve to meet the fiscal year 2000 and fiscal year 2001 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/Massachusetts State College Association, and to meet the fiscal year 2000 and fiscal year 2001 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 agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such 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; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as are necessary to meet said costs 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 .....	\$4,780,000
1599-7071	For a reserve to meet the costs in fiscal year 2001 of salary increases, benefit adjustments and other employee economic benefits authorized for those employees of the supreme judicial court, the appeals court and the trial court that are covered by the collective bargaining agreements between the trial court of the commonwealth and the Suffolk County Superior Court Officers' Association; provided, that the secretary may make allocations from this item to meet the costs of salary adjustments and other economic benefits to personnel of the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal year 2001 and to meet the costs of providing equal salary adjustments and economic benefits to employees who are not otherwise classified in any such collective bargaining unit of the trial court; provided further, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as may be necessary to meet the costs of such 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 .....	\$97,742
1599-7072	For a reserve to meet the costs in fiscal year 2001 of salary increases, benefit adjustments and other employee economic benefits authorized for those employees of the supreme judicial court, the appeals court and the trial court that are covered by the collective bargaining agreements between the trial court of the commonwealth and the Middlesex County Superior Court Officers' Association; provided, that the secretary may make allocations from this item to meet the costs of salary adjustments and other economic benefits to personnel of the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal year 2001 and to meet the costs of providing equal salary adjustments and economic benefits to employees who are not otherwise classi-	

	filed in any such collective bargaining unit of the trial court; provided further, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as may be necessary to meet the costs of such 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 . . . . .	\$88,450
1599-7073	For a reserve to meet the costs in fiscal year 2001 of salary increases, benefit adjustments and other employee economic benefits authorized for employees of the supreme judicial court, the appeals court and the trial court that are covered by the collective bargaining agreements between the trial court of the commonwealth and the Services Employees International Union, Local 254 covering all probation officers, associate probation officers, court officers, and associate court officers, but excluding all court officers in the Middlesex superior and Suffolk superior court officers' bargaining units; provided, that the secretary may make allocations from this item to meet the costs of salary adjustments and other economic benefits to personnel of the supreme judicial court, appeals court and the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal year 2001 and to meet the costs of providing equal salary adjustments and economic benefits to employees who are not otherwise classified in any such collective bargaining unit of the supreme judicial court, appeals court and trial court; provided further, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 2001 such amounts as may be necessary to meet the costs of such 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 . . . . .	\$5,837,902



*Human Resources Division.*

1750-3877 For the statewide training and career ladders program pursuant to subsection A of section 3 of article 30 of the agreement between the commonwealth and the Massachusetts Nurses Association (Unit 7) ..... \$70,000

**SECTION 3.** Section 2 of chapter 128C of the General Laws is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 1 of chapter 163 of the acts of 1999, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 4.** The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 2 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 5.** The last paragraph of said section 12A of said chapter 494, as appearing in section 3 of said chapter 163, is hereby amended by striking out the words "December 31, 2000" and inserting in place thereof the following:- June 30, 2001.

**SECTION 6.** Section 13 of said chapter 494 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 4 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 7.** Section 15 of said chapter 494 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 5 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 8.** Section 9 of chapter 277 of the acts of 1986 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 6 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 9.** The first sentence of the first paragraph of section 3 of chapter 114 of the acts of 1991 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 7 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 10.** The last paragraph of said section 3 of said chapter 114, as appearing in section 8 of said chapter 163, is hereby amended by striking out the words "December 31, 2000" and inserting in place thereof the following:- June 30, 2001.

**SECTION 11.** The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 9 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 12.** The last paragraph of said section 4 of said chapter 114, as appearing in section 10 of said chapter 163, is hereby amended by striking out the words "December 31, 2000" and inserting in place thereof the following:- June 30, 2001.

**SECTION 13.** The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words "1999 to 2000, inclusive", inserted by section 11 of said chapter 163, and inserting in place thereof the following:- 2000 to 2001, inclusive.

**SECTION 14.** Section 13 of chapter 101 of the acts of 1992, as appearing in section 12 of said chapter 163, is hereby amended by striking out the words "December 31, 2000" and inserting in place thereof the following:- June 30, 2001.

**SECTION 15.** Notwithstanding the provisions of chapter 128A of the General Laws, the joint committee on government regulations shall conduct a study regarding the treatment of greyhounds at the parimutuel facilities located in Bristol and Suffolk counties. Said study shall be limited to: (i) the feasibility of restricting live greyhound racing meetings during periods of extreme heat and extreme cold; (ii) feasibility of establishing a probable cause standard to enter and inspect facilities licensed to greyhound facilities pursuant to said chapter 128A to ensure proper and appropriate environmental and living conditions of the greyhounds; and (iii) feasibility of requiring the state racing commission to hold public hearings with respect to injury and disposition reports filed with said commission regarding greyhounds. The committee shall offer its report with any legislative recommendations to the general court not later than April 1, 2001.

Approved December 28, 2000.

## **Chapter 355. AN ACT PROVIDING INSURANCE COVERAGE FOR HUMAN LEUKOCYTE ANTIGEN TESTING FOR CERTAIN INDIVIDUALS AND PATIENTS.**

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

**SECTION 1.** Chapter 32A of the General Laws is hereby amended by inserting after section 17G, inserted by section 1 of chapter 81 of the acts of 2000, the following section:-

Section 17H. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for the cost of human leukocyte antigen testing or histocompatibility locus antigen testing that is necessary to establish bone marrow transplant donor suitability. The coverage shall cover the costs of testing for A, B or DR antigens, or any combination thereof, consistent with guidelines, criteria, rules or regulations established by the department of public health pursuant to section 218 of chapter 111.

**SECTION 2.** Chapter 111 of the General Laws is hereby amended by adding after section 217, added by section 3 of chapter 141 of the acts of 2000, the following section:-

Section 218. (a) The commissioner, in collaboration with the commissioner of insurance, shall establish guidelines, criteria, and rules or regulations, as may be necessary, to ensure that human leukocyte antigen testing or histocompatibility locus antigen testing conducted for the purposes of section 17H of chapter 32A, section 47V of chapter 175, section 8V of chapter 176A, section 4V of chapter 176B and section 4N of chapter 176G conform to medical eligibility requirements and other test protocols established by the United

States food and drug administration, the American Association of Blood Banks, the joint commission on accreditation of health care organizations and the national marrow donor program registry. The eligibility of a health care facility to conduct such tests shall be established by such guidelines, criteria, rules or regulations, which shall further require such a facility to obtain informed consent from test subjects prior to conducting such tests, and at the time of obtaining such consent, to advise a test subject of the opportunity to participate in the national marrow donor program.

(b) The commissioner shall convene an advisory group of medical experts to assist in making recommendations relative to such guidelines, criteria, rules or regulations, which shall include, but need not be limited to, oncologists recommended by the society of clinical oncology, medical researchers with expertise in the field of bone marrow transplantation, specialists in the area of medical ethics, representatives of bone marrow donation programs, a physician selected by the Massachusetts League of Community Health Centers, a physician selected by a hospital and medical service corporation, and a physician selected by the Massachusetts Association of Health Maintenance Organizations.

**SECTION 3.** Chapter 175 of the General Laws is hereby amended by inserting after section 47U, inserted by section 8 of said chapter 141, the following section:-

Section 47V. Any individual policy of accident and sickness insurance issued pursuant to section 108, and any group blanket policy of accident and sickness insurance issued pursuant to section 110, except policies providing supplemental coverage to Medicare or to other government programs, delivered, issued or renewed by agreement within or without the commonwealth shall provide coverage for the cost of human leukocyte antigen testing or histocompatibility locus antigen testing that is necessary to establish bone marrow transplant donor suitability. The coverage shall cover the costs of testing for A, B or DR antigens, or any combination thereof, consistent with rules, regulations and criteria established by the department of public health pursuant to section 218 of chapter 111.

**SECTION 4.** Chapter 176A of the General Laws is hereby amended by inserting after section 8U, inserted by section 14 of said chapter 141, the following section:-

Section 8V. Any contract between a subscriber and the corporation under an individual or group hospital service plan, except contracts providing supplemental coverage to Medicare or to other government programs, delivered, issued or renewed by agreement within or without the commonwealth shall provide, as benefits to all individual subscribers or members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for the cost of human leukocyte antigen testing or histocompatibility locus antigen testing that is necessary to establish bone marrow transplant donor suitability. The coverage shall cover the costs of testing for A, B or DR antigens, or any combination thereof, consistent with rules, regulations and criteria established by the department of public health pursuant to section 218 of chapter 111.

**SECTION 5.** Chapter 176B of the General Laws is hereby amended by inserting after section 4U, inserted by section 15 of said chapter 141, the following section:-



Section 4V. Any subscription certificate under an individual or group medical service agreement, except certificates providing supplemental coverage to Medicare or to other government programs, delivered, issued or renewed by agreement within or without the commonwealth shall provide, as a benefit for all individual subscribers or members within the commonwealth and all group members having a principal place of employment within the commonwealth, coverage for the cost of human leukocyte antigen testing or histocompatibility locus antigen testing that is necessary to establish bone marrow transplant donor suitability. The coverage shall cover the costs of testing for A, B or DR antigens, or any combination thereof, consistent with rules, regulations and criteria established by the department of public health pursuant to section 218 of chapter 111.

**SECTION 6.** Chapter 176G of the General Laws is hereby amended by inserting after section 4M, as inserted by section 10 of chapter 80 of the acts of 2000, the following section:-

Section 4N. Any group health maintenance contract, except contracts providing supplemental coverage to Medicare or to other government programs, delivered, issued, or renewed by agreement within or without the commonwealth shall provide for all members or enrollees coverage for the cost of human leukocyte antigen testing or histocompatibility locus antigen testing that is necessary to establish such member's or enrollee's bone marrow transplant donor suitability. The coverage shall cover the costs of testing for A, B or DR antigens, or any combination thereof, consistent with rules, regulations and criteria established by the department of public health pursuant to section 218 of chapter 111.

Approved December 28, 2000.

## **Chapter 356. AN ACT EXPANDING THE POWERS OF THE LICENSING AUTHORITY OF THE TOWN OF BROOKLINE.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, in the town of Brookline, for the purposes of this act, lodging houses subject to licensing under chapter 140 of the General Laws shall include bed and breakfast establishments as defined in clause (a) of section 1 of chapter 64G of the General Laws.

**SECTION 2.** In the town of Brookline, the licensing authority, as defined in section 1 of chapter 140 of the General Laws, may, after investigation, notice and hearing, impose a fine of not more than \$500 for a violation of a municipal lodging house by-law or regulation.

**SECTION 3.** The town of Brookline may adopt lodging house regulations establishing standards for lodging houses that are consistent with the purposes of chapter 140 of the General Laws, and may impose fines for violation of such standards as provided in section 2 of this act.



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

Approved December 28, 2000.

**Chapter 357. AN ACT ALLOWING FORENSIC EVALUATIONS AT CERTAIN FACILITIES.**

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

Section 15 of chapter 123 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 13, the word "public".

Approved December 28, 2000.

**Chapter 358. AN ACT VALIDATING CERTAIN PROCEEDINGS OF THE TOWN OF HARWICH.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law or charter provision to the contrary, all acts and proceedings of the town of Harwich taken at the special town meeting of October 3, 2000 and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant for such meeting had been published and posted as required by law.

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

Approved December 29, 2000.

**Chapter 359. AN ACT AUTHORIZING THE TOWN OF MILFORD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

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

**SECTION 1.** Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Milford may issue an additional license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. The license shall be subject to all the provisions of said chapter 138 except said section 17.

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

Approved December 29, 2000.

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**Chapter 360. AN ACT AUTHORIZING CREDITABLE SERVICE FOR CAROLYN M. FARLEY.**

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

Notwithstanding the provisions of subdivision (4A) of section 3 of chapter 32 of the General Laws or any other general or special law to the contrary, the Massachusetts teachers' retirement system is hereby authorized and directed to allow Carolyn M. Farley to pay into the annuity savings fund of said system, for the period before January 1, 1973 in which she was a teacher in nonpublic schools in the commonwealth, or most recent portion thereof, as she may elect, an amount equal to that which would have been withheld as regular deductions from her regular compensation for such period had such service been rendered in a public school of the commonwealth and had she been a member of the Massachusetts teachers' retirement system during the period such service was rendered. Such payment shall be made in one sum, or in installments, upon such terms and conditions as the Massachusetts teachers' retirement board may prescribe. The credit for service in nonpublic schools shall not exceed ten years. No credit shall be allowed and no payment shall be accepted for any service for which Carolyn M. Farley is entitled to receive a retirement allowance or other similar payment from the nonpublic school system, the federal government or any other source.

In addition to the payment of such sum, or installments thereof, Carolyn M. Farley shall also pay into the annuity savings fund an amount of interest such that at the completion of such payments, the value of her accumulated payments, together with regular interest thereon, actually made on account of such previous nonpublic school service, shall equal the value of her accumulated regular deductions which would have resulted if regular deductions had been made when regular compensation for such service was actually received. Upon the completion of such payments, Carolyn M. Farley shall receive the same credit for such period of her previous nonpublic school service, or portion thereof elected, as would have been allowed if such service had been rendered by her in a public school of the commonwealth. Carolyn M. Farley shall furnish the Massachusetts teachers' retirement board with such information as it shall require to determine the amount to be paid and the credit to be allowed under this act, and the board shall redetermine Carolyn M. Farley's retirement allowance consistent with this section.

Approved December 29, 2000.

**Chapter 361. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER CERTAIN PARCELS OF LAND IN THE TOWNS OF WESTBOROUGH AND GRAFTON.**

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

**SECTION 1.** The commissioner of capital asset management and maintenance may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, transfer care and control of a certain parcel of land, and structure thereon previously vacant and now occupied by the division of law enforcement in the town of Westborough, known as Parcel "B" and located on the easterly side of Milk street in the town of Westborough consisting of 1.9 acres, more or less, to the division of law enforcement within the department of fisheries, wildlife and environmental law enforcement for the purposes of establishing a permanent working headquarters for inland enforcement personnel engaged in protecting wildlife, natural resources and providing for the public safety.

A PARCEL of land located on the easterly side of Milk Street (Route 135) in the Town of Westborough, Mass.;

BEGINNING at a stone bound at the most southwesterly corner of Parcel "B";

THENCE N4° -02'-45"W six hundred twenty nine and 29/100 (629.29') feet by the easterly line of Milk Street to a set iron pin at other land of the Commonwealth of Massachusetts, southwesterly of a paved access road:

THENCE southeasterly and parallel to the access road about ninety three (93) feet to a point;

THENCE more southeasterly and parallel to the access road six hundred twenty-five (625) feet to a set iron pin;

THENCE S89°-33'-05"W eighty three and 87/100 (83.87') feet to a set iron pin;

THENCE N80°-10'-09"W one hundred sixty three and 39/100 (163.39') feet to the stone bound at the point of beginning.

The exact boundaries and location of the property and structure is shown on a map prepared by David E. Ross Associates, Inc., on file with the division of capital asset management and maintenance and the division of law enforcement and entitled Plan no. M-4089-B.

**SECTION 2.** The commissioner of capital asset management and maintenance may, 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, transfer care and control of a certain parcel of land and structure thereon previously vacant and now occupied by the division of law enforcement in the town of Grafton, known as Parcel "A" and located on the southerly side of Westborough road in the town of Grafton, consisting of 0.5 acres, more or less, to the division of law enforcement within the department of fisheries, wildlife and environmental law enforcement for the purpose of providing a facility from which the division of law enforcement can dispense supplies necessary to the enforcement of wildlife and natural laws and to enforce the public safety.

A PARCEL of land located on the southerly side of Westborough Road (Route 30) in the Town of Grafton, Mass.;

BEGINNING at a set iron pin in the westerly corner of the Parcel on Westborough Road;

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THENCE easterly along Westborough Road one hundred fifty two (152) feet to a point;

THENCE along a curve to the right, an arc distance of about twenty seven (27) feet to a point on the westerly side of an existing drive owned by the Commonwealth of Massachusetts;

THENCE southerly one hundred fifty seven (157) feet by land of the Commonwealth of Massachusetts to a set iron pin;

THENCE S88°-32'-02"W fifty two and 90/100 (52.90') feet to a set iron pin;

THENCE N67°-32'-29"W one hundred seven and 68/100 (107.68') feet to an old fence post;

THENCE N11°-10'-50"W ninety three and 27/100 (93.27') feet to the point of beginning.

The exact boundaries and the location of the property and structure is shown on a map prepared by David E. Ross Associates, Inc. and on file with the division of capital asset management and maintenance and the division of law enforcement and entitled Plan no. M-4089-A.

Approved December 29, 2000.

**Chapter 362. AN ACT AUTHORIZING THE TOWN OF LUNENBURG TO APPROPRIATE MONEY FOR THE CELEBRATION OF CERTAIN ANNIVERSARIES.**

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

**SECTION 1.** The town of Lunenburg may appropriate and expend money for the payment of expenses incurred for the celebration of the anniversary of its settlement or incorporation. The money may be appropriated annually during the five years preceding such celebration.

**SECTION 2.** Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Lunenburg may establish in the town treasury a special fund in which shall be deposited such sums as may be appropriated by it under the provisions of this act, sums received from the sale of commemorative items, from admission charges for commemorative ceremonies and events, from advertising and sponsorship revenues for such items and events, and from any other gifts, contributions, donations and other moneys received in connection with the anniversary celebration. Sums received by the treasurer under this act shall be kept separate from other moneys, funds or property of the town of Lunenburg and the principal and interest thereof, from time to time upon the authorization of the board of selectmen, the majority of any special committee established to plan such celebration, or a duly authorized member of said special committee, may be expended for the purposes of the celebration in the years preceding such celebration,



the year of such celebration and in the year following such celebration. A surplus remaining in said special fund after the celebration is concluded and after all payments therefore have been made shall be transferred by the treasurer into the treasury of the town, unless another fund has been established hereunder, in which case the surplus may be transferred to such other fund.

Approved December 29, 2000.

**Chapter 363. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF ANDOVER TO ESTABLISH A CERTAIN SPECIAL ACCOUNT.**

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

**SECTION 1.** (a) Notwithstanding the provisions of section 53 or 53G of chapter 44 of the General Laws or any other general or special law to the contrary, the conservation commission of the town of Andover may provide, by rule promulgated hereunder, for the imposition of reasonable fees for the employment of outside consultants and may deposit such fees in a special account.

(b) Any such account shall be established by the town treasurer and shall be kept separate and apart from other monies. Said special account, including accrued interest, if any, shall be expended at the direction of the conservation commission without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under the law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest.

(c) The town accountant shall submit annually a report of said special account to the board of selectmen and town manager for their review. Said report shall be published in the town annual report. Said town accountant shall submit annually a copy of said report to the director of the bureau of accounts.

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

Approved December 29, 2000.

**Chapter 364. 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 question 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 the town for the election of officers at the annual town meeting to be held in the year 2001 the following question:

"Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages to be drunk on the premises to clubs having an 18 hole regulation golf course?

YES \_\_\_\_\_  
NO \_\_\_\_\_."

If a majority of the votes cast in answer to the question is in the affirmative, the town shall be taken to have authorized the sale in the town by clubs having an 18 hole regulation golf course of all alcoholic beverages to be drunk on the premises. Such licenses shall be subject to all other provisions of said chapter 138.

**SECTION 2.** This act shall take effect upon its passage.  
Approved December 29, 2000.

**Chapter 365. AN ACT FURTHER REGULATING THE RATES OF PILOTAGE FOR THE PORT OF BOSTON.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith the rate of pilotage for the port of Boston, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

**SECTION 1.** Chapter 103 of the General Laws is hereby amended by striking out section 31, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 31. Rates of pilotage outward and inward for the port of Boston, calculated per foot of draught, shall be as follows:

for vessels 3,500 gross tons or under	\$44.00
for vessels over 3,500 to 7,000 gross tons	\$54.60
for vessels over 7,000 to 15,000 gross tons	\$62.10
for vessels over 15,000 to 25,000 gross tons	\$65.00
for vessels over 25,000 to 35,000 gross tons	\$66.45
for vessels over 35,000 to 45,000 gross tons	\$68.30
for vessels over 45,000 gross tons	\$73.40

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The following charges shall be made for anchoring vessels:

(1) an inbound vessel subject to pilotage that anchors in an area outside Deer Island Light and inside the demarcation line for Federal Inland Waters for more than six hours shall pay \$300;

(2) an inbound vessel from sea subject to pilotage that anchors in anchorage number one, two or five shall pay full pilotage;

(3) an outbound vessel subject to pilotage that anchors in anchorage number one, two or five and the pilot remains on board shall be subject to detention fees and shifting charges.

The following charges shall be made for shifting vessels:

(1) between docks in Boston, \$200;

(2) between a dock in Boston and anchorage number one, \$150;

(3) between a dock in Boston and anchorage number two, one-half pilotage;

(4) between anchorage number five and Quincy, full pilotage;

(5) between anchorage number five and Boston, full pilotage;

(6) between Boston or anchorage number two and Quincy, one and one-half full pilotage;

(7) between anchorage number two and Boston from one to six hours, \$300;

(8) between anchorage number two and Boston in excess of six hours, one-half full pilotage;

(9) between sea and Quincy, full pilotage, but if a vessel proceeds to anchorage number two at the request of the master or agent, an additional one and one-half full pilotage; and

(10) shifting a ship in anchorage number two, \$300.

Other charges shall be:

(1) for detention of a pilot on board a vessel, there shall be a one hour free period, followed by a \$50 charge for the second hour or portion thereof; for each additional hour or portion thereof there shall be a charge of \$50. Detention time shall begin at the ordered sailing time:

(2) cancellation rate, \$100;

(3) compass adjusting, \$100;

(4) calibration rate, \$100;

(5) when a pilot is ordered and dispatched for an arriving vessel and his services are not employed, the vessel shall pay a charge of \$150, but a pilot shall be considered ordered unless notified: one hour before sailing time in Boston; two hours before sailing time in Quincy, anchorage number two or anchorage number five;

(6) no charge shall be made for a vessel detained because of fog or stress of weather;

(7) pilot carried away, the vessel shall pay his return expenses plus \$100 per day;

(8) notifying a vessel of his diversion orders, a charge of \$100 may be levied plus any regular charges;

(9) assisting the master in docking and undocking, \$100;

(10) all inbound vessels shall notify the pilot office eight hours before arrival time if such time varies more than two hours from their latest estimated time of arrival report; and

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(11) a surcharge shall be made on each full pilotage charge for the cost of a suitable replacement vessel for the Boston Pilot when it is deemed advisable by a condition survey of the vessel. The surcharge shall be \$25 per full pilotage for all vessels 3,500 gross tons and under and \$50 per full pilotage for all vessels over 3,500 gross tons. Any such surcharge funds collected shall be placed in an escrow fund which shall be overseen by the office of the commissioners of pilots and shall be used in addition to proceeds realized from the sale of a present pilot vessel. An audited statement of the fund shall be made available to industry representatives on a quarterly basis.

**SECTION 2.** Said section 31 of said chapter 103, as amended by section 1 of this act, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Rates of pilotage outward and inward for the port of Boston, calculated per foot of draught, shall be as follows:

for vessels 3,500 gross tons or under	\$45.00
for vessels over 3,500 to 7,000 gross tons	\$58.70
for vessels over 7,000 to 15,000 gross tons	\$66.75
for vessels over 15,000 to 25,000 gross tons	\$69.90
for vessels over 25,000 to 35,000 gross tons	\$71.45
for vessels over 35,000 to 45,000 gross tons	\$73.45
for vessels over 45,000 gross tons	\$78.90

**SECTION 3.** Section 2 shall take effect January 1, 2001.

Approved December 29, 2000.

Chapter 366. AN ACT RELATIVE TO THE TOWN OF IPSWICH.

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Ipswich is hereby authorized to establish and maintain a special fund to be known as the Open Space, Recreation and Water Supply-Watershed Protection Fund which shall be utilized for open space, recreation and water supply-watershed protection purposes.

As a means of providing available assets for the fund, all monies received by the town through the following means shall be paid over to and become part of the fund:

- (a) 96 per cent of all revenues received from excise taxes paid pursuant to the provisions of section 3A of chapter 64G of the General Laws;
- (b) all monies received from withdrawn penalty taxes paid pursuant to the provisions of section 7 of chapter 61 of the General Laws;
- (c) all monies received from conveyance taxes paid pursuant to the provisions of section 12 of chapter 61A of the General Laws;



(d) all monies received from conveyance taxes paid pursuant to the provisions of section 7 of chapter 61B of the General Laws; and

(e) all monies received from the lease or leases of property by the town of Ipswich to telecommunication companies for the construction or attachment of wireless communications facilities.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the town of Ipswich is hereby authorized to establish and maintain a special fund to be known as the Tourism Development and Services Fund to be utilized for tourism development and services.

As a means of providing available assets for the fund, 4 per cent of all the revenue derived from excise taxes paid pursuant to the provisions of section 3A of chapter 64G of the General Laws shall be paid over to and become part of the fund.

Approved December 29, 2000.

**Chapter 367. AN ACT AUTHORIZING DONALD CAMPBELL TO TAKE A CIVIL SERVICE EXAMINATION FOR THE POSITION OF POLICE OFFICER IN THE TOWNS OF ROCKPORT AND ROWLEY NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

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

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary regulating the maximum age of applicants for appointment as police officer, Donald Campbell shall, if he meets all other requirements, be eligible for certification and appointment to the police department of the towns of Rockport and Rowley.

**SECTION 2.** This act shall apply in each of the towns of Rockport and Rowley only if the board of selectmen of the town votes to accept its provisions.

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

Approved December 29, 2000.

**Chapter 368. AN ACT ESTABLISHING THE BOURNE FINANCIAL DEVELOPMENT CORPORATION.**

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

**SECTION 1.** As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:

"Corporation", the Bourne Financial Development Corporation, established in section 3.

"Financial institution", a banking corporation or institution, trust company, savings bank, cooperative bank, savings and loan association, insurance company or related corporation partnership, foundation, or other institution engaged primarily in lending or investing funds.

"Incorporators", all appointed members of the Bourne Economic Development Task Force and any other individuals who may be appointed by the board of selectmen of the town of Bourne prior to the first meeting of the corporation.

"Member", an individual, as defined within the by-laws of the corporation and approved by the incorporators, entitled to participate in the activities of the corporation, either in a voting or nonvoting capacity.

**SECTION 2.** It is hereby determined that undeveloped, underused or underdeveloped areas exist in parts of the town of Bourne, including, but not limited to, the Buzzards Bay business district, and other areas of the town which are presently zoned for business and industrial use; that a redevelopment plan is necessary to retain existing commercial enterprises, to attract new commercial and industrial development, and to promote the sound economic growth of the town of Bourne; that the existence of undeveloped, underused or underdeveloped areas render persons and entities unwilling to locate in the town of Bourne and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids herein provided including, but not limited to, preventing disuse, underuse, or underdevelopment, improving sites for business, commercial, and industrial uses, and disposing of property redeveloped in the course of the foregoing; that the exercise of powers by the corporation and any assistance that may be provided by the town of Bourne or other public body in connection therewith are public uses and purposes for which public money may be expended; and that the acquisition, planning, clearance, development, rehabilitation or rebuilding of undeveloped, underused, and underdeveloped areas for commercial or industrial purposes are public benefits for which private property may be regulated by wholesome and reasonable order, law and direction and for which public funds may be expended for the welfare of the town of Bourne and the commonwealth.

It is hereby further found and declared that there exists in the town of Bourne a condition of underemployment which causes hardship to many individuals and families, wastes vital human resources, impedes the economic and physical development of the town of Bourne and adversely affects the welfare and prosperity of the people; that underemployment has been caused in substantial part by commercial and industrial businesses moving from the town of Bourne; that abandonment of existing facilities is causing serious damage to the economy of the town of Bourne; that such facilities are underutilized or vacated, thereby creating additional underemployment; that the commercial and industrial sector of the economy provides one of the best opportunities for jobs at higher wages for the inhabitants of the town of Bourne; that new commercial and industrial sites are required to attract and house new commercial and industrial development and to retain existing commer-

cial and industrial operations in need of expansion space; that the unaided efforts of private industry have not provided and cannot provide the necessary commercial and industrial sites within the local environment due to the problems encountered in the assembly of suitable building sites, the provision of adequate public services, the unavailability of private capital for development, and the inability of private enterprise alone to plan, finance and coordinate commercial and industrial development projects.

**SECTION 3.** There is hereby constituted a public body politic and corporate under the name of the Bourne Financial Development Corporation. The corporation shall be subject to and shall have the powers and privileges conferred by the provisions of chapter 180 of the General Laws except insofar as said provisions are inconsistent with or otherwise restricted or limited by this act.

**SECTION 4.** The principal office of the Bourne Financial Development Corporation shall be located in the town of Bourne.

**SECTION 5.** The purposes of the Bourne Financial Development Corporation shall be to: correct the conditions found to exist in the town of Bourne, as described in section 2; promote the common good and general welfare of the town of Bourne; improve the living standards of its citizens by fostering the improvement of their employment opportunities; and solicit, encourage and induce business organizations and educational institutions to locate in the town of Bourne with an emphasis on expanding the tax base of the town of Bourne.

The corporation shall assist and promote the development and expansion of business activities and business organizations in the town of Bourne including, but not limited to, the Buzzards Bay business district and in other areas of the town of Bourne zoned for business and industrial use.

In order to further the public purposes named in this section and in addition to the powers conferred on the corporation under section 3, the corporation shall, subject to the restriction and limitations hereinafter provided, have the following powers:

(a) accept, acquire, except by eminent domain, receive and hold by bequest, devise, grant, gift, purchase, exchange, lease, transfer, judicial order or decree, or otherwise, for any of its objects and purposes, any property, both real and personal, from any source, including grants, loans or advances for or in aid of the corporation from any federal agency or agency of the commonwealth or any political subdivision thereof;

(b) sell, convey, mortgage, lease, transfer, exchange, or otherwise dispose of any such property, both real and personal, that the objectives and purposes of the corporation may require, subject to such limitations as may be prescribed by law;

(c) borrow money and, from time to time, to make, accept, endorse, execute and issue bonds, debentures, promissory notes, bills of exchange, and other obligations of the corporation for monies borrowed or in payment for acquired or for any of the other purposes of the corporation and to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement or other instrument of trust or by lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation whether now owned or hereafter acquired;



(d) make loans to any person, firm, corporation, joint stock company, association or trust located or doing business in the town of Bourne for the purpose of promoting and developing business activities;

(e) acquire improved and unimproved real estate for the purpose of constructing retail, commercial and residential or other business establishments thereon, for the purpose of disposing of such real estate for the construction of retail, commercial or other business establishments as the objectives and purposes of the corporation may require; provided, however, that nothing contained herein shall be construed to grant to the corporation the power of eminent domain;

(f) acquire, construct, reconstruct, alter, maintain, sell, convey, transfer, mortgage, pledge or otherwise dispose of retail, commercial, industrial, residential or business establishments as the objectives and purposes of the corporation may require;

(g) acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the bonds, debentures, notes or other securities as evidence of interest in or indebtedness of any person, firm, corporation, joint stock company, association or trust and, while the owner or holder thereof, to exercise all the rights, powers and privileges of ownership;

(h) cooperate with and avail itself of the facilities and programs including, but not limited to, those of the Small Business Development Corporation, Massachusetts Office of Business Development, United States Department of Commerce, New England Regional Commission and any similar governmental agencies;

(i) receive cash, stocks, bonds, donations and gifts and to otherwise raise money for the above purposes;

(j) elect, appoint and employ officers, agents and employees to enter into contracts and to incur liabilities for any of the purposes of the corporation;

(k) employ consultants; and

(l) promote the town of Bourne as a retail, commercial, business, industrial, professional, technological, and financial center.

The corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office nor publish or distribute any statements with respect thereto. Notwithstanding any other provision of this act, neither the members, directors, officers, nor the corporation shall participate in any of the prohibited transactions, as defined in Section 503 of the Internal Revenue Code nor shall the corporation accumulate income or engage in any activities if the accumulation of income or the activities so engaged in are or would be within the prohibitions of Section 503 of the Internal Revenue Code, nor shall the corporation be operated at any time for the purpose of carrying on a trade or business for profit, or other than for public purpose. The transactions in which the corporation engages shall not result in private liability for any of the incorporators, members, directors, officers or employees.

**SECTION 6.** Notwithstanding any rule of common law or any authorization limitation or any other provision of any general or special law or any provision in their respective



charters, agreements of association, articles of organization, or trust indentures, all domestic corporations organized for the purpose of carrying on business within the commonwealth including, without implied limitation, any electric or gas company as defined in section 1 of chapter 164 of the General Laws, any railroad corporation as defined in section 1 of chapter 160 of the General Laws, financial institutions, trustees and the town of Bourne may acquire, purchase, hold, sell, assign, transfer or otherwise dispose of any bonds, securities or other evidence of indebtedness of the Bourne Financial Development Corporation and to make contributions to the corporation.

Any contribution made under the provisions of this section to the corporation shall be in addition to the contributions authorized by section 12C of chapter 155 of the General Laws and by any other provisions of any general or special law.

**SECTION 7.** In order to carry out the purposes and exercise the powers of the Bourne Financial Development Corporation, the town of Bourne may raise and appropriate, or may borrow in aid of the corporation, such sums as may be necessary to make a loan or grant to the corporation.

Any borrowing by the town of Bourne for the purposes contained in this section shall not be included for the purpose of computation of the debt limits otherwise imposed upon municipalities by the General Laws.

**SECTION 8.** The members of the Bourne Financial Development Corporation shall have the powers of the corporation to elect directors as provided in section 9 and to exercise such other powers of the corporation as may be conferred on the members by the by-laws.

The members may determine by majority vote that the organization shall apply to become a tax exempt corporation under Section 501(c)(3) of the Internal Revenue Code. Upon achieving such tax exempt status, the corporation shall be operated in compliance with applicable federal and state law and any inconsistent provisions contained herein shall not be effective.

**SECTION 9.** The board of directors of the Bourne Financial Development Corporation shall consist of up to 15 members. Three directors shall be persons appointed annually by the board of selectmen of the town of Bourne. The remaining directors shall be elected by and from among the members of the corporation, as prescribed in the by-laws.

**SECTION 10.** The board of directors shall conduct and manage the business and affairs of the Bourne Financial Development Corporation, including, but not limited to, (a) establishing a fiscal year for the operation of the corporation; (b) employing an executive director and other support staff as may be necessary; (c) creating, amending or repealing by-laws in whole or in part. There shall be a president, treasurer, and a secretary or clerk whose duties and terms of office shall be as described in the by-laws.

No directors or officer shall be responsible for losses of the corporation unless the losses have been occasioned by the willful misconduct of that director or officer.

**SECTION 11.** The Bourne Financial Development Corporation shall not deposit any of its funds in a banking institution unless such institution has been designated as a deposi-

tory by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer, member of the board, or staff person of the depository so designated.

The corporation shall not act as a depository for other organizations or individuals.

**SECTION 12.** The Bourne Financial Development Corporation shall make reports of its condition not less than annually to the state secretary, which report shall be published in a newspaper of general circulation in the town of Bourne within 60 days of the close of the corporation's fiscal year. Said state secretary shall make copies of such reports available to the commissioner of insurance and to the commissioner of banks and the corporation shall also furnish such information as may, from time to time, be required by the state secretary.

**SECTION 13.** The first meeting of the Bourne Financial Development Corporation shall be called by a notice signed by three or more of the incorporators and stating the time, place, and purpose of the meeting. A copy of the notice shall be mailed or delivered to each incorporator at least five days before the day appointed for the meeting. The first meeting may be held without five days notice if a written agreement acknowledging the lack of notice is promulgated and signed by all of the incorporators. There shall be recorded in the minutes of the meeting a copy of such notice or of such unanimous agreement by the incorporators. At the first meeting, the incorporators shall organize by the election of a temporary clerk, by the adoption of by-laws, by the election by ballot of directors and by action upon such matters within the powers of the corporation as incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings until the clerk has been chosen and sworn. One-half plus one of the incorporators shall be a quorum for the transaction of business.

Whenever the certificate required by section 13 of chapter 155 of the General Laws has been filed in the office of the state secretary, the state secretary shall issue and deliver to the incorporators a certified copy of the provisions of this act, under the seal of the commonwealth, and the corporation shall then be authorized to commence business.

**SECTION 14.** The Bourne Financial Development Corporation shall not be subject to any of the provisions of chapter 63 of the General Laws, nor shall the corporation be liable for any taxes based upon or measured by income, which may be enacted by the general court. The securities and evidence of indebtedness issued by the corporation and income therefrom shall, at all times, be free from taxation by the commonwealth.

**SECTION 15.** The Bourne Financial Development Corporation may, upon the affirmative vote of two-thirds of its members, petition for its dissolution by order of the supreme judicial or superior court, in the manner provided in section 50 of chapter 155 of the General Laws.

**SECTION 16.** If the Bourne Financial Development Corporation shall fail to commence operations within three years from the effective date of this act, the provisions of this act shall cease to be effective.

**SECTION 17.** This act shall take effect upon its passage.

Approved December 29, 2000

**Chapter 369. AN ACT VALIDATING CERTAIN ACTIONS TAKEN BY THE  
TOWN OF HINGHAM 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 hearings of the Hingham planning board held on April 10, 2000 with respect to amendments to the zoning by-laws of the town of Hingham and all actions taken by said town at the annual town meeting held on April 24, 2000 with respect to said amendments, as appearing in Articles 15, 30, and 31 of the warrant for said town meeting, are hereby ratified, validated and confirmed; provided, however, that nothing contained in this act shall exempt said town from any requirements to obtain approval of such amendments or by-laws by the attorney general.

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

Approved January 2, 2001.

**Chapter 370. AN ACT REQUIRING CONTINUING EDUCATION FOR  
INSPECTORS OF PLUMBING AND INSPECTORS OF GAS  
FITTING.**

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

Chapter 142 of the General Laws is hereby amended by inserting after section 11A the following section:-

Section 11B. Notwithstanding any general or special law to the contrary, inspectors of plumbing and inspectors of gas fitting shall complete a minimum of 12 hours per year of continuing education which shall include the review and interpretation of plumbing and fuel gas codes and related codes, rules and regulations.

The examiners shall promulgate rules and regulations for the implementation and requirements of continuing education for inspectors of plumbing and inspectors of gas fitting.

Approved January 4, 2001.

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**Chapter 371. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF DARTMOUTH FROM THE PROVISIONS OF CIVIL SERVICE LAW.**

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

**SECTION 1.** The position of chief of police of the police department in the town of Dartmouth shall be exempt from chapter 31 of the General Laws.

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

Approved January 4, 2001.

**Chapter 372. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO ENTER INTO CERTAIN AGREEMENTS AND TO CONVEY AND ACCEPT CERTAIN INTEREST IN REAL ESTATE.**

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

The first sentence of section 1 of chapter 213 of the acts of 2000 is hereby amended by striking out the words "April 14, 1999" and inserting in place thereof the following words:- April 14, 1995.

Approved January 4, 2001.

**Chapter 373. AN ACT RELATIVE TO LAND OF THE SOUTH ESSEX SEWERAGE DISTRICT IN THE TOWN OF MIDDLETON.**

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

**SECTION 1.** The first paragraph of section 1 of chapter 339 of the acts of 1925, as amended by section 1 of chapter 190 of the acts of 1972, is hereby further amended by striking out, in lines 1 to 7, inclusive, under the heading Parcel 2, the words

"NORTHERLY, by the center line of the Ipswich River, which center line is the boundary between the towns of Boxford and Middleton;

NORTHWESTERLY and WESTERLY, by Nichols Brook;

SOUTHERLY, by the town line between Middleton and Topsfield;

EASTERLY, by interstate highway I-95, as shown on sheet two of said September 12, 1950 highway layout plan, approximately one thousand three hundred thirty-six (1,336) feet" and inserting in place thereof the following words:-

A parcel of land in the town of Middleton, bounded and described as follows:

NORTHEASTERLY by lots 13 and 16, as shown on the plan hereinafter mentioned, one thousand thirty-one and 11/100 (1031.11) feet;



EASTERLY by land now or formerly of Salem Trust Company five hundred eighty-three and 99/100 (583.99) feet;

SOUTHERLY by lot 40, as shown on said plan, one thousand fifty-one and 01/100 (1051.01) feet;

WESTERLY by land now or formerly of Leverett A. Haskell, Trustee, one thousand and 76/100 (1000.76) feet.

All of said boundaries are determined by the land court to be located as shown upon plan numbered 16270-J, drawn by Hancock Survey Associates, Inc., Surveyors, dated October 10, 1994, as modified and approved by the court, filed in the land registration office in the Essex south district registry of deeds, a copy of a portion of which is filed with Certificate of Title 66335 in said registry, and the above described land is shown as lot 41 on said plan.

There is appurtenant to the above described land rights and provisions and the above described land is subject to agreements all as described in a deed from Essex county to Massachusetts Institute of Technology, dated August 11, 1967, and filed as Document 125029 in said registry.

**SECTION 2.** Said lot 41 on land court plan numbered 16270-J as described in section 1 of this act shall not be deemed to be included within the South Essex Sewerage District, however, until good and clear record title to the land described as Parcel 2 in chapter 190 of the acts of 1972 has first been conveyed to the town of Middleton for open space, conservation and recreational purposes by a good and sufficient quitclaim deed, said town has accepted said deed and it has been duly recorded with the Essex south district registry of deeds.

Approved January 4, 2001.

## **Chapter 374. AN ACT RELATIVE TO THE SOUNDING OF CERTAIN WARNING DEVICES IN THE TOWN OF NEWBURY.**

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

Notwithstanding chapter 160 of the General Laws or any other general or special law, rule or regulation to the contrary, a railroad corporation, including the Massachusetts Bay Transportation Authority, shall not permit a locomotive engine passing on its railroad in the town of Newbury to sound a whistle at any grade crossing in said town which is otherwise protected by the following safety features: (i) flashing lights in each direction which are automatically activated by the approaching train; (ii) two gates, one on each side of the crossing, both of which are automatically lowered by the approaching train and both of which extend across approximately one-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; (iii) a bell that is automatically

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activated by the approaching train; (iv) overhead street lights; (v) signs posted before the grade crossing in each direction warning pedestrians and motorists of the crossing ahead; (vi) posted speed limits for traffic which shall not be more than 25 miles per hour; and (vii) not more than two lanes of vehicular traffic in each direction at the grade crossing. Notwithstanding this act, a train shall sound its whistle in the event of an emergency.

Approved January 4, 2001.

**Chapter 375. AN ACT RELATIVE TO GROUP MARKETING PLANS.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for renewal of certain insurance group marketing plans, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Notwithstanding the provisions of any general or special law to the contrary, a group marketing plan approved and in effect, pursuant to section 193R of chapter 175 of the General Laws, during calendar year 2000 may be approved upon renewal, notwithstanding that less than 35 per cent of its members are insured during calendar year 2001.

Approved January 4, 2001.

**Chapter 376. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO ACCEPT CERTAIN STREETS.**

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

**SECTION 1.** Notwithstanding section 23 of chapter 82 of the General Laws or any other general or special law to the contrary, the town of Tewksbury may accept the following streets:-

- Arizona road from Nevada road to Fourth street 350' long and 40' wide
- Arnold road from Warren road to town line 210' long and 30' wide
- Bow street from Lakeview avenue to Mystic avenue 290' long and 20' wide
- Carroll road from Young street to McLaren road 400' long and 20' wide
- Ellis avenue from Meade street to end 300' long and 20' wide
- First street from Maryland road to New York road 690' long and 40' wide
- Fourth street from Arizona road to end 250' long and 40' wide
- Grace avenue from end to end 250' long and 40' wide
- Illinois road from town line to end 200' long and 40' wide

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Meade street from Vale street to end 970' long and variable  
Nancy avenue from Brook street to end 190' long and 40' wide  
Russell street from Arkansas road to Louisiana road 180' long and 50' wide

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

Approved January 4, 2001.

**Chapter 377. AN ACT RELATIVE TO CHILD SAFETY.**

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

Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of education, in consultation with the secretary of public safety, shall make available to all elementary schools in the commonwealth the poster known as "Knowing My Eight Rules For Safety", published by the National Center for Missing and Exploited Children. The department of education shall promote the display of the posters in classrooms and other common areas in public elementary schools. The commissioner may establish a schedule of fees for the reimbursement of the costs of reproduction of the posters to be assessed upon local school districts and individual schools.

Approved January 4, 2001.

**Chapter 378. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2001 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES.**

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

**SECTION 1.** To provide for supplementing certain items in the general appropriation act for fiscal year 2001, the sums set forth in section 2 are hereby appropriated from the Highway Fund for the several purposes and subject to the conditions specified in said act and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2001. Said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**SECTION 2.**

**EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.**

*Department of Highways.*

6030-7201 .....	\$9,416,297
6030-7221 .....	\$1,105,189

**NO SECTION 2A.**

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**SECTION 2B.** To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act for fiscal year 2001 and to meet certain requirements of law, the sum set forth herein is hereby authorized from the Intragovernmental Service Fund for the purpose 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, 2001. Said sum shall be in addition to any amounts previously authorized and made available for the purposes of said item.

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Department of State Police.*

8100-0002 ..... \$250,000

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

Approved January 4, 2001.

**Chapter 379. AN ACT RELATIVE TO CONSTRUCTION SAFETY TRAINING.**

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

Subsection (16) of section 53A of chapter 152 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the third sentence the following sentence:- The loss control standards may also require that an insured have all employees engaged in construction work certified as having successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least ten hours in duration.

Approved January 4, 2001.

**Chapter 380. AN ACT FURTHER REGULATING CERTAIN REAL ESTATE TAX EXEMPTIONS.**

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

**SECTION 1.** Section 5 of chapter 59 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after clause Seventeenth D the following clause:-

Seventeenth E. The amount of the whole estate, real and personal, as set forth in clauses Seventeenth, Seventeenth C, Seventeenth C½ and Seventeenth D, shall be increased annually by an amount equal to the increase in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for such year. The department of revenue shall annually inform each city or town that accepts this clause of the amount of



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this increase. This clause shall take effect in a city or town upon its acceptance by such city or town. Acceptance of this clause by a city or town shall not increase its reimbursement by the commonwealth under this section.

**SECTION 2.** Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after clause Forty-first C the following clause:-

Forty-first D. The amounts of the gross receipts and whole estate, real and personal, as set forth in clauses Forty-first, Forty-first B and Forty-first C, shall be increased annually by an amount equal to the increase in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for such year. The department of revenue shall annually inform each city or town that accepts this clause of the amount of this increase. This clause shall take effect in a city or town upon its acceptance by such city or town. Acceptance of this clause by a city or town shall not increase its reimbursement by the commonwealth under this section.

Approved January 4, 2001.

**Chapter 381. AN ACT RELATIVE TO NUCLEAR PHARMACY.**

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

Section 39B of chapter 112 the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "shall be independent of and separate from any business and".

Approved January 4, 2001.

**Chapter 382. AN ACT AUTHORIZING THE CITY OF LEOMINSTER TO BORROW MONEY TO RENOVATE A CERTAIN CITY BUILDING FOR USE AS A COURTHOUSE.**

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

**SECTION 1.** Notwithstanding any general or special law to the contrary, the city of Leominster is hereby authorized to borrow \$1,300,000 and may issue bonds or notes of the city therefor, for the purpose of further renovating a city owned building known as the May A. Gallagher Junior High School Building, located in said city of Leominster, so as to make it suitable for use as a juvenile court. The city may also lease such renovated quarters to the state juvenile court department, and may use such lease fees from the court to amortize the principal and interest due on such borrowings. Indebtedness incurred under this act shall, except as provided in this act, be subject to the applicable provisions of chapter 44 of the General Laws.

**SECTION 2.** In addition to payments by the juvenile court department of capital outlay, principal and interest on the borrowings, the juvenile court department shall reimburse the city of Leominster for the maintenance and operations, including security systems, of the leased property on a monthly basis.

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, the chief administrative justice of the trial court, with the approval of the chief justice of the supreme judicial court and the commissioner of capital asset management and maintenance, and the mayor of the city of Leominster, with the approval of the city council, are hereby authorized to enter into a lease by which a portion of the May A. Gallagher Junior High School Building may be used as a juvenile court for the Leominster division of the juvenile court department of the trial court. The lease entered into shall, except as provided in this act, be subject to the applicable provisions of section 4 of chapter 29A of the General Laws.

**SECTION 4.** Notwithstanding the provisions of any general or special law to the contrary, the maturities of bonds or notes issued by the city of Leominster authorized under section 1 shall either be arranged so that for each issue the annual combined installments of principal and interest payable in each year be as nearly equal as practicable in the opinion of the city treasurer and the mayor, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal.

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

Approved January 4, 2001.

**Chapter 383. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN LAND TO THE TOWN OF LANCASTER.**

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

**SECTION 1.** The commissioner of the division of capital asset management and maintenance is hereby authorized, notwithstanding the provisions of sections 40F>, 40H and 40I of chapter 7 of the General Laws, to lease a certain parcel of land located in the town of Lancaster to said town to be used for public recreational purposes. Said parcel is shown as "Proposed Lease Area A" on a plan of land entitled "Land in Lancaster, Mass. Prepared for town of Lancaster" dated September 2000 drawn by David E. Ross Associates, Inc., which is on file with said town.

**SECTION 2.** The consideration for the lease authorized by section 1 shall be the full and fair market value of the lease based upon an independent appraisal.

The commissioner of the division of capital asset management and maintenance shall,

30 days prior to the conveyance authorized by this act, submit the appraisal and a report thereon to the inspector general for his review and comment. The review and comment shall include an examination of the methodology utilized for the appraisal. Said inspector general shall prepare a report of his review of the appraisal and file the report with said commissioner, and copies of the same shall be filed with the house and senate committees on ways and means and the chairmen of the joint committees on state administration. The town of Lancaster shall be responsible for any costs for appraisals, surveys and other expenses relating to the lease of the land, and for any costs and liabilities of the development, maintenance and operation of the parcel.

**SECTION 3.** If the property ceases to be used at any time for the purposes contained in this act, the property, upon notice by the commissioner of the division of capital asset management and maintenance, shall revert to the commonwealth and any further disposition of the property shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

Approved January 4, 2001.

**Chapter 384. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2001 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 make forthwith supplemental appropriations and certain other related matters, 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 2001, 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, 2001, provided that said sums 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.*

0321-1500 ..... \$744,433

<i>Social Law Library.</i>		
0321-2205	.....	\$284,800
0321-2206	.....	\$150,000
<i>Appeals Court.</i>		
0322-0100	.....	\$196,725
<i>Trial Court.</i>		
0330-0300	.....	\$516,113
0330-2202	.....	\$7,031,134
0330-3200	.....	\$1,267,236
0333-0002	.....	\$162,905
0337-0003	.....	\$2,332,529
0339-1003	.....	\$562,514
0339-1004	.....	\$1,400,000
<b>EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.</b>		
<i>Office of the Secretary.</i>		
1100-1100	.....	\$250,000
<b>EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.</b>		
<i>Division of Marine Fisheries.</i>		
2330-0100	.....	\$250,000
<b>EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.</b>		
<i>Division of Medical Assistance.</i>		
4000-0600	.....	\$1,000,000
<i>Massachusetts Commission for the Blind.</i>		
4110-4000	.....	\$435,634
<i>Massachusetts Rehabilitation Commission.</i>		
4120-1000	.....	\$129,322
4120-2000	.....	\$711,170
<i>Department of Youth Services.</i>		
4200-0010	.....	\$527,390
<i>Department of Public Health.</i>		
4510-0710	.....	\$300,000
4516-1000	.....	\$400,000
4580-1001	.....	\$4,900,000
<b>DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT.</b>		
<i>Joint Labor Management Committee.</i>		
7002-0700	.....	\$18,010
<b>DEPARTMENT OF ECONOMIC DEVELOPMENT.</b>		
7007-0400	.....	\$200,000
7007-0500	.....	\$250,000



**DEPARTMENT OF EDUCATION.**

7061-0011 .....	\$1,000,000
7061-9611 .....	\$42,750

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

*Registry of Motor Vehicles.*

8400-0001 .....	\$2,234,753
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*Parole Board.*

8950-0001 .....	\$591,647
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**SECTION 2A.** To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, to provide for certain other activities and projects, and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the general fund unless specifically designated otherwise herein, 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, 2001, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

**DISTRICT ATTORNEYS.**

*District Attorneys Association.*

0340-2102 For the overtime costs of state police officers assigned to the Worcester district attorney's office .....	\$250,000
Highway Fund .....	88.20%
Local Aid Fund .....	9.50%
General Fund .....	2.30%

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

*Reserves.*

1599-7555 For unanticipated lease costs associated with the movement of classrooms at North Shore Community College; provided, that the secretary of administration and finance shall notify the house and senate committees on ways and means not less than 30 days prior to the execution of a lease for said space . . .	\$250,000
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**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.**

*Office of the Secretary.*

4000-0108 For a reserve to fund the costs associated with the implementation of chapter 141 of the acts of 2000, including but not limited to the administration of the office of patient protection in the department of public health and the managed care oversight board within the executive office of health and human services; provided, that funds appropriated herein may be transferred to other items of appropriation or allocations thereof for the purposes of said implementation .....	\$425,000
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*Division of Medical Assistance.*

4000-1500 For expanded pharmacy services for all children to age 18 who are receiving family assistance coverage-premium assistance, so-called, pursuant to section 16C of chapter 118E of the General Laws and under the MassHealth demonstration project established pursuant to sections 9A and 9B of chapter 118E of the General Laws, to the extent that the policies of health insurance with respect to which premium assistance payments are being made for the benefit of such children do not cover such services; provided, that the division of medical assistance shall make such expenditures without regard to the availability of federal reimbursement; provided further, that the division shall seek to obtain federal reimbursement for such expenditures through an amendment to the MassHealth demonstration project waiver, so-called; provided further, that said amendment shall be consistent with said section 16C of said chapter 118E; and provided further, that the division shall pursue the highest level of federal reimbursement for the expenditures authorized herein ..... \$750,000  
Tobacco Settlement Fund ..... 100.0%

*Department of Public Health.*

4513-1117 For an organ transplant education and outreach program; provided, that the department shall collaborate with the registry of motor vehicles for the development of a public awareness campaign ..... \$260,000  
Tobacco Settlement Fund ..... 100.0%

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

7004-6667 For a grant to the Medical City project, so-called, in the city of Worcester ..... \$780,000

**DEPARTMENT OF EDUCATION.**

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 without further appropriations, notwithstanding the provisions of any general or special law to the contrary; provided further, that any portion of this appropriation 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
7010-0043	For the equal education improvement fund for cities, towns, or regional school districts pursuant to the provisions of section 11 of chapter 15 of the General Laws; provided, that notwithstanding the provisions of said section 11 of said chapter 15 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 appropriated herein . . . . .	\$8,448,000
7061-0019	For the office of educational quality and accountability established pursuant to section 55A of chapter 15 of the General Laws . . . . .	\$3,881,115

**BOARD OF HIGHER EDUCATION.**

7066-0016	For a program of financial aid to support the matriculation of certain young adults at public and private institutions of higher education; provided, that only young adults in the custody of the department of social services pursuant to a care and protection petition upon reaching the age of 18, or if matriculating at such an institution at an earlier age, shall qualify for such aid; provided further, that no such young adult shall be required to remain in the custody of the department beyond the age of 18 to qualify for such aid; provided further, that said aid shall not exceed \$6,000 per recipient per annum; provided further, that the funds appropriated herein shall be available to only eligible young adults enrolled in such institutions in fiscal year 2001; provided further, that no young adult shall be denied such aid based on duration in the custody of said department; provided	
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further, that eligibility for such aid shall be based on establishment of a voluntary agreement between recipient of such aid and said department establishing the terms and conditions for receiving such aid; provided further, that said aid shall be granted after exhausting all other sources of financial support; and provided further, that the board shall establish guidelines for said program in collaboration with said department ..... \$1,200,000

7066-0125 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 ..... \$10,000,000

**SECTION 2B.** To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriations act and other appropriation acts for fiscal year 2001, 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 sum set forth herein is 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, 2001; provided that said sum shall be in addition to any amounts previously authorized and made available for the purposes of said item.

**SECTION 3.** Section 49 of chapter 7 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out subsection (a) inserting in place thereof the following subsection:-

(a) There shall be within the executive office of administration and finance, but not subject to its control, a public employee retirement administration commission consisting of nine members, three of whom shall be appointed by the governor, three of whom shall be appointed by the state auditor, one of whom shall be the state treasurer, one of whom shall be appointed by mutual agreement of the governor, state auditor and state treasurer and one of whom shall be chosen by the first eight members and who shall be chairman. Of the three persons appointed by the governor, one shall be the governor or his designee, one shall be a representative of a public safety union and one shall be qualified by having training and experience in the investment of funds as a result of having been principally employed in such occupation for a period of at least ten years. Of the three persons appointed by the state auditor, one shall be the state auditor or his designee, the president of the Massachusetts AFL-CIO or his designee and one shall be a representative of the Massachusetts Municipal



Association. Each member of the commission shall serve for a term of five years; provided, however, that in making initial appointments, the governor and the state auditor shall each appoint one member for a term of three years and one member for a term of four years. The members shall serve without compensation but shall receive their necessary expenses incurred in the discharge of their official duties. Upon the expiration of the term of an appointed member, or the chairman, or a vacancy otherwise created in said positions, the successor for said position shall be appointed in the manner aforesaid, or for the remainder of said term, whichever is applicable. 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. The public employee retirement administration commission shall select an executive director, and enter into an employment contract with said director. The provisions of sections 9A, 45, 46 and 46C of chapter 30, chapter 31 and chapter 150E shall not apply to the executive director or any other employee of the commission.

**SECTION 4.** Chapter 15 of the General Laws is hereby amended by striking out section 55A, as so appearing, and inserting in place thereof the following section:-

Section 55A. There shall be established an office of educational quality and accountability, hereinafter referred to as the office, within the department of education but not subject to its control. The purpose of the office shall be to provide an independent mechanism to verify the efforts of schools and school districts to promote a higher level of academic achievement by students.

The governor shall appoint a five-member council, known as the educational management audit council, hereinafter referred to as the council. One member shall be designated by the governor to serve as chairperson of the council. Residency in the commonwealth shall not be required of the members of the council. Members shall not be compensated for their service but may be reimbursed for necessary expenses incurred in the performance of their duties. No members of said council shall be employed by or receive regular compensation from the department of education, or from any school system, public or independent, in the commonwealth, or serve as a member of any school committee or any board of trustees of a charter school. Not more than two members of said council may be employed on a full-time basis by any agency of the commonwealth, including a public college or the University of Massachusetts. Members shall be appointed for terms of five years; provided, however, that of the first members appointed, one shall be appointed for one year, one for two years, one for three years, one for four years and one for five years. Members may be reappointed but no person shall be appointed to serve more than two full terms. Prior service on said council for a term of less than five years, resulting from an initial appointment or an appointment for the remainder of an unexpired term, shall not be counted as a full term. If a member is absent from any three regularly scheduled meetings in any calendar year, his position on the said council shall be deemed vacant. The chairperson of the council shall forthwith notify the governor that such vacancy exists.

The council shall meet not less than quarterly on a date set by the chairperson and at such other times at the call of the chairperson; provided, however, that the first meeting of the council shall be convened within 30 days after the members have been appointed. The council shall: (1) establish the annual goals for the office; (2) review and approve the protocols for the audit and inspection of schools and school districts, including regional school districts; (3) review the findings of audits and inspections undertaken by the director pursuant to this section; (4) review the performance of the director of the office; and (5) make recommendations to facilitate the improvement of schools to the governor, the board of education, the general court, and the local school committee or board of trustees, when appropriate. The council may coordinate with the activities of the board of education to implement section 1J of chapter 69 and with the activities of the education reform and review commission established pursuant to section 79 of chapter 71 of the acts of 1993.

Subject to appropriation, the council shall employ a director and establish the salary for the director. Pursuant to the office's appropriation, the director shall employ such inspectors, auditors, professional assistants, attorneys, consultants and other staff as he deems necessary to fulfill the responsibilities of the office and shall determine their salaries and duties. The provisions of section 45 of chapter 30, chapter 31 and chapter 150E shall not apply to employees of the office. The request for the annual appropriation required to carry out the mandate of the office shall be submitted by the chairman of the council to the governor, the secretary of administration and finance and the chairman of the board of education.

The office shall act as an independent auditing body verifying educational measurements and tests conducted by or for the department of education in implementing the mandates and directives of chapter 71 of the acts of 1993. The office shall perform not less than 24 school district audits annually. Specifically, the office shall have the following duties: (1) verify the accuracy of reports of schools and districts by conducting or contracting for periodic program and fiscal audits as necessary; (2) investigate allegations of any breach of academic integrity in the administration of any assessments administered by the department of education; (3) undertake inspections of schools and school districts to determine the quality of instruction, the performance of administrative, instructional and other staff and make recommendations about the school and school district goals and performance; (4) review the district's MCAS success plan, if any, submitted to the department of education pursuant to section 1I of chapter 69 and evaluate the implementation of said plan; (5) review the district's implementation of any MCAS grants received to develop or enhance academic support services for students scoring in level 1 or 2; (6) review the impact of unanticipated growth in enrollments and the cost of special education on municipal education budgets, where applicable but not limited to, the impact of said costs on other areas of appropriation within the municipal budget; (7) evaluate the alignment of curriculum and professional development plans with the state curriculum and assessments; (8) review the progress of student achievement.

For the purposes of any inspection, or audit, the director shall have access to all necessary papers, vouchers, books, and records pertaining to a school, including a charter school, a school district, and regional school district. Schools, school districts and school personnel shall cooperate with the director for purposes of any inspection or audit pursuant to this section, including but not limited to, participating in interviews and producing books and documents. The council shall ensure that any instance of noncompliance with law, misfeasance or malfeasance law shall be referred to the attorney general of the commonwealth and the commissioner of education for appropriate action.

The council shall transmit its findings and any resultant recommendations to the governor, the board of education, the attorney general, the president of the senate, the speaker of the house of representatives, and the clerk of the house of representatives who shall forward the same to the joint committee on education, arts and the humanities. The council shall compile these audits and inspections into annual reports due each year on the anniversary date of the first meeting of the council.

**SECTION 5.** Chapter 17 of the General Laws is hereby amended by adding the following section:

Section 17. (a) There shall be an advisory council on quality of care in nursing homes to consist of the commissioner of public health, the commissioner of medical assistance, the secretary of elder affairs and 11 persons to be appointed by the governor, two of whom shall be representatives of the nursing home industry, two of whom shall be direct care workers who are certified as nurses' aides, one of whom shall be a registered nurse, one of whom shall be a licensed practical nurse, one of whom shall be a member of a consumer advocacy organization, one of whom shall be a nursing home ombudsman, one of whom shall be an expert in labor recruitment and issues relative to the health care workforce, one of whom shall be a representative of a labor organization representing nursing home direct care workers recommended by the president of the Massachusetts AFL-CIO and one of whom shall be a family member of a nursing home resident.

(b) The duties of the advisory council shall consist of the following:

(1) to propose regulations to the department of public health establishing appropriate staffing levels for long term care facilities to ensure quality of care for residents. In developing such regulations, the council shall consider the staffing ratios recommended by the National Citizens' Coalition for Nursing Home Reform and staffing levels established in other states;

(2) to evaluate, annually, the required minimum staffing levels for nursing and ancillary nursing personnel set forth in the department of public health's long term care facility regulations and to make recommendations to ensure adequate staffing;

(3) to submit a report, annually, to the governor and file a copy of said report with the state secretary and the clerks of the senate and house of representatives reflecting any legislative, budgetary and policy recommendations necessary to support and improve quality of care in nursing homes; and



(4) to study the status of the health care workforce in the commonwealth and develop legislative, budgetary and policy recommendations on labor recruitment and retention, including workforce development, compensation and benefits for staff of long term care facilities. In developing such recommendations, the council shall consult with individuals and organizations with expertise in the area of labor recruitment and workforce issues.

(c) Members of the council shall choose the chairperson of the council. The council shall meet at least four times each year and shall convene special meetings at the call of the chairperson, a majority of the members of the council or the commissioner of public health. Members of the council shall be appointed for terms of two years and no member shall be appointed to serve more than two consecutive terms. Upon the expiration of the term of an appointed member, a successor shall be appointed in like manner for a term of two years. Members of the council shall serve without compensation but shall be reimbursed, subject to appropriation, for expenses actually and necessarily incurred in the discharge of their duties.

**SECTION 6.** Subsection (a) of section 4 of chapter 21J of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

Reimbursement for the following:.

**SECTION 7.** Chapter 29 of the General Laws is hereby amended by striking out section 2S, as so appearing, and inserting in place thereof the following section:-

Section 2S. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Underground Storage Tank Petroleum Product Cleanup Fund. Amounts credited to said fund shall be used, subject to appropriation, for the purposes set forth in chapter 21J. There shall be credited to such fund: any fees, penalties, and other amounts collected pursuant to said chapter 21J; any appropriation, grant, gift, or other contribution explicitly made to such fund; and any interest earned on monies within the fund. Expenditures made from said fund during any fiscal year shall not exceed the cash balance of said fund as of December 31 of the calendar year preceding the beginning of such fiscal year less the total of the amounts specified in subsections (b), (c), and (d) of section 4 of said chapter 21J; provided, that said expenditures may exceed said cash balance in order to accomplish the purposes of said fund until not later than the fiscal year ending June 30, 2007.

**SECTION 8.** Section 4E of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The board of directors of an educational collaborative shall have the authority to borrow money, enter into long-term or short-term loan agreements or mortgages and to apply for state, federal or corporate grants or contracts to obtain funds necessary to carry out the purpose for which such collaborative is established; provided, that the board of directors has determined that any such borrowing, loan or mortgage is cost-effective and in the best interest of the collaborative and its member municipalities. Such borrowing, loans or mortgages shall be consistent with the written agreement and articles of incorporation, if any, of the educational collaborative and shall be consistent with standard lending practices.



**SECTION 9.** Paragraph (b) of clause 23 of section 21 of said chapter 40, as so appearing, is hereby amended by adding the following sentence:- It shall be a violation of the eighth paragraph of section 2 of chapter 90 for a person to park a vehicle in the cross hatch areas.

**SECTION 10.** The second paragraph of section 22A of said chapter 40, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any such ordinance, by-law, order, rule or regulation promulgated pursuant to this paragraph shall contain a penalty of not less than \$100 nor more than \$300 and shall provide for the removal of a vehicle in accordance with section 22D. This penalty shall not be surchargeable offense under section 113B of chapter 175.

**SECTION 11.** Chapter 51 of the General Laws is hereby amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. (a) Registrars, assistant registrars, or boards having similar duties under any general or special law, except in the city of Boston, shall annually in January or February visit or communicate with the residents of each building in their respective cities and towns and, after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, veteran status, nationality, if not a citizen of the United States, and residence on January 1 of the preceding year and the current year, of each person three years of age or older residing in their respective cities and towns. The police department of a city or town shall, upon request, have access to the lists. A list of all persons 3 to 21 years of age, inclusive, shall be transmitted by the board of registrars to the respective school committee not later than April 1 of each year. The list shall contain the name, residence and age or date of birth of each such person; but the names of persons 3 to 16 years of age, inclusive, shall not be disclosed to any person other than the respective school committee or board of trustees of a county agricultural school or a police department. That proportion of any expenses incurred by the registrars under this section, equal to the proportion that the number of persons under 17 years of age bears to the total number of persons listed thereunder, shall be carried as an item in the school committee budget.

(b) In the city of Boston, the registrars, assistant registrars or boards having similar duties under any general or special law, shall annually in January or February visit or communicate with the residents of each building in said city and, after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, veteran status, nationality if not a citizen of the United States, and residence on January 1 of the preceding year and the current year, of each person 17 years of age or older residing in said city. The Boston police department shall, upon request, have access to the lists.

(c) In any city or town which communicates with residents by mail for the purpose or obtaining such information, the communication shall state in bold-face type on the postcard, envelope and printed material contained in such communication the following statement: "Warning - failure to respond to this mailing shall result in removal from the active voting list and may result in removal from the voter registration rolls.". Registrars,

assistant registrars or boards in such cities or towns communicating with residents by mail for the purpose of obtaining such information may require a response under the penalties of perjury.

(d) The name and address of any person who provides the registrars with a copy of a court order granting protection, or evidence of residence in a protective shelter, or an affidavit signed by a chief of police or his designee that said person is entitled to have certain information withheld from the public under section 24C of chapter 265, shall not appear on the street list and such names shall not be disclosed to any person. The information collected under this section regarding a person's status as a veteran shall not be a public record and shall only be disclosed to the adjutant general.

**SECTION 12.** Section 47C of said chapter 51, as so appearing, is hereby amended by inserting after the word "occupation", in line 5, the following words:- , veteran status.

**SECTION 13.** Said section 47C of said chapter 51, as so appearing, is hereby further amended by inserting after the word "commissioner", in lines 12 and 13, the following words:- , adjutant general.

**SECTION 14.** a) Section 6 of chapter 70B of the General Laws is hereby amended by striking out the last sentence in subsection (e), and inserting in place thereof the following sentence:- Indebtedness incurred under this chapter shall be in excess of the statutory limit, but shall, except as herein provided, otherwise be subject to the applicable provisions of chapter 44.

b) Section 13 of said chapter 70B is hereby amended, at the end of the last sentence thereof, by striking out the words "pursuant to the provisions of chapter 645 of the acts of 1948 or this chapter".

c) Notwithstanding any provisions of said chapter 70B or of any other general or special law to the contrary, (i) cities and towns that received approval from the board of education for a school construction grant for a capital school construction project in accordance with the provisions of chapter 645 of the acts of 1948, as amended, before the effective date of section 295 of chapter 159 of the acts of 2000 which repealed said chapter 645, and cities and towns with capital school construction grants for which the board has directed the treasurer to disburse school construction grants in accordance with section 329 of chapter 159 of the acts of 2000 are authorized to borrow for said approved school project under section 6(e) of chapter 70B; (ii) the reference to chapter 645 of the acts of 1948 in section 19 of chapter 44 of the General Laws and any reference to said chapter 645 in any vote of a city, town or regional school district authorizing borrowing for a capital school construction project shall also be deemed to refer to said chapter 70B as the successor statute to said chapter 645; (iii) any school construction project for which the board of education has directed the treasurer to disburse school construction grants in accordance with section 329 of chapter 159 of the acts of 2000 shall be deemed to have been approved by the board for purposes of section 13 of said chapter 70B as of the date of the vote of the board pursuant to which such direction was made; and (iv) any debt for an approved school project approved under chapter 645 of the acts of 1948, as amended, or under section 329 of chapter 159 of

the acts of 2000 that was incurred by a city or town for such project after the date of such approval but before the effective date of this act is hereby validated, approved and confirmed in all respects and shall be in excess of the statutory debt limit imposed by section 10 of chapter 44 of the General Laws.

d) Notwithstanding the provisions of any general or special law to the contrary, in the event of the withdrawal of the town of Pembroke from the Silver Lake regional school district, said town and district shall be eligible for the reimbursement percentage rate from the commonwealth for any school building projects resulting from the withdrawal of said town from said district at the reimbursement percentage rate which was in effect prior to the effective date of chapter 159 of the acts of 2000 as set forth in chapter 645 of the acts of 1948, as amended; provided that, said town and district shall not be so eligible for said reimbursement percentage rate if the withdrawal of Pembroke is so approved after June 30, 2001. Said reimbursement percentage rate shall not remain in effect for any school building projects approved by the department of education pursuant to said chapter 70B after January 1, 2005 or for any school buildings which are unrelated to the withdrawal of Pembroke from said district if approved by said department before said date. The provisions of this section shall not preclude the town nor the district from separately opting out of the provisions of this section.

The district is hereby authorized to sell and convey any and all interest in the two school buildings owned by the district in the town of Pembroke to said town upon its withdrawal from said district in accordance with the terms of the Silver Lake Regional School District Agreement. The town shall be eligible for said reimbursement percentage rate in effect prior to the effective date of said chapter 159 for the costs of said purchase and conveyance at a price not to exceed their appraised value as determined by an independent appraisal which shall be subject to the review and approval of the inspector general, less any amounts the town of Pembroke receives from the sale of its interest in any other regional school district buildings. The review shall include an examination of the methodology used for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner of education, the house and senate committees on ways and means and the joint committee on state administration.

The town of Pembroke and the district shall each be eligible for said reimbursement percentage rate in effect prior to the effective date of said chapter 159 for any renovation, or construction costs incurred to provide educationally sound facilities for students in the new Pembroke school system or remaining in the regional school district comprised of Halifax, Kingston, and Plympton. The monies paid by said town to the district for the purchase of the two school buildings shall be used by the district for the costs of said renovation and construction. The district's expenditure of said monies for such purposes shall not be eligible for reimbursement from the commonwealth pursuant to said chapter 70B. Except for the reimbursement percentage as provided in section 10 of chapter 70B of the General Laws, all other provisions of said chapter 70B shall apply to the application of said town and district for school building assistance from the commonwealth.



e) Notwithstanding any general or special law to the contrary, the total reimbursement for cities, towns and regional school districts for school building projects under section 329 of chapter 159 of the acts of 2000 and school building projects authorized to receive first payments in fiscal year 2001, shall be the final approved project cost, as determined by the board of education, multiplied by either the reimbursement rate in effect before the effective date of said section, as set forth in chapter 645 of the acts of 1948, as amended, or, at the option of the city, town or regional school district, the rate applicable for the city, town, or regional school district pursuant to section 10 of chapter 70B of the General Laws, before the addition of any incentive percentage points. An election of the reimbursement rate applicable under said section 10 of said chapter 70B shall not apply to payments made in fiscal years before fiscal year 2002.

**SECTION 15.** The eighth paragraph of section 2 of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the ninth to fourteen sentences, inclusive, and inserting in place thereof the following paragraph:-

The registrar may also furnish a special parking identification placard bearing the designation "International Symbol of Access" to any person who meets the eligibility requirements for handicapped plates prescribed herein. The placard shall be of such size and design as the registrar shall require and shall be numbered and contain such identifying features and specifications as the registrar shall deem appropriate. The registrar may also issue a separate identification card identifying the person to whom such placard is issued as the authorized user thereof which shall be carried by the authorized user while the placard is in use. A placard may be used while a vehicle is parked in a designated handicapped space from which the authorized user is entering or exiting, including immediate drop off or pick up. For the purposes of this section, "immediate" shall mean within ten minutes. Only a vehicle bearing private passenger registration or a private passenger vehicle bearing a commercial registration or a vehicle designed and used for the transportation of handicapped persons may be used in conjunction with a placard. When used by the authorized user, the placard shall be displayed so as to be readily visible through the windshield of the vehicle and in accordance with instructions provided by the registrar from time to time. Upon application and for good cause shown by the applicant, the registrar may issue to any person both a plate displaying the "International Symbol of Access" and a placard described in this section. Any person who wrongfully displays a handicapped plate on or a placard in a motor vehicle parked in a designated handicapped parking space or in a regular metered space or in a commercial parking space shall be subject to a fine of \$500 for a first offense and \$1,000 for a second or subsequent offense. The registrar shall suspend the operator's license or right to operate of any person found to have violated the provisions of this section relative to the wrongful use or display of a special handicapped plate or parking identification placard for a period of 30 days for a first offense, for a period of 90 days for a second offense and for a period of one year for a third or subsequent offense. Such suspension shall be in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation including, but not limited to, those applicable under section 37E of chapter



266. The registrar may revoke the plate or placard as issued to a person upon a finding that the person to whom the plate or placard was issued willingly and without coercion or duress authorized, permitted or allowed it to be used by another person. Nothing in this section shall be construed to extend the posted time available for parking in a space designated as commercial or to modify the provisions related to the use of a space designated as commercial other than as is specifically stated in this section. A penalty under this paragraph shall not be a surchargeable offense under section 113B of chapter 175.

**SECTION 16.** Section 1 of chapter 115 of the General Laws, as so appearing, is hereby amended by striking out, in line 45, the word "or".

**SECTION 17.** Said section 1 of said chapter 115, as so appearing, is hereby further amended by inserting after the word "commonwealth", in line 51, the following:- ; or (f) meets all requirements of said clause Forty-third, except that instead of performing wartime service, as so defined, such person served at least one year of continuous active duty as a member of the armed forces of the United States of America, excluding active duty for the training in the national guard or reserves but the last discharge or release from such active duty was under honorable conditions. Any person who served during such active duty and was awarded a service connected disability by the United States Department of Veterans Affairs, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran for the purpose of receiving benefits under this chapter notwithstanding the failure to complete one year of continuous active duty.

**SECTION 18.** Section 1 of chapter 117A of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A person eligible for assistance under this chapter who is not maintaining his home and is receiving care in or residing in a licensed nursing home, licensed chronic hospital, licensed rest home or an approved public medical institution as defined in section 8 of chapter 118E, shall retain the first \$66.40 of his monthly income for clothing, personal needs and leisure time activities. If there is no such income or if it is less than the amount of \$66.40, such person shall be paid monthly in advance the difference between such income and \$66.40. Said amount shall be increased annually each fiscal year at the same time and at the same percentage rate as increases payable to an individual who maintains his own home and receives state supplementary payments pursuant to sections 1 and 2 of chapter 118A.

**SECTION 19.** Chapter 118A of the General Laws is hereby amended by inserting after section 7A the following section:-

Section 7B. A person eligible for financial assistance under this chapter who is not maintaining his home and is in a licensed medical facility which is eligible for medical assistance payments pursuant to chapter 118E or is residing in a licensed rest home to which such person pays a fixed rate, shall retain the first \$66.40 of his monthly income for clothing, personal needs and leisure time activities. If there is no such income or if it is less than the amount of \$66.40, such person shall be paid monthly in advance the difference between such

income and \$66.40. Said amount shall be increased annually each fiscal year at the same time and at the same percentage rate as increases payable to an individual who maintains his own home and receives state supplementary payments pursuant to sections 1 and 2.

**SECTION 20.** Section 15 of chapter 118E of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

A person eligible for medical assistance under this chapter who is not maintaining his own home and is receiving care in a licensed nursing home, a licensed chronic hospital, a licensed rest home or in an approved public medical institution, shall retain the first \$66.40 of his monthly income for clothing, personal needs and leisure time activities. If there is no such income or if it is less than the amount of \$66.40, such person shall be paid monthly in advance the difference between such income and \$66.40. Said amount shall be increased annually each fiscal year at the same time and at the same percentage rate as increases payable to an individual who is maintaining his own home and who is receiving state supplementary payments pursuant to sections 1 and 2 of chapter 118A.

**SECTION 21.** Paragraph (2) of section 16C of said chapter 118E, as so appearing, is hereby amended by adding the following sentence:- All children in the child health insurance program shall receive pharmacy benefits from the division of medical assistance.

**SECTION 22.** Chapter 180 of the General Laws is hereby amended by inserting after section 17K, inserted by section 21 of chapter 236 of the acts of 2000, the following section:-

Section 17L. Deductions on payroll schedules may be made from the salary of a state, county, municipal or other public employee of an amount which such employee may specify in writing to any state, county or municipal officer or public department head, board, commission or agency by whom or which he is employed, for deposit into a "qualified state tuition program" as defined under the Internal Revenue Code and any prepaid tuition program established under general or special law if such purpose has been approved by the comptroller. An employee may withdraw such authorization for the deduction by giving at least 60 days notice in writing to the state, county or municipal officer or public department head, board, commission or agency by whom or which he is then employed. The state treasurer, the common paymaster as defined in section 133 of chapter 175, or the treasurer of the county, municipality or other public employer by which such employee is employed shall deduct from the salary of such employee such amount of authorized deductions as may be certified to him on the payroll and transmit the sum to the specified tuition program.

**SECTION 23.** The first sentence of section 203 of chapter 379 of the acts of 1992 is hereby amended by striking out the figure "2001", inserted by section 1 of chapter 174 of the acts of 1999, and inserting in place thereof the following figure:- 2002.

**SECTION 24.** Section 2A of chapter 475 of the acts of 1993 is hereby repealed.

**SECTION 25.** The definition of "Project area" in subsection (a) of section 11 of chapter 294 of the acts of 1996 is hereby amended by adding the following paragraph:-

Project Area shall also include:

(1) a certain parcel of land in Everett bounded by Norman street to the north and by the Saugus branch of the Boston and Maine Railroad line on the east, both of which are bounded by Air Force road in the city of Everett; and

(2) a certain parcel of land in Everett, described as follows:

Northeasterly by Tremont Street, three hundred ninety-six and 35/100 feet;

Southeasterly by land formerly of Benjamin Hadley et al, one hundred five and 71/100 feet;

Southwesterly by land now or formerly of the Boston and Maine Railroad, four hundred two and 26/100 feet;

Northwesterly by said Railroad land and land now or formerly of the City of Everett, one hundred and thirty-two and 10/100 feet.

**SECTION 26.** Clause (i) of paragraph (2), of subsection (j) of said section 11 of said chapter 294, as appearing in section 41 of chapter 235 of the acts of 2000, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Unless otherwise established by the commission with regard to any individual parcel, such payment in lieu of taxes shall be in an amount equal to the product of the imposed rate, as hereinafter defined, and the value of the property as assessed by the commission from time to time pursuant to paragraph (3).

**SECTION 27.** Clause (v) of the first sentence of subsection (b) of section 10 of chapter 152 of the acts of 1997 is hereby amended by striking out, in line 4, the word "; and".

**SECTION 28.** Said first sentence of said subsection (b) of said section 10 of said chapter 152, as most recently amended by section 19 of chapter 68 of the acts of 1999, is hereby further amended by adding the following two clauses:- (vii) subject to the approval of the collector-treasurer of the city, all amounts recovered by the redevelopment authority, and, except as otherwise approved by the secretary of administration and finance, all amounts recovered by the Authority and the commonwealth, other than amounts recovered on behalf of the department of environmental protection, on account of claims or the settlement thereof pertaining to the convention center development area or the project, including without limitation for costs of response actions taken or to be taken under chapter 21E of the General Laws; and (viii) earnings on investment of proceeds of bonds and notes issued under the authority of sections 11 and 12.

**SECTION 29.** Section 1 of chapter 208 of the acts of 1997 is hereby amended by striking out the figure "2001", inserted by section 2 of chapter 174 of the acts of 1999, and inserting in place thereof the following figure:- 2002.

**SECTION 30.** Item 0526-0111 of section 2A of chapter 55 of the acts of 1999 is hereby amended by striking out the words "a historic commemorative clock and accompanying beautification at Cleveland Circle, Boston/Brookline" and inserting in place thereof the following words:- a comprehensive master plan for the Cleveland Circle neighborhood in the Allston-Brighton area of Boston and the initial implementation of such plan.



**SECTION 31.** The first paragraph of section 2 of chapter 121 of the acts of 1999 is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The permanent easements may allow the college to construct, at grade, a covered loading dock, loading and service facilities and service circulation for use by the state transportation building, other property of the college known as the Emerson Majestic Theater, located at 219 Tremont street in the city of Boston and the new building and at the northwesterly portion of the easement area, at grade, an elevator core and stairs to serve the new building.

**SECTION 32.** The third paragraph of section 5 of said chapter 121 is hereby amended by striking out clause (h) and inserting in place thereof the following clause:-

(h) during construction of the building and any other improvements, there shall be service access and loading available to the state transportation building and all other affected property of the commonwealth, satisfactory to the commissioner and master tenant.

**SECTION 33.** Item 0339-1003 of section 2 of chapter 159 of the acts of 2000 is hereby amended by adding the following words:- ; and provided further, that \$200,000 shall be expended in an alternative probation program honor court, so-called, in the district of Hampshire (Northampton); and provided further, that \$90,000 shall be expended for a drug treatment on demand drug offender program, so-called, in the district court of Lawrence.

**SECTION 34.** Item 1410-0251 of said section 2 of said chapter 159 is hereby amended by adding the following words:- ; and provided further, that \$300,000 of the amount appropriated herein shall be made available to said shelter for the sole purpose of making renovations and repairs to ensure compliance with life safety codes and related purposes.

**SECTION 35.** Item 2100-2041 of said section 2 of said chapter 159 is hereby amended by adding the following words:- ; 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 such expenditures made in advance of said receipts shall be permitted to exceed 75 per cent of the amount of revenues projected to be credited to said fund by the first quarterly statement required by section IB; and provided further, that the comptroller shall notify the budget director and the chairmen of the house and senate committees on ways and means at the time subsequent quarterly statements are published of the variance between actual and projected receipts credited to said fund in each such quarter and the implications of said variance for expenditures made from such fund.

**SECTION 36.** Item 4000-0600 of said section 2 of said chapter 159 is hereby amended by inserting after the word "so-called", the following words:- ; provided further, that the division shall expend all necessary amounts to extend the number of nursing facility bed-hold days to 20 for patients of the facility on medical leaves of absence pursuant to section 403.



**SECTION 37.** Item 7004-3036 of said section 2 of said chapter 159 is hereby amended by inserting after the words "9 regional housing consumer education centers" the following words:- operated by the regional nonprofit housing agencies;

**SECTION 38.** Item 7007-0400 of said section 2 of said chapter 159 is hereby amended by inserting after the words "provided further, that \$2,000,000 shall be made available to the South Shore Tri-town Development Corporation to match a \$1,000,000 federal grant by the economic development administration of the United States department of commerce and for redevelopment costs including, but not limited to, engineering design, evaluation, and environmental impact reports" the following words:- provided further, that, notwithstanding any other provisions of this item to the contrary, said \$1,000,000 shall constitute the sole matching funds necessary for said South Shore Tri-town Development Corporation to qualify for said \$2,000,000; provided further, that not less than \$200,000 shall be obligated to the western Massachusetts Precision Institute.

**SECTION 39.** Item 7030-1003 of said section 2 of said chapter 159 is hereby amended by inserting after the words "provided further, that in its evaluation of applications for such pilot programs, said office may take into consideration schools cumulative grade 4 MCAS scores" the following words:- provided further, that notwithstanding the provisions of any general or special law to the contrary, any program awarded a grant from said \$10,000,000 may expend that portion of the grant awarded for the training of teachers for the program known as Summer Reading Academics, so-called, through August 31, 2001.

**SECTION 40.** Item 7061-9611 of said section 2 of said chapter 159 is hereby amended by adding the following words:- ; provided further, that \$42,750 of the amount appropriated herein shall be made available as a matching grant in order to support the costs of the Danvers High School marching band appearance in the 2001 annual Rose Bowl Parade.

**SECTION 41.** Said section 2 of said chapter 159 is hereby further amended by striking out item 7506-0101 and inserting in place thereof the following item:-  
7506-0101 For the operation of the Holyoke home information center to be administered by Holyoke Community College; provided, that said home information center shall file a financial and programmatic plan with the house and senate committees on ways and means by September 1, 2001; and provided further, that said plan shall include, but not be limited to, a framework to make the operations of said center self-sufficient not later than fiscal year 2003 ..... \$100,310

**SECTION 42.** Item 8000-0010 of said section 2 of said chapter 159 is hereby amended by striking out the words "provided further, that not less than \$72,000 shall be provided to the city of Revere for an anti-violence program in the public schools which specifically includes rape prevention counseling and sensitivity training" and inserting in place thereof the following words:- provided further, that not less than \$72,000 shall be provided for community policing in the city of Revere.

**SECTION 43.** Said section 2 of said chapter 159 is hereby further amended by striking out item 8400-0024 and inserting in place thereof the following item:-

8400-0024 No twtwithstanding the provisions of section 2 of chapter 280 of the General Laws, the registry of motor vehicles may expend revenue collected up to a maximum of \$3,000,000 pursuant to chapter 90C of the General Laws from assessments for civil motor vehicle infractions; 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 nor alter the amounts of payments made to cities and towns pursuant to said section 2 of said chapter 280; and provided further, that no costs payable in the AA subsidiary, so-called, shall be charged to this item . . . . . \$3,000,000

**SECTION 44.** Item 1750-0105 of section 2B of said chapter 159 is hereby amended by striking out the figure “\$830,000” and inserting in place thereof the following figure:- \$1,500,000.

**SECTION 45.** Said chapter 159 is hereby further amended by inserting after section 483 the following section:-

*Section 483A.* The suggestion awards board, established pursuant to section 31A of chapter 7 of the General Laws, may make cash awards, pursuant to said section 31A and according to the board's published rules and regulations governing the selection process and criteria, to employees of the commonwealth who are instrumental in identifying or implementing ideas which reduce costs or increase revenues for the commonwealth. Such awards may be paid, in a manner to be approved by the secretary of administration and finance, from the operating appropriations of each agency which realizes reduced costs, or from money allocated from the Maximization Fund to each agency which realizes increased revenues, as a result of the employee's suggestions or efforts. The amount of any such award shall equal not more than 10 per cent of the annual reduced costs or increased revenues generated by the employee's suggestion, up to a maximum of \$5,000 for any one suggestion. All such awards shall be reported quarterly to the house and senate committees on ways and means, detailing the recipient of the award, the recipient's department and title, the amount of the award, the reason for the award, and the amount of money saved or realized by the commonwealth. No person who is not a state employee shall be eligible to receive any such award.

**SECTION 45A.** Section 45 is hereby repealed.

**SECTION 46.** Section 481 of said chapter 159 is hereby amended in the sixth paragraph by striking out the words "December 4, 2000" and inserting in place thereof the following:- September 30, 2001.

**SECTION 47.** Section 1 of chapter 195 of the acts of 2000 is hereby amended by inserting after item 7452-7965 the following item:-7452-8958.

**SECTION 48.** Section 1 of chapter 202 of the acts of 2000 is hereby amended by striking out the words "General Fund" and inserting in place thereof the following words:- General Capital Projects Fund.

**SECTION 49.** Item 4000-1000 of section 2 of chapter 159 of the acts of 2000, as appearing in section 63 of chapter 236 of the acts of 2000, is hereby amended by striking out the words "provided further, that said independent consultant shall file the initial findings of said study, which shall include an estimate of the aggregate cost of any recommended funding enhancements, with the secretary of administration and finance, the clerks of the house of representatives and the senate, and the senate and house committees on ways and means on or before October 15, 2000; provided further, that said secretary shall submit a plan detailing the process for implementing the findings of said study with the senate and house committees on ways and means on or before December 15, 2000" and inserting in place thereof the following words:- provided further, that said independent consultant shall file the initial findings of said study, which shall include an estimate of the aggregate cost of any recommended funding enhancements, with the secretary of administration and finance, the clerks of the house of representatives and the senate, and the senate and house committees on ways and means on or before December 31, 2000; provided further, that said secretary shall submit a plan detailing the process for implementing the findings of said study with the senate and house committees on ways and means on or before January 31, 2000.

**SECTION 50.** Section 88 of chapter 236 of the acts of 2000 is hereby repealed.

**SECTION 51.** No funds shall be expended or transferred from item 1599-3973 in section 2A until the board of higher education files with the comptroller and the house and senate committees on ways and means a report detailing the savings, efficiencies, and any other costs or benefits resulting from the reclassification/compensation provisions of the collective bargaining agreement reached between said board and the Massachusetts Teachers Association/Massachusetts Community College Council. Said report shall identify the baseline number of positions on July 1, 2000 at each community college campus which are affected by such provisions, descriptions of the additional courses, credit hours or other measure of enhanced workload projected to result from implementing said provisions, and projected changes in the number of full-time and part-time personnel projected to result from implementing said provisions. Said report shall describe how such additional courses, credit hours or other measures of enhanced workload further the mission of each community college campus.

**SECTION 52.** Notwithstanding any general or special law to the contrary an amount up to \$125,000 may be expended annually from the Health Care Security Trust Fund in accordance with the provisions of section 4 of chapter 29D of the General Laws.

**SECTION 53.** Notwithstanding any general or special law to the contrary, the Massachusetts highway department and the metropolitan district commission may take all



steps necessary and appropriate to fill an illegal dumping ground known as the Granite Rail Quarry, located in the city of Quincy and the Blue Hills Reservation, with Central Artery/Tunnel Project fill material in the interest of protecting the health and safety of the public from the acute and immediate danger posed by said illegal dumping ground; provided, however, that the highway department and the commission shall meet the criteria established by the department of environmental protection for the closure of an unlined illegal dumping ground and for associated site restoration, rehabilitation, reconstruction and improvements; and provided further, that the highway department and the commission shall do so in accordance with the terms and the budget set forth in the interagency agreement between the highway department and the commission dated on or about September 27, 2000, and in accordance with the terms of the certificate of emergency status issued by the Quincy conservation commission on October 9, 2000.

**SECTION 54.** The division of health care quality of the department of public health shall develop, in consultation with the nursing home industry and consumer representatives, a confidential consumer satisfaction survey for long-term care facilities. The division shall conduct said survey at least annually and shall survey consumers of each facility as well as family members, guardians or other resident designees. The division may survey a representative sample of residents in each facility selected at random to participate in said survey, but the sample of residents shall be of sufficient size to allow for statistically significant comparisons between and among facilities. The division shall allow family members, guardians or other resident designees to assist a surveyed resident in completing said survey and shall prohibit employees and volunteers of such a facility from assisting a resident with or attempting to influence a resident's response to said survey. The division shall survey family members or guardians when a resident is mentally incapable of responding to said survey. In addition to resident surveys, the division shall survey family members and guardians or other resident designees separately. The division shall ensure that the identities of the survey respondents are kept confidential. The division shall compile the survey results and make the results available in print as well as electronically. For the purposes of this section an amount up to \$300,000 may be expended from item 4510-0710 of section 2 of chapter 159 of the acts of 2000.

**SECTION 55.** The metropolitan district commission shall establish an expendable trust fund for the purpose of supporting the Alewife reservation located in the city of Cambridge and the towns of Arlington and Belmont. Monies from said trust shall be used for the costs of the development of a master plan for said reservation and for the design and construction of improvements to said reservation.

**SECTION 56.** (a) As used in this section, the following words shall have the following meanings:-

"County", Plymouth county, acting through its duly elected commissioners or other duly authorized representatives, or any governmental unit or body succeeding to the rights, properties, powers, duties, and responsibilities of said county.



"Project", the new land records management facility to be constructed on a site located in the town of Plymouth on a portion of land owned by the county situated on the southeasterly side of Obery street in the town of Plymouth, as shown on land court Plan 2161B entitled "Subdivision Plan of Land in Plymouth, Massachusetts" dated March 14, 1995, filed with Certificate of Title No. 225 in the Plymouth land court division, being a subdivision of the land appearing on land court Plan 2161A, also filed with Certificate of Title No. 225.

"Registry of deeds", the Plymouth county registry of deeds, or any successor to the rights, powers, duties, and responsibilities thereof, acting through and by the register of deeds or his designee.

(b) The county may plan, design, construct, equip and furnish a new land records management facility, hereinafter referred to as the "project", to provide suitable and adequate facilities for the registry of deeds. The design, construction and equipping, construction management, development, financing, leasing or any part of the project and any contract relating directly or indirectly to the design, construction and equipping, construction management, development, financing or leasing shall be exempt from section 26A of chapter 35 of the General Laws. Said project, however, shall be subject to the applicable provisions of sections 44A to 44J, inclusive, of chapter 149 of the General Laws.

The county may contract with one or more designers for the project following a designer selection procedure adopted in writing, prior to publication requesting applications, complying with the purposes and intent of sections 38A½ to 38O, inclusive, of chapter 7 of the General Laws.

The county shall be subject to subsection (d) of section 38H of said chapter 7 or, as an alternative, undertake a value engineering review. A value engineering review shall include a detailed, systematic analysis of a project design, conducted by a knowledgeable and competent designer or multi-disciplinary team of designers to: (i) evaluate program requirements, design concepts, construction techniques, building systems and materials; (ii) review construction cost estimates and calculate estimated life-cycle costs; and (iii) recommend design changes that will produce a more cost-effective project by eliminating or modifying features that add cost to the facility but do not add to its quality, useful life, utility or appearance. The county shall require a value engineering review of the conceptual design following completion of the study and program for the project but prior to the acceptance of the study or program by the county.

(c) For purposes authorized by said subsection (b), notwithstanding the provisions of subsection (d) of section 28 of chapter 35 of the General Laws, the treasurer of said county, with the approval of the county commissioners, may borrow upon the credit of the county such sums as may be necessary, not exceeding in the aggregate \$5,500,000, and may issue bonds or notes of the county therefor which shall bear on their face, Plymouth County Land Records Management Facility, Act of 2000. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county

may annually dedicate revenue received by the registry of deeds in the course of its operations for the purposes of meeting debt obligations payable upon issuance of such bonds or notes. Said revenue will be derived from leased office space to title examiners, from postage and handling fees and from dedicated deeds excise receipts from the registry of deeds. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter 35 of the General Laws.

(d) No contracts may be entered into for the design, construction, development, financing, management or operation of the project, or any part of the project, without the approval of a majority of the county commissioners.

The county shall contract with an owner's representative, an official or firm designated by the county with appropriate fiscal, construction and procurement experience to serve as the focal point of responsibility and accountability on the project from the study and design phases through the completion of construction of the project. Such responsibilities shall include, but shall not be limited to, coordinating communication among the project participants, monitoring the project budget and schedule, and maintaining a central file for project records. On or before January 1, 2002 said owner's representative shall have obtained certification through the Massachusetts certified public purchasing official program administered by the office of the inspector general. The owner's representative shall be deemed to be a county employee pursuant to chapter 268A of the General Laws with respect to the project.

(e) The county and the registry of deeds shall jointly prepare and file a report of the operations and procedures undertaken by the registry of deeds and the county under the provisions of this act with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate chairmen of the committees on counties within 60 days after completion of construction.

**SECTION 57.** Section 45A of this act shall take effect on June 30, 2002.

**SECTION 58.** Sections 23 and 29 of this act shall take effect on January 1, 2001.

**SECTION 59.** The remainder of this act shall take effect as of July 1, 2000.

*This bill was returned on January 4, 2001, by the Governor to the Senate, the branch in which said bill was originated, with his objections in writing to the following items therein:*

*Items Disapproved:*

**SECTION 2:** 4510-0710

**SECTION 2A:** 4000-1500 4513-1117

**SECTIONS:** 3, 5, 14, 16, 17, 18, 19, 20, 21, 47, 51, 54, 56

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SECTION 2 *Items reduced in amount*  
Item                      Reduce by      Reduce to

0337-0003              615,037      1,717,492

*Pursuant to Article 56 of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.*

*The remainder of the bill was approved by the Governor on January 4, 2001 at five o'clock and forty-nine minutes, P.M.*

**Chapter 385. AN ACT AUTHORIZING THE TOWN OF MILTON TO ESTABLISH A SPECIAL FUND.**

*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 Milton may establish a special fund in the town treasury into which shall be deposited all income derived from investment of the proceeds of bonds and notes issued for school construction projects, including work incidental and related thereto, and for services of architects and other professional consultants to prepare detailed plans, specifications and working drawings and other necessary documents for the following projects:

(1) construction, equipping and furnishing of a new high school at the site of the existing Pierce middle school, or repair, renovation, remodeling, equipping and furnishing of portions of Pierce middle school, and partial or complete demolition of Pierce middle school, all for conversion to a new high school;

(2) repair, renovation, remodeling, equipping and furnishing of the existing Milton high school, and construction, equipping and furnishing of additions to Milton high school, and partial demolition of Milton high school, all for conversion to a new middle school;

(3) repair, renovation, remodeling, equipping and furnishing of Collicot school, and construction, equipping and furnishing of additions to Collicot school, or construction, equipping and furnishing of a new Collicot school, and partial or complete demolition of Collicot school;

(4) repair, renovation, remodeling, equipping and furnishing of Cunningham school and construction, equipping and furnishing of additions to Cunningham school, and partial demolition of Cunningham school;

(5) repair, renovation, remodeling, equipping and furnishing of Glover school, and construction, equipping and furnishing of additions to Glover school, and partial demolition of Glover school;

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(6) repair, renovation, remodeling, equipping and furnishing of Tucker school, and construction, equipping and furnishing of additions to Tucker school, or construction, equipping and furnishing of a new Tucker school, and partial demolition of Tucker school;

(7) related services of architects, project managers and other professional consultants;

(8) the transfer of one or more parcels of town owned land to the school department for school purposes, for construction of an access road between Gile road and Blue Hills Parkway; and

(9) expenses of the school building committee.

Any income derived from the investment or reinvestment of the special fund shall remain with and become part of the special fund. The town treasurer shall be the custodian of the special fund and shall make an accounting of the special fund to each annual town meeting. Any funds held in the special fund shall constitute trust funds within the meaning of section 54 of chapter 44 of the General Laws. All amounts in the special fund shall be applied solely to the payment of debt service associated with a school building project or projects for which bonds or notes have been authorized or both authorized and issued, in such amount as any special or annual town meeting may determine in any given year.

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

Approved January 4, 2001.

## **Chapter 386. AN ACT DESIGNATING A CERTAIN CABLE-STAYED BRIDGE SPANNING THE CHARLES RIVER AS THE LEONARD P. ZAKIM BUNKER HILL BRIDGE.**

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

The cable-stayed, ten-lane bridge spanning the Charles river between downtown Boston and Charlestown, now being constructed by the department of highways as part of the central artery/tunnel project, shall be designated as the Leonard P. Zakim Bunker Hill Bridge, in honor of Leonard P. Zakim, the late executive director of New England's Regional Office of the Anti-Defamation League, who devoted his life and work to fighting prejudice and promoting tolerance and freedom. The department of highways shall erect suitable markers bearing said designation in compliance with any applicable department or federal standards.

Approved January 4, 2001.



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**Chapter 387. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO PAY OR PROVIDE FOR CERTAIN COSTS RELATED TO THE OPERATIONS, SALE, TRANSFER, OR CLOSURE OF THE HALE HOSPITAL.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law, city charter provision or local ordinance to the contrary, the city of Haverhill is hereby authorized to borrow, at one time or from time to time, and as provided for in this act, such sums as the commissioner of revenue shall approve as related to the sale, transfer, or closure of the Hale Hospital or deficits deriving from the operation thereof, but in no event in an amount in the aggregate in excess of \$30,000,000. The city may issue bonds or notes of said city of Haverhill for this purpose. Upon the order of the city council, and approval of the mayor, and as approved by the commissioner of revenue, the proceeds of such bonds or notes shall be used to pay costs, expenses or liabilities, or to defray deficits, relating to or deriving directly or indirectly from the operations, sale, transfer or closure of the Hale Hospital. The issuance of bonds or notes under this act and the expenditure of the proceeds thereof shall not be subject to the approval of the Hale municipal hospital finance review board established by section 4B of chapter 569 of the acts of 1985.

Bonds or notes issued under this act shall be in such form, and include such terms and conditions, as the commissioner of revenue shall approve and shall be general obligation bonds or notes of the city of Haverhill. Bonds or notes issued under this act shall be eligible to be issued as qualified bonds or notes pursuant to chapter 44A of the General Laws. Notwithstanding the provisions of section 5 of said chapter 44A or any other general or special law to the contrary, any bond or note issued under this act shall be payable within 20 years from its date.

The maturities of each issue of bonds or notes authorized under this act, including any refunding bonds, may, if approved by the city officers authorized to issue said bonds or notes and the commissioner of revenue, be arranged so that for each issue the amounts payable in the several years for principal and interest combined are as nearly equal as is practicable in the opinion of the officers authorized to issue said bonds or notes, or in accordance with a schedule providing for a more rapid amortization of principal.

**SECTION 2.** Indebtedness incurred under the provisions of this act shall not be included in determining the statutory limit of indebtedness of the city of Haverhill under section 10 of chapter 44 of the General Laws but, except as provided for herein, shall otherwise be subject to the provisions of said chapter 44. Amounts raised to pay indebtedness incurred under authority of section 1 shall be subject to the provisions of section 21C of chapter 59 of the General Laws.

**SECTION 3.** Notwithstanding the provisions of section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, upon the order of the mayor, with the approval of the city council, and with the approval of the commissioner of revenue, and without further appropriation, the proceeds from the transfer or sale of the real

estate, personal property, accounts receivable or other assets of the Hale Hospital shall be used to pay costs, expenses or liabilities, or to defray deficits, relating to or deriving directly or indirectly from the operations, sale, transfer or closure of said Hale Hospital.

**SECTION 4.** In any year during which bonds or notes authorized under the provisions of this act remain outstanding, the commissioner of revenue shall not certify the annual tax rate of the city of Haverhill until an audit report for the preceding fiscal year has been received and accepted by said commissioner. The audit report shall be prepared by a certified public accountant in accordance with generally accepted accounting principles and shall include accompanying financial statements.

In any year during which bonds or notes authorized under the provisions of this act remain outstanding, the city shall submit to said commissioner quarterly reports presenting a budget to actual comparison of revenues and expenditures. Such written reports shall be submitted within 30 days after the conclusion of each fiscal quarter and shall be in such form and include such information and detail as said commissioner may prescribe.

In any year during which bonds or notes authorized under this act remain outstanding, the city shall not issue any bond, note or other form of indebtedness without written notification to and the approval of said commissioner. Upon the city's demonstrating to the commissioner of revenue evidence of the city's achieving a balanced budget for three consecutive fiscal years, the city shall not be required to notify or seek the approval of said commissioner before the issuance of any bond, note or other form of indebtedness.

**SECTION 5.** The city is hereby authorized to issue refunding bonds pursuant to section 21A of chapter 44 of the General Laws with respect to any outstanding indebtedness of the city issued for purposes of the Hale Hospital without regard to the first sentence of said section 21A. Any such refunding bonds shall be payable within 40 years from the date of the original bonds being refunded and may be issued without the approval of the Hale municipal hospital finance review board established by section 4B of chapter 569 of the acts of 1985.

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

Approved January 4, 2001.

## **Chapter 388. AN ACT RELATIVE TO THE TERRITORIAL JURISDICTION OF THE WINCHENDON DISTRICT COURT.**

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

**SECTION 1.** Section 1 of chapter 218 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 324 and 325, the word ", Ashburnham".

**SECTION 2.** Said section 1 of said chapter 218, as so appearing, is hereby further amended by inserting after the word "Winchendon", in line 328, the third time it appears, the

following words:- and Ashburnham.

Approved January 4, 2001.

**Chapter 389. AN ACT DESIGNATING THE SALISBURY VISITORS CENTER AS THE MARIA MILES VISITORS CENTER.**

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

The Salisbury visitors center in the town of Salisbury shall be designated and known as the Maria Miles Visitors Center. The executive office of transportation and construction shall erect and maintain suitable markers bearing the designation.

Approved January 4, 2001.

**Chapter 390. AN ACT AUTHORIZING THE CITY OF LAWRENCE TO ENTER INTO CONTRACTS FOR THE SALE OR LEASE AND OPERATION AND MAINTENANCE, FINANCING, REPAIR AND REPLACEMENT, DESIGN AND CONSTRUCTION, AND MODIFICATIONS FOR THE WATER WORKS SYSTEM AND SEWER WORKS SYSTEM.**

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

**SECTION 1.** (a) The city of Lawrence may, notwithstanding the provisions of any general or special law or regulation to the contrary, enter into a contract or contracts for the lease, operation and maintenance, repair or replacement, financing, design, construction and installation of new facilities or systems and modifications to existing facilities, necessary to ensure adequate services and to ensure the ability of the city's water works system and the sewer works system, as such terms are defined in section 10, to operate, maintain, repair and replace the water works system and sewer works system in full compliance with all applicable requirements of federal, state and local law; provided, however, that such contracts shall not be subject to the competitive bid requirements set forth in sections 38A to 38O, 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 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.

(b) The request for proposals for such contract or contracts 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 equipment and capital improvement costs, operating



and maintenance costs and financing costs. If a contract is awarded 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.

(c) The request for proposals shall set forth the performance guarantees which the selected offeror will be required to meet in operating the water works system or the sewer works system as constructed or improved. The contract which is negotiated with the selected offeror based on the request for proposals shall obligate the selected offeror to meet such performance guarantees, and shall set forth the minimum design requirements for such construction or improvements and the acceptance tests to be conducted upon the completion of the construction or improvements in order to demonstrate that the system is capable of meeting the performance guarantees.

**SECTION 2.** (a) Notwithstanding the provisions of any general or special law to the contrary, a contract or contracts entered into pursuant to section 1 may provide for a term, not exceeding 20 years, and an option for renewal or extension of operation, maintenance, repair and replacement services for one additional term not exceeding five years. Any 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.

(b) A contract entered into pursuant to this act may provide that the city shall not be exempt from liability for payment of the costs to lease, finance, permit, design, construct and install modifications, new equipment and systems for the water works system and sewer works system and to operate, maintain, repair and replace the water works system and sewer works system as necessary to ensure the ability of the water works system and sewer works system to operate in full compliance with all applicable requirements of federal, state and local law, provided that any costs relating to leasing, financing, permitting, design, construction and installation of modifications, new equipment and systems shall be amortized over a period that is no longer than the useful life of said modifications, equipment and systems. The city's payment obligation for services described herein shall be conditioned on the contractor's performance of said services in accordance with all contractual terms.

(c) A contract entered into pursuant to this act may provide for such activities deemed necessary to carry out the purposes authorized herein, including, but not limited to, equipment purchases, facility or land lease, equipment installation, repair 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 and replacement of the city's water works system and sewer works system.

(d) Except as to an amount equal to the costs incurred by the city to prepare the request for proposals, evaluate proposals, negotiate the terms of the contract and pay any other related transaction costs, a contract entered into pursuant to this act shall not provide for the city to receive any payment from the contractor to be used by the city to fund operating expenses of the city with the repayment of such contractor payment by the city being



amortized over the term, or any portion thereof, of such contract.

**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. The request for proposals shall provide for the separate submission of price and shall indicate when and how the offerors shall submit 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. 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 city'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, the evaluation criteria set forth in the request for proposals, and the terms of the negotiated contract. Subject to the approval of the mayor, 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 5.** Notwithstanding any other provisions of this act, it shall be a mandatory term of any request for proposals issued by the city and of any contract entered into by the city with any party regarding the subject matter of this act that any party that has entered into a contract pursuant to said terms with the city, shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the water works system and sewer works system and to preserve the health, safety and environmental conditions of residents of the city of Lawrence and surrounding communities, that any and all employees, as applicable, hereinafter referred to as system employees, working on the operation and maintenance of the water works system and sewer works system, be offered employment by any party entering into a contract with the city for the operation and maintenance of the water works system and sewer works system, and further, that any party entering into a contract shall employ all system employees employed at the water works system and sewer works system as of the date of execution of the contract and continue such employment throughout the term of the contract, unless any such employee voluntarily leaves the employ of the party or is terminated for just cause by the party. Furthermore, any party

entering into such contract with the city shall provide a salary and benefits package to all system employees which is equivalent to the salary and benefits package provided to such employees by the city. Moreover, the party shall adopt all terms and conditions of employment provided by the last applicable collective bargaining agreement negotiated between the labor organization representing such system employees, if any, and the city shall continue to recognize such terms and conditions of employment until a collective bargaining agreement has been executed between the labor organization representing such system employees and said party. The party shall furthermore agree to meet its legal obligations, including bargaining in good faith, with regard to any labor organization representing system employees engaged in the operation and maintenance of the water works system and sewer works system. Notwithstanding any other provisions of this act, any proposal or contract submitted to the city regarding the subject matter of this act not complying with the above terms, shall be disqualified from further consideration by the city.

**SECTION 6.** Any contract or contracts awarded pursuant to this act shall be subject to such terms and conditions as the city shall determine to be in the best interests of the city and shall be subject to the approval of the mayor and the city council. Any such contract shall provide that prior to the construction, modification or installation of new equipment and systems, the city shall cause a qualified water or wastewater engineer, as applicable, to independently review and approve plans and specifications for the modifications, new equipment and systems. Such contract shall further provide that prior to acceptance of any modifications, new equipment or systems, including work undertaken pursuant to section 7 and estimated to cost more than \$100,000, adjusted annually per the Construction Cost Index published by the Engineering News Report or if the Engineering News Report ceases to publish the index, any published index determined by the city to be comparable to the index, the city shall cause a qualified water or wastewater engineer, as applicable, to inspect said modifications, new 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 regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the design and construction 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 as provided in this section. The construction of any new capital improvement or any renovation, modernization, installation, repair or replacement work estimated to cost more than \$100,000, adjusted annually per the Construction Cost Index published by the Engineering News Report or if the Engineering News Report ceases to publish the index, any published index determined by the city to be comparable to the index, not specifically included in the initial contract or contracts for the sale or lease, operation or maintenance, financing, design, construction, repair or replacement, and installation of modifications, new equipment and systems necessary for any particular part of the water works system and the sewer works system, 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, repair or replacement work to be completed without direct or indirect reimbursement from the city, or other adjustment to the fees paid by the city, including, but not limited to, any adjustment to water or sewer rates paid by the city 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 city in solicitation of bids for the construction of any new capital improvement or for any renovation, modernization, installation, repair or replacement work pursuant to this section; provided that the city shall cause a qualified water or wastewater engineer, as applicable, to independently assess the need for such capital improvement, renovation, modernization, installation, repair 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 or wastewater engineer, as applicable, the city may approve, modify, or reject the contractor's proposed plans and specification. 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 may terminate the contract or contracts under the terms and conditions of the contract or contracts.

**SECTION 8.** Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the design/build contract or contracts procured by the city under this act for improvements to the water works system and sewer system works, and any such design/build services included in such contract or contracts shall be eligible for assistance under the Massachusetts Water Pollution Abatement Trust established by section 2 of chapter 29C of the General Laws, as amended from time to time, and any future revolving loan fund programs established by the commonwealth or the department of environmental protection.

**SECTION 9.** The selected offeror shall furnish to the city performance bonds, payment bonds, or other forms of security for the selected offeror's obligations, and insurance, satisfactory to the city.

**SECTION 10.** The following words as used in this act shall, unless the context requires otherwise, have the following meanings:

"Sewer works system", the existing sewer works system in the possession of and under the jurisdiction, ownership, control and regulation of the city and its department of public works, including, without limiting the generality of the foregoing, all works, instrumentalities or parts thereof, all main, trunk, intercepting, connecting, lateral, outlet and other sewers, outfalls, storm water sewers including catch basins and surface drains, pumping and ventilating stations, structures, and other adjuncts thereto, and any other property or interests in property, real or personal, incidental to and included in such sewer works system, and all facilities, betterments, extensions, improvements and enlargements thereto.

"Water works system", the existing water supply and distribution system in the possession of and under the jurisdiction, ownership, control and regulation of the city and



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the department of public works thereof, including, without limiting the generality of the foregoing, all plants, works, instrumentalities or parts thereof, reservoirs, water mains and pipe lines, and other adjuncts thereto, purification, filtration and treatment works and other adjuncts thereto, and any other property or interests in property, real or personal, incidental to and included in such water supply and distribution system, and all facilities, betterments, extensions, improvements and enlargements thereto and to or for the water supply therefor.

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

Approved January 4, 2001.

**Chapter 391. AN ACT RELATIVE TO THE FILING OF AN EXTENSION OF RESTRICTIONS ON CERTAIN REAL PROPERTY.**

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

Notwithstanding the provisions of subsection (b) of section 27 of chapter 184 of the General Laws concerning the time of filing extensions of restrictions, the register of deeds for Hampshire county shall record the extension of the declaration of covenants and restrictions of Echo Hill in the town of Amherst, originally recorded in Book 1499, Page 491 in 1966 as voted at a meeting of the Echo Hill Association, Inc. at an annual meeting held on March 11, 1996. Upon such recording the extension shall be in full force and effect as if it were timely filed.

Approved January 4, 2001.

**Chapter 392. AN ACT RELATIVE TO THE PAYMENT OF BENEFITS BY THE NEW BEDFORD POLICE ASSOCIATION.**

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

Section 1 of chapter 401 of the acts of 1900, as most recently amended by chapter 224 of the acts of 1951, is hereby further amended by striking out the words "five hundred dollars" and inserting in place thereof the following figure:- \$1,000.

Approved January 10, 2001.

**Chapter 393. AN ACT VALIDATING A SPECIAL TOWN ELECTION HELD IN THE TOWN OF PHILLIPSTON.**

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



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**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, all acts and proceedings taken by the town of Phillipston at the special town election held on October 25, 2000 and all actions taken pursuant thereto are hereby validated, ratified and confirmed, notwithstanding any defect or omission in the language or posting of the warrant for the election relative to the Narragansett regional school district operating budget for the fiscal year beginning July 1, 2000.

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

Approved January 10, 2001.

**Chapter 394. AN ACT RELATIVE TO LICENSES FOR THE SALE OF  
ALCOHOLIC BEVERAGES IN THE TOWN OF ORLEANS.**

*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 Orleans shall not grant more than four licenses for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of chapter 138 of the General Laws.

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

Approved January 10, 2001.

**Chapter 395. AN ACT DESIGNATING THE JAMES COFFIN MEMORIAL  
ROTARY.**

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

The rotary known as the Milestone rotary at the intersection of Lower Orange street and Milestone road in the town of Nantucket shall be designated and known as the James Coffin Memorial Rotary, in recognition of the supreme sacrifice of giving his life while serving in the Korean War. The department of highways shall erect and maintain a suitable marker bearing said designation in compliance with the standards of said department.

Approved January 10, 2001.

**Chapter 396. AN ACT RELATIVE TO CERTAIN SCHOOL CONSTRUCTION  
PROJECTS IN THE CITY OF BOSTON.**

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

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Notwithstanding the provision of any general or special law to the contrary, in order to implement its school building program, the city of Boston 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 per cent or less shall be eligible to submit a bid or offer, but any contractor or subcontractor with a modification factor of up to 135 per cent shall be eligible to submit a bid or offer, if that modification factor was caused by a single loss. The school building program of said city of Boston shall not be subject to the provisions of section 44F of said chapter 149. For the purpose of this act, the words "school building program" shall mean the design, construction and equipping of three new schools within the city of Boston, specifically, a middle school located at Brunswick Gardens, a middle school located at Mildred Avenue, and a school for grades kindergarten through eight located at Orchard Gardens, and the renovation or demolition of any structures at any of the existing sites at said schools.

Approved January 10, 2001.

**Chapter 397. AN ACT RELATIVE TO PATIENT FUNDS AT SOLDIERS' HOMES.**

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

Section 6 of chapter 115A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 5, the word "seven" and inserting in place thereof the following word:- three.

Approved January 10, 2001.

**Chapter 398. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TREASURER OF THE DARTMOUTH FIRE DISTRICT NUMBER 3.**

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

**SECTION 1.** Notwithstanding section 71 of chapter 48 of the General Laws or any other general or special law to the contrary, the prudential committee of the Dartmouth Fire District Number 3 shall appoint a treasurer for a term not to exceed three years.

**SECTION 2.** Notwithstanding section 1, the incumbent in the office of treasurer upon the effective date of this act shall continue to hold the office and to perform the duties thereof until the expiration of his term or a precedent vacating of the office; provided, however, that a person elected to said office in an election by which this act is accepted shall hold the office and perform the duties thereof until a person is appointed to the office under

the provisions of said section 1.

**SECTION 3.** This act shall be submitted to the voters of the Dartmouth Fire District Number 3 at a district election in the form of the following question which shall be placed on the official ballot to be used in said election: "Shall an act passed by the general court in the year 2000 entitled, 'An Act providing for the appointment of the treasurer of the Dartmouth Fire District Number 3', be accepted?"

If a majority of the votes cast in answer to such question is in the affirmative, this act shall thereupon take full effect, but not otherwise.

Approved January 10, 2001.

## **Chapter 399. AN ACT ESTABLISHING A PUBLIC WORKS DEPARTMENT IN THE TOWN OF SHIRLEY.**

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

**SECTION 1.** There is hereby established in the town of Shirley a public works department under the jurisdiction of the board of selectmen. The department shall have charge of and responsibility for the management of all public works operations of the town not assigned to other departments of the town, including, but not limited to, the following: highway, park, and playground construction and maintenance; tree and moth; engineering services; grounds maintenance at all municipal buildings, including the Hazen Memorial Library and, with the written agreement of the school committee and the board of selectmen, the grounds and playing fields under the jurisdiction of the school committee; and other related construction and operations as may be assigned from time to time by the board of selectmen when deemed necessary or desirable.

The board of selectmen may make all policy decisions relating to the public works department except as may be reserved to the trustees of the Hazen Memorial Library, the recreation commission and the school committee, respectively.

**SECTION 2.** The board of selectmen shall appoint a public works director, who shall recommend to the board of selectmen all employees of the public works department. The compensation of such employees shall be set in the same manner as for other employees of the town, except as provided in section 5.

**SECTION 3.** The public works director shall supervise and direct the operations and employees of the public works department. The public works director shall be especially qualified by education, training, and experience to perform the duties of the office and shall have such other qualifications as the town may from time to time provide. While employed by the town, the public works director shall hold no other elective or appointive office, nor engage in any other business or occupation, relating to public works unless approved in advance in writing by the board of selectmen. Nothing in this section shall prevent the public works director from serving on special ad hoc committees in order to represent the public works department.

**SECTION 4.** On the effective date of this act, the appointed position of highway surveyor in the town shall be abolished, and the powers, duties, and responsibilities of that office shall be transferred to the public works director. In addition, when the elected term of the current tree warden in the town expires, or upon the sooner resignation of the incumbent, that position shall be abolished, and its powers, duties, responsibilities, and compensation shall be transferred to the public works director.

**SECTION 5.** No person in the regular permanent full time or part time service or employment of the town shall forfeit rate of compensation, grade, step, or time of service on account of the establishment of the public works department. Each such person shall be retained in a capacity as similar to the person's former capacity as is practical. No collective bargaining agreement, contract, or liability in force on the effective date of this act shall be affected by this act.

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

Approved January 10, 2001.

**Chapter 400. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY  
ROUTE 146 AS THE VETERANS OF THE BATTLE OF THE  
BULGE, CENTRAL MASSACHUSETTS CHAPTER HIGHWAY.**

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

The interchange of the Massachusetts turnpike, at interstate highway Route 90 and state highway Route 146 in the town of Millbury, shall be designated and known as the Veterans of the Battle of the Bulge, Central Massachusetts Chapter, Highway Interchange, in honor of the veterans from Central Massachusetts who participated in that battle. The department of highways shall erect and maintain suitable markers bearing the designation in accordance with the standards of the department.

Approved January 10, 2001.

**Chapter 401. AN ACT AUTHORIZING THE CEMETERY COMMISSIONERS OF  
THE TOWN OF DEDHAM TO REFUND CERTAIN MONIES.**

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

**SECTION 1.** Chapter 48 of the acts of 1987 is hereby repealed.

**SECTION 2.** The cemetery commissioners of the town of Dedham may refund monies paid by any person for burial rights in the Brookdale cemetery in the town, including any monies paid by any person as perpetual care fees if such person or the heirs and assigns



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of the same or the current owner appearing in the records of the cemetery conveys back to the town all burial rights, including any cemetery lot or plot, so purchased, and if such lot or plot remains unoccupied.

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

Approved January 10, 2001.

## Chapter 402. AN ACT RELATIVE TO THE TAXATION OF CERTAIN REAL PROPERTY IN THE TOWN OF NORTH ANDOVER.

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

Notwithstanding the provisions of clause Forty-first A of section 5 of chapter 59 of the General Laws relative to age, in the town of North Andover persons 62 years of age or older, otherwise qualify, shall be permitted to enter into tax deferral and recovery agreements with the board of assessors of the town under said clause Forty-first A.

Approved January 10, 2001.

## Chapter 403. AN ACT RELATIVE TO AN INCREASE IN THE EXEMPTION FOR RESIDENTIAL REAL PROPERTY IN THE CITY OF BOSTON.

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

**SECTION 1.** Notwithstanding section 5C of chapter 59 of the General Laws or any other general or special law to the contrary, with respect to each parcel of real property classified as Class One, residential, in the city of Boston as certified by the commissioner of revenue to be assessing all local property at its full and fair cash valuation, and at the option of the mayor, with the approval of the city council, there shall be an exemption equal to not more than 30 per cent of the average assessed value of all Class One, residential, parcels within the city of Boston. Such an exemption shall be applied only to the principal residence of the taxpayer as used by the taxpayer for income tax purposes. This exemption shall be in addition to any exemptions allowable under section 5 of chapter 59 of the General Laws; provided, however that in no instance shall the taxable valuation of such property, after all applicable exemptions, be reduced to below 10 per cent of its full fair cash valuation, except through the applicability of section 8A of chapter 58 of the General Laws and clause Eighteenth of section 5 of chapter 59 of the General Laws. Where, under the provisions of said section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for the purposes of the preceding sentence shall be computed by dividing the said amount of the tax by the residential tax rate of the city of Boston and

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multiplying the result by \$1,000.00. For purposes of this paragraph, "parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for such property and shall include a condominium unit.

**SECTION 2.** A taxpayer aggrieved by the failure to receive such residential exemption may apply for such residential exemption to the assessors in writing on a form approved by the board of assessors within three months after the date on which the bill or notice of assessment was sent.

An application timely filed hereunder shall, for the purpose of this chapter, be treated as a timely filed application pursuant to section 59 of chapter 59 of the General Laws.

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

Approved January 11, 2001.

**Chapter 404. AN ACT RELATIVE TO THE PAYMENT OF CERTAIN  
BETTERMENTS IN THE TOWN OF SHIRLEY.**

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

Notwithstanding the provisions of any general or special law to the contrary, the town of Shirley may provide for and permit the deferral of the payment of betterments assessed against agricultural, horticultural and recreational land under chapters 61A and 61B of the General Laws, in connection with the construction of the town's sanitary sewer collection system, as to both principal and interest, in the same manner and to the same extent permitted for betterments assessed against forest land under chapter 61 of the General Laws.

Approved January 11, 2001.

**Chapter 405. AN ACT AUTHORIZING THE CITY OF QUINCY TO ESTABLISH  
A HOTEL TAX AND AN OPEN SPACE, RECREATIONAL AND  
TOURISM FUND.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Quincy is hereby authorized to establish and maintain in the city treasury a special fund to be known as the Open Space, Park and Recreation and Tourism Fund, into which shall be deposited all receipts from the local room occupancy tax received by the city of Quincy under the provisions of section 3A of chapter 64G of the General Laws, as set forth in sections 2 and 3, as well as any grants, gifts, or donations made to the city of Quincy in furtherance of the purposes of this act.

**SECTION 2.** The city of Quincy is hereby authorized to impose a local room occupancy tax pursuant to the following schedule:

(a) commencing July 1, 2001, 1 per cent of the total amount of rent for each such occupancy;

(b) commencing July 1, 2002, 2 per cent of the total amount of rent for each such occupancy;

(c) commencing July 1, 2003, 3 per cent of the total amount of rent for each such occupancy;

(d) commencing July 1, 2004, 4 per cent of the total amount of rent for each such occupancy.

**SECTION 3.** The Open Space, Park and Recreation and Tourism fund shall be maintained by the treasurer of the city of Quincy as a separate account. Any interest earned on any fund balance shall be credited to and become part of said fund. Upon the recommendation of the mayor of the city of Quincy and upon the majority vote of the Quincy city council, the city of Quincy may appropriate such sums as may be available in said fund for the purposes of tourism, historical preservation, tree plantings, acquiring land and interests in land for open space, conservation, the construction or reconstruction of parks, the construction or reconstruction of recreational areas, the construction or reconstruction or maintenance or restoration of beaches, the construction or reconstruction or maintenance of seawalls, the restoration or maintenance of wetlands and the restoration or maintenance of ecological areas, but expenditures for historical preservation and tourism shall be 15 per cent of the local room occupancy tax receipts for the fiscal year. The auditor of the city of Quincy shall forward to the mayor and the city council a report of said fund on the cash basis within 90 days after the end of the fiscal year.

**SECTION 4.** This act shall take effect on July 1, 2001.

Approved January 11, 2001.

**Chapter 406. AN ACT RELATIVE TO THE TRANSFER OF A CERTAIN PARCEL OF LAND BY THE HAMPSHIRE COUNTY HOUSING AUTHORITY.**

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

Notwithstanding the provisions of any general or special law to the contrary but subject to chapter 30B of the General Laws, the Hampshire County Regional Housing Authority may transfer to the town of Cummington, for such consideration as the authority may deem appropriate for the municipal purposes of the town, a certain parcel of land with the building thereon known and numbered 15 Main street in the town of Cummington and may retain the proceeds of such transfer for public housing purposes.

Approved January 11, 2001.

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**Chapter 407. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHARLES E. BIRCHALL III, 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 establish forthwith 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 or rule or regulation to the contrary, the trial court of the commonwealth shall establish a sick leave bank for Charles E. Birchall III, an employee of the Fenton Judicial Center in the town of Lawrence. Any employee of the trial court may voluntarily contribute one or more of his sick, personal or vacation days to the sick leave bank for use by said Charles E. Birchall III. Upon such time as said Charles E. Birchall III terminates employment with said trial court or requests to dissolve said sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

Approved January 11, 2001.

**Chapter 408. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO REIMBURSE CERTAIN SEWER USE FEES.**

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

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Dedham may pay to Joseph P. Santamaria the sum of \$6,662.16, in reimbursement for sewer use fees paid in error for the years 1987 to 1995, inclusive.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the town of Dedham may pay to Giuseppantonio Pisano the sum of \$1,717.11, in reimbursement for sewer use fees paid in error for the years 1989 to 1995, inclusive.

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

Approved January 11, 2001.

**Chapter 409. AN ACT PROVIDING ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC ABUSE, RAPE, SEXUAL ASSAULT AND STALKING.**

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



The General Laws are hereby amended by inserting after chapter 9 the following chapter:-

**CHAPTER 9A.**

**ADDRESS CONFIDENTIALITY PROGRAM.**

Section 1. For the purposes of this chapter the following words shall, unless the context requires otherwise, have the following meanings:-

"Abuse", as provided in section 1 of chapter 209A.

"Address", a residential street, school or work address of an individual, as specified on the application to be a program participant under this chapter.

"Program participant", a person certified by the state secretary to participate in the program.

"Application assistant", an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter or other specialized service to victims of domestic abuse, rape, sexual assault, or stalking and who has been designated by the respective agency, and trained, accepted and registered by the state secretary to assist individuals in the completion of program participation applications.

"Secretary", the state secretary.

"Rape", as provided in sections 22, 22A and 23 of chapter 265 and sections 2, 4 and 17 of chapter 272.

"Sexual assault", as provided in sections 13B, 13F, 13H, 24 and 24B of chapter 265 and sections 4A, 17, 29A, 29B and 35A of chapter 272.

"Stalking", as provided in section 43 of chapter 265.

Section 2. There is hereby established an address confidentiality program to be administered by the secretary under the following application and certification procedures:

(1) Upon recommendation of an application assistant, an adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary to have an address designated by the secretary serve as the person's address or the address of the minor or incapacitated person.

(2) The secretary shall approve an application only if it is filed with the office of the secretary in the manner established by regulation, and on a form prescribed by the secretary. A completed application shall contain:

(i) the application preparation date, the applicant's signature and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(ii) a designation of the secretary as agent for purposes of service of process and for receipt of first-class mail;

(iii) the mailing address where the applicant may be contacted by the secretary, or his designee, and the telephone number or numbers where the applicant may be called by the secretary or his designee; and,

(iv) one or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.

(3) Upon receipt of a properly completed application, the secretary shall certify the applicant as a program participant. An applicant shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date.

(4) The secretary shall forward all first class mail to the appropriate program participants.

(5) A person who knowingly provides false or incorrect information in an application or who knowingly falsely attests that disclosure of the applicant's address threatens the safety of the applicant or the applicant's children or the minor or incapacitated person on whose behalf the application is made, shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months in a house of correction and by cancellation of program certification.

Section 3. Certification for the program may be canceled if one or more of the following conditions applies:

(1) If the program participant obtains a name change, the participant loses certification as a program participant. A participant who has obtained a legal name change may apply to the secretary for recertification in the program if documentation of the legal name change is provided.

(2) If there is a change in the residential street address from the one listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary shall provide by regulation.

(3) Pursuant to paragraph (5) of section 2, the secretary shall cancel certification of a program participant who knowingly provides false information.

Section 4. Upon demonstration by a program participant of his certification in the program, state and local agencies shall accept the address designated by the secretary as a program participant's substitute address when creating a new public record unless the secretary has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the participant's actual residential address, such that it is unable to fulfill its statutory duties and obligations without such residential address; and

(2) The participant's actual residential address will be used only for those statutory and administrative purposes.

Section 5. The secretary shall not make a program participant's address, other than the address designated by the secretary, available for inspection or copying, except under the following circumstances:

(1) If requested of the secretary by the chief commanding officer of a law enforcement agency or his designee in the manner provided for by regulation.

(2) Upon request to the secretary by a commissioner of a state agency, or his specific designee, in the manner provided for by regulation and upon a showing of a bona fide statutory or administrative requirement for the use of the participant's actual residential address, such that it is unable to fulfill its statutory duties and obligations without such residential address.

(3) To a person identified in a court order, upon the secretary's receipt of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefor.

(4) If certification has been canceled due to provision of false or incorrect information in an application or knowingly falsely attesting that disclosure of the applicant's address threatens the safety of the applicant or the applicants children or the minor or incapacitated person on whose behalf the application is made, as provided for in paragraph (5) of section 2.

Section 6. The program participant's application and supporting materials shall not be a public record and shall be exempt from the mandatory disclosure requirements of clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66.

Section 7. The secretary shall promulgate regulations to carry out the provisions of this chapter and in doing so may consult with the secretary of health and human services and Jane Doe Inc., Massachusetts Coalition Against Sexual Assault and Domestic Violence.

Approved January 11, 2001.

## **Chapter 410. AN ACT TO PROVIDE FOR THE ACQUISITION OF CONSERVATION LAND IN THE TOWN OF IPSWICH FOR THE EXPANSION OF WILLOWDALE STATE FOREST.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make supplemental appropriations, 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 certain unanticipated obligation of the commonwealth and to meet certain requirements of law, the sum set forth in section 2A is hereby appropriated from the general fund, for the purpose 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, 2001. The sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

**NO SECTION 2.**

**SECTION 2A.**

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**

*Department of Environmental Management.*

2100-0010 For a one-time matching grant of not more than \$400,000 for the purchase of a 40.9 acre parcel of land, pursuant to sections 3 and 4, located in the town of Ipswich and adjacent to the town of Topsfield for addition to the Willowdale state forest under the jurisdiction of the department of environmental manage-

ment; provided, that no funds appropriated herein shall be expended until the towns certify the availability of a 100 per cent matching payment towards the purchase; provided further, that the matching payment by the towns may be in equal or varying amounts; and provided further, that funds appropriated herein be in addition to other amounts available to the department for the purchase ..... \$400,000

2100-1010 For the rehabilitation and repair of the Greycourt State Park in the city of Methuen, including public safety improvements and courtyard renovations ..... \$1,750,000

**SECTION 3.** The department of environmental management, pursuant to item 2100-0010 in section 2A, shall purchase the parcel of land described as follows:

SOUTHWESTERLY and SOUTHERLY by Gravelly Brook Road fifteen hundred forty six and 58/1000 (1546.58) feet; NORTHWESTERLY by land now or formerly of Amanda Foster about ninety four and 7/10 (94.7) feet; WESTERLY by said Foster land and by land now or formerly of John A. Brown about ten hundred sixty five (1065) feet; SOUTHERLY by said Brown land and by other land now or formerly of Amanda Foster about four hundred twenty one and 3/10 (421.3) feet; WESTERLY by said Foster land about three hundred twenty nine and 2/10 (329.2) feet; NORTHWESTERLY by said Foster land and by land now or formerly of Ellen R. McCarthy about five hundred seventy five and 8/10 (575.8) feet; NORTHEASTERLY by land now or formerly of J. Lathrop Motley, by other land now or formerly of Ellen R. McCarthy and by land now or formerly of Wellington Donaldson about three thousand and sixty five (3065) feet; SOUTHEASTERLY by land now or formerly of Madeline P. Bakewell being the middle line of Gravelly Brook about twenty eight (28) feet; and SOUTHWESTERLY by land now or formerly of David Pingree about one hundred and seventy nine (179) feet.

**SECTION 4.** The sale price paid for the parcel of land described in section 3 shall be determined by independent appraisal. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology used for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner of the department of environmental management, the house and senate committees on ways and means and the chairmen of the joint committee on state administration.

*This bill was returned on January 11, 2001, by the Lieutenant Governor/Acting-Governor to the House of Representatives, the branch in which said bill was originated, with her objections in writing to the following items therein:*

**SECTION 2A** *Items reduced in amount*

Item	Reduce by	Reduce to
2100-1010	750,000	1,000,000



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*The remainder of the bill was approved by the Lieutenant Governor/Acting-Governor on January 11, 2001 at three o'clock and fifty-four, P.M.*

**Chapter 411. AN ACT RELATIVE TO THE ELECTION OF RETIREMENT  
OPTIONS FOR CERTAIN RETIREES.**

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

Notwithstanding the provisions of section 135 of chapter 697 of the acts of 1987, the provisions of the first paragraph of section 58B of chapter 32 of the General Laws shall apply to benefits received pursuant to applications for such benefits, allowances or other payments made before January 12, 1988.

This act shall be prospective from the effective date of this act and shall not entitle a veteran to retroactive benefits.

This act shall take effect in a city, town, county, district or authority subject to the approval of the legislative body. For the purposes of this act, 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 region, the governing body, in the case of a district, the district members, and, in the case of an authority, the governing body.

Approved January 12, 2001.

**Chapter 412. AN ACT RELATIVE TO THE CONSERVATION COMMISSION OF  
THE TOWN OF LEXINGTON.**

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

**SECTION 1.** The conservation commission of the town of Lexington may provide by rules for the imposition of reasonable fees for the employment of outside consultants and shall account for and expend such funds in accordance with section 53G of chapter 44 of the General Laws.

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

Approved January 12, 2001.

**Chapter 413. AN ACT RELATIVE TO THE VOLUNTARY WITHDRAWAL OF  
LAND FROM THE REGISTRATION SYSTEM.**

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

Chapter 185 of the General Laws is hereby amended by striking out section 52, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 52. The obtaining of a judgment of registration and the entry of a certificate of title shall be regarded as an agreement running with the land and binding upon the plaintiff and his successors in title that the land shall be and forever remain registered land and subject to this chapter and all acts in amendment thereof, unless withdrawn under this section or under section 16 of chapter 183A, and except as provided in section 26 of this chapter.

If all of a parcel of land which is registered under this chapter is acquired by the commonwealth or any agency, department, board, commission, or authority of the commonwealth or any political subdivision thereof or any authority of any such political subdivision, such acquisition shall be a sufficient ground for withdrawal of the registered land from the provisions of this chapter and the land shall be so withdrawn upon the filing of a complaint with the court by the public entity which has acquired the registered land and its approval by the court.

All of the owners of the fee simple estate in all of a parcel of land that has been registered under this chapter may voluntarily withdraw the registered land from the provisions of this chapter by filing a notice of voluntary withdrawal, endorsed by a justice of the land court as provided in this section, in the registry district of the land court where the land lies. Such notice of voluntary withdrawal shall be noted on the memorandum of encumbrances for the certificate of title. Upon the filing of such notice, the land shall be deemed withdrawn from the provisions of this chapter and shall become unregistered land, and the owners shall hold title thereto at the time of such filing free of all liens and encumbrances, including adverse possession and prescriptive rights, except those set forth or referred to in section 46 and those noted on the certificate of title or filed for registration before the filing of the notice of voluntary withdrawal, as though a judgment of confirmation without registration had been recorded under section 56A.

As used in this section, "notice of voluntary withdrawal" shall mean an instrument in writing signed and acknowledged by all owners of the land to be voluntarily withdrawn, which contains the following information: names and addresses of all owners; the certificate of title number with the registration book and page numbers; the description of the land in the form contained in the certificate of title; and the street address of such land, if any, and which bears the endorsement of a justice of the land court approving the voluntary withdrawal as provided in this section. Upon filing with the land court of a complaint to withdraw land, the plaintiff shall deposit with the recorder a sum sufficient to cover costs of the proceeding. The court shall then appoint one of the examiners of title, who shall make a report to the court as to the identity of the current record owner and of all mortgagees and lessees with interests of record in the land. A justice of the land court shall approve the application and shall endorse the plaintiff's notice of voluntary withdrawal if: (a) the registered land constitutes less than 50 per cent of the total area of a single parcel or of two or more contiguous parcels in common ownership; (b) the registered land consists of less than 10 per cent of the portion of the land area to which an original certificate of title pertains, the rest

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of the land area to which such certificate pertains having been conveyed since the original registration under this chapter; (c) the owners of the registered land have submitted the land to the provisions of chapter 183A or 183B or have created interests in the land to which chapter 183B is applicable pursuant to section 3 of chapter 760 of the acts of 1987; or (d) the court finds that the owners of the registered land have demonstrated other good cause for withdrawal under this section, including but not limited to, economic hardship by reason of the land being registered, unless, notice having been given to mortgagees and lessees of record, an outstanding objection has been filed by a mortgagee or lessee of record. Notwithstanding any such outstanding objection, the application may be approved, unless the court determines there is good cause for the objection. The justices of the land court shall establish rules and practices, including an appropriate filing fee for the application as are necessary to implement this section.

Approved January 12, 2001.

**Chapter 414. AN ACT PROHIBITING THE USE OF A MOBILE TELEPHONE WHILE OPERATING A SCHOOL BUS.**

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

Section 7B of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

No person shall operate a moving school bus while using a mobile telephone except in the case of an emergency. For the purpose of this paragraph, an emergency shall mean that the operator of the school bus needs to communicate with another to report any of the following: (a) that the school bus is disabled; (b) that medical attention or assistance is required for a passenger on the bus; (c) that police intervention is necessary for the personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d) the presence of a disabled vehicle or an accident in the roadway.

Approved January 12, 2001.

**Chapter 415. AN ACT RELATIVE TO ROAD IMPROVEMENTS IN THE TOWN OF CHATHAM.**

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

**SECTION 1.** Notwithstanding sections 1 and 2 of chapter 80 of the General Laws, sections 26 and 27 of chapter 83 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Chatham may adopt orders providing for improvements to be made to Manamock road, Palmer drive, Oak Hill road and Oval road,

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ways in the town, and provide for the assessment of betterments to the owners of the property abutting said ways to defray the cost of the improvements. The order shall be adopted and recorded at the Barnstable county registry of deeds within 90 days from the effective date of this act.

**SECTION 2.** Notwithstanding sections 1 and 2 of chapter 80 of the General Laws, sections 26 and 27 of chapter 83 of the General Laws or any other general or special law to the contrary, the town of Chatham may assess and collect such betterment assessments within six months of the effective date of this act.

**SECTION 3.** Notwithstanding the provisions of section 3 of chapter 79 of the General Laws, section 24 of chapter 82 of the General Laws or any other ge special law to the contrary, the board of selectmen of the town of Chatham may adopt and record an order of taking by eminent domain of all interests in real estate authorized to be taken by the Chatham town meeting pursuant to Article 27 of the 1997 annual town meeting warrant and Article 18 of the 1998 annual town meeting warrant. Such order of taking shall be adopted and recorded within six months from the effective date of this act.

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

Approved January 12, 2001.

## **Chapter 416. AN ACT FURTHER REGULATING THE ELECTION OF TOWN MEETING MEMBERS IN SOUTH HADLEY.**

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

**SECTION 1.** The first paragraph of section 2 of chapter 45 of the acts of 1933, as appearing in section 1 of chapter 661 of the acts of 1987, is hereby amended by striking out the word "forty-two", each time it appears, and inserting in place thereof, in each instance, the following figure:- 30.

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

Approved January 12, 2001.

## **Chapter 417. AN ACT AUTHORIZING THE BROCKTON RETIREMENT BOARD TO AUTHORIZE CREDITABLE SERVICE FOR GEORGE W. MOORE, JR.**

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



**SECTION 1.** Notwithstanding the provisions of section 6 of chapter 32 of the General Laws or any other general or special law to the contrary, and in order to promote the public good, the Brockton retirement board shall credit George W. Moore, Jr., a fire alarm operator in the Brockton fire department, with an additional three years of creditable service for time served in the United States Air Force, for the purposes of determining his ordinary disability retirement allowance pursuant to said section 6 of said chapter 32. Eligibility for said creditable service shall be conditioned upon payment to the employee's retirement system of an amount equal to 10 per cent of the regular annual compensation he received when he entered the retirement system. Such payment shall be made in one sum, or in installments, as the Brockton retirement board shall prescribe. Said George W. Moore, Jr. shall be entitled to and shall receive all annual cost of living adjustments to his annual pension granted under section 102 of said chapter 32 or any other general or special law.

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

Approved January 12, 2001.

**Chapter 418. AN ACT DIRECTING THE COMMISSIONER OF REVENUE TO  
ACCEPT APPLICATIONS FOR ABATEMENT OF TAXES ON  
BEHALF OF CERTAIN TAXPAYERS.**

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

Notwithstanding the provisions of any general or special law to the contrary, the commissioner of revenue shall accept applications for abatement of tax on behalf of the following taxpayers for the tax year 1994: Peter P. and Marlene Phildius of the town of Wayland; Michael and Susan Kenyon of the town of Wayland; and Douglas and Jan Scott of the town of Dover. Such applications shall be considered timely if filed with said commissioner within 90 days from the effective date of this act. Any abatement paid pursuant to these applications shall not include payment of interest or of any costs related to the filing of the applications.

Approved January 12, 2001.

**Chapter 419. AN ACT INCREASING REINSURANCE CAPACITY IN THE  
COMMONWEALTH.**

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

**SECTION 1.** Section 20A of chapter 175 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 4, the words "subsection two" and inserting in place thereof the following words:- this subsection.

**SECTION 2.** Said section 20A of said chapter 175, as so appearing, is hereby further amended by striking out, in line 5, the words "or (D)".

**SECTION 3.** The first paragraph of subsection (1) of said section 20A of said chapter 175, as so appearing, is hereby further amended by adding the following sentence:- If meeting the requirements of paragraph (D), the requirements of paragraphs (F) and (G) shall also be met.

**SECTION 4.** Said section 20A of said chapter 175, as so appearing, is hereby amended by striking out, in line 59, the words "fifty million dollars" and inserting in place thereof the following figure:- \$20,000,000.

**SECTION 5.** Subsection (1) of said section 20A of said chapter 175, as so appearing, is hereby amended by adding the following paragraph:-

(G) If the assuming insurer does not meet the requirements of paragraphs (A), (B) or (C), the credit permitted by paragraph (D) shall not be allowed unless the assuming insurer agrees in substance in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount set forth in paragraph (D), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets shall be distributed by and claims of United States trust beneficiaries shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers which are United States trust beneficiaries, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

Approved January 12, 2001.

## **Chapter 420. AN ACT FURTHER REGULATING THE COLLECTION OF CERTAIN DATA RELATIVE TO THE STOPPING OF MOTOR VEHICLES.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is, in part, forthwith to postpone certain laws relative to the collection of certain data relative

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

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

**SECTION 1.** The first sentence of section 3 of chapter 228 of the Acts of 2000 is hereby amended by striking out the words "December 31, 2000" and inserting in place thereof the following words:- March 1, 2001.

**SECTION 2.** The first sentence of section 4 of said chapter 228 is hereby amended by striking out the words "January 1, 2001" and inserting in place thereof the following words:- April 1, 2001.

**SECTION 3.** The last sentence of section 6 of said chapter 228 is hereby amended by striking out the words "January 1, 2001" and inserting in place thereof the following words:- April 1, 2001.

**SECTION 4.** The last sentence of section 8 of said chapter 228 is hereby amended by striking out the words "January 1, 2001" and inserting in place thereof the following words:- April 1, 2001.

**SECTION 5.** The first sentence of section 10 of said chapter 228 is hereby amended by striking out the words "one year after the effective date of this act" and inserting in place thereof the following words:- April 1, 2002.

Approved January 12, 2001.

## **Chapter 421. AN ACT RELATIVE TO THE POSSESSION, TRANSPORT, USE OR PLACEMENT OF A HOAX DEVICE.**

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

Chapter 266 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 102A the following section:-

Section 102A½. (a) Whoever possesses, transports, uses or places or causes another to knowingly or unknowingly possess, transport, use or place any hoax device with the intent to cause anxiety, unrest, fear or personal discomfort to any person or group of persons shall be punished by imprisonment in a house of correction for not more than two and one-half years or by imprisonment in the state prison for not more than five years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(b) For the purposes of this section, the term "hoax device" shall mean any device that would cause a person reasonably to believe that such device is an infernal machine. For the purposes of this section, the term "infernal machine" shall mean any device for endangering

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life or doing unusual damage to property, or both, by fire or explosion, whether or not contrived to ignite or explode automatically.

(c) This section shall not apply to any law enforcement or public safety officer acting in the lawful discharge of official duties.

Approved January 12, 2001.

**Chapter 422. AN ACT RELATIVE TO THE ISSUANCE OF MOTOR VEHICLE REGISTRATION PLATES.**

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

Section 2 of chapter 90 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 122, the words "at his office".

Approved January 12, 2001.

**Chapter 423. AN ACT AUTHORIZING EMPLOYMENT CONTRACTS FOR FIRE CHIEFS.**

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

**SECTION 1.** Section 1080 of chapter 41 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word "chief", in lines 7, 8, 18 and 21, the following words:- and fire chief.

**SECTION 2.** Said section 1080 of said chapter 41, as so appearing, is hereby further amended by inserting after the word "chief", in line 25, the following words:- or fire chief.

Approved January 12, 2001.

**Chapter 424. AN ACT RELATIVE TO UTILITY LINES IN THE TOWN OF LEXINGTON.**

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

**SECTION 1.** Notwithstanding section 22 of chapter 166 of the General Laws or any other general or special law to the contrary, the director of public works of the town of Lexington shall have the powers and duties under said section 22 to grant orders and act upon petitions for the construction of underground lateral wires and conduits within a public way from an existing pole or main to private property, and to take such action without notice



of hearing. All other provisions of said chapter 166 shall govern such orders and petitions.

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

Approved January 12, 2001.

**Chapter 425. AN ACT RELATIVE TO THE ADMINISTRATIVE REORGANIZATION OF THE CITY OF MALDEN.**

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

**SECTION 1.** Chapter 169 of the acts of 1881 is hereby amended by striking out section 11, as amended by section 2 of chapter 286 of the acts of 1958, and inserting in place thereof the following section:-

Section 11. Every ordinance, order, resolution or vote of the city council, except matters of license approval which are vested by law or ordinance in the city council, shall be presented to the mayor; election of officers shall not be presented to the mayor except election of assessors, city clerk, controller, solicitor and treasurer. If he approves thereof, he shall signify by signing the same; but if he does not approve thereof, he shall return the ordinance, order, resolution or vote, with his objections in writing, to the city council. The city council shall enter the objections of the mayor on its records and proceed to reconsider said ordinance, order, resolution or vote. If, after such reconsideration, two-thirds of the members, present and voting, agree to pass such ordinance, order, resolution or vote, it shall be in force; provided that, when reconsidering the election of an assessor, city clerk, controller, solicitor or treasurer, the election shall stand if agreed to by a majority of the members, present and voting. In all cases the vote shall be determined by yeas and nays. If such ordinance, order, resolution or vote is not returned by the mayor within ten days after it has been presented to him, the same shall be in force.

**SECTION 2.** Section 2 of the special acts of 1917 is hereby amended by adding the following sentence:- The controller of accounts shall have all the power and duties imposed by law on purchasing agents and shall act as the chief procurement officer for the city.

**SECTION 3.** Chapter 387 of the acts of 1936 is hereby repealed.

**SECTION 4.** Chapter 384 of the acts of 1954 is hereby amended by striking out section 3, as most recently amended by section 2 of chapter 541 of the acts of 1983, and inserting in place thereof the following section:-

Section 3. There shall be within the department of public works, but subject to the control of the commission, a division of highways and a division of forestry and parks. Each such division shall assume such management and control as shall be determined by the commission.

**SECTION 5.** Said chapter 384 is hereby further amended by striking out section 4, as amended by section 3 of chapter 541 of the acts of 1983, and inserting in place thereof the

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following section:-

Section 4. The mayor, with the approval of the city council, shall, during the month of December, 1999, and every five years thereafter, appoint a director of public works whose term of office shall be five years from the first day of January next succeeding his appointment, or until his successor is appointed and qualified. The director shall appoint supervisors of the various divisions, who shall assume such duties and responsibilities as assigned by the director. The salaries of the director and supervisors shall be fixed by ordinance. The supervisors shall not be removed except for just cause and in accordance with the provisions of sections 41 to 45, inclusive, of chapter 31 of the General Laws. The city engineer shall be the head of the engineering department and shall assume such powers and duties as are vested in him by law or by ordinance. Upon the appointment of a city engineer under this act, all powers, duties, facilities, properties and appropriations for city waterworks and sewer now or from time to time vested by law or ordinance in public works commission shall vest in and be exercised by the city engineer; provided, that the public works commission shall set water and sewer rates and make determinations on applications for abatement of water and sewer bills.

**SECTION 6.** Chapter 312 of the acts of 1958 is hereby repealed.

**SECTION 7.** Chapter 541 of the acts of 1983 is hereby amended by striking out section 6.

**SECTION 8.** All persons now employed in the water division of the department of public works, shall, upon the effective date of this act, be transferred to the engineering department. All such transfers shall be made without change of rating, seniority, retirement or pension rights, or any other privileges inuring to them by law or by ordinance.

**SECTION 9.** The acceptance of section 8E of chapter 40 of the General Laws by the city of Malden is hereby rescinded.

**SECTION 10.** The powers and duties enumerated in section 8B of chapter 40 of the General Laws shall, in the city of Malden, be vested in and exercised by the director of human services.

**SECTION 11.** Notwithstanding the provision of any general or special law to the contrary, the personnel administrator shall certify to permanent civil service status any active employee who served in a civil service position in the city of Malden as a provisional or provisional promotion employee for a period of at least six months immediately prior to June 30, 2000.

**SECTION 12.** This act shall take effect upon its passage.

Approved January 12, 2001.

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**Chapter 426. AN ACT PROVIDING FOR NONCRIMINAL ENFORCEMENT OF THE RULES AND REGULATIONS OF THE HISTORIC DISTRICTS COMMISSION IN THE TOWN OF LEXINGTON.**

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

**SECTION 1.** Section 11 of chapter 447 of the acts of 1956 is hereby amended by adding the following paragraph:-

In addition to the foregoing, the town of Lexington may by by-law, not inconsistent with section 21D of chapter 40 of the General Laws, provide for the noncriminal disposition of violations of this act and the determinations, rulings and regulations issued under this act.

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

Approved January 12, 2001.

**Chapter 427. AN ACT PROTECTING BENEFICIARIES OF STRUCTURED SETTLEMENTS.**

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

**SECTION 1.** The General Laws are hereby amended by adding after chapter 231B the following chapter:-

**CHAPTER 231C.**

**STRUCTURED SETTLEMENT CONTRACTS.**

Section 1. For the purposes of this chapter the following words shall have the following meanings unless the context otherwise requires:

"Annuity issuer", an insurer that has issued an annuity contract to be used to fund periodic payments under a structured settlement.

"Applicable law", any of the following, as applicable in interpreting the terms of a structured settlement:

(1) the laws of the United States;

(2) the laws of the commonwealth, including principles of equity applied in the courts of the commonwealth; and

(3) the laws of any other jurisdiction; (i) that is the domicile of the payee or any other interested party; (ii) under whose law a structured settlement agreement was approved by a court or responsible administrative authority; or (iii) in whose courts a settled claim was pending when the parties entered into a structured settlement agreement.

"Applicable federal rate", the most recently published applicable rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service pursuant to section 7520 of the United States Internal Revenue Code.

"Assignee", a party that acquires structured settlement payment rights directly or indirectly from a transferee of such rights.

"Dependents", a payee's spouse and minor children and all other family members and other persons from whom the payee is legally obligated to provide support, including spousal maintenance.

"Discount/finance charge", the sum of all charges payable directly or indirectly from assigned structured settlement payments and imposed directly or indirectly by the transferee as an incident to a transfer of structured settlement payment rights, including:

- (1) interest charges, discounts and other compensation for the time value of money;
- (2) all application, origination, processing, underwriting, closing, filing and notary fees and all similar charges, however denominated; and
- (3) all charges for commissions or brokerage, irrespective of the identity of the party to whom such charges are paid or payable.

The term discount/finance charge shall not include any fee or other obligation incurred by a payee in obtaining independent professional advice concerning a transfer of structured settlement payment rights.

"Discounted present value", with respect to a proposed transfer of structured settlement payment rights, the fair present value of future payments, as determined by discounting the payments to the present using the most recently published applicable federal rate as the discount rate.

"Independent professional advice", advice of an attorney, certified public accountant, actuary, or other licensed professional advisor:

- (1) who is engaged by a payee to render advice concerning the legal, tax and financial implications of a transfer of structured settlement payment rights;
- (2) who is not in any manner affiliated with or compensated by the transferee of the transfer; and
- (3) whose compensation for providing the advice is not affected by whether or not a transfer occurs.

"Interested party", with respect to any structured settlement, the following:

- (1) the payee;
- (2) a beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death or, if such designated beneficiary is a minor, the designated beneficiary's parent or guardian;
- (3) the annuity issuer;
- (4) the structured settlement obligor; and
- (5) any other party that has continuing rights or obligations under the structured settlement.

"Payee", an individual who is receiving tax free damage payments under a structured settlement and proposes to make a transfer of payment rights under the structured settlement.

"Qualified assignment agreement", an agreement providing for a qualified assignment as provided by the United States Internal Revenue Code, Title 26, section 130.

"Responsible administrative authority", with respect to a structured settlement, a government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.



"Settled claim", the original tort claim or workers' compensation claim resolved by a structured settlement.

"Structured settlement", an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim.

"Structured settlement agreement", the agreement, judgment, stipulation, or release embodying the terms of a structured settlement, including the rights of the payee to receive periodic payments.

"Structured settlement obligor", the party that has the obligation to make continuing periodic payments to the payee under a structured settlement agreement or a qualified assignment agreement.

"Structured settlement payment rights", rights to receive periodic payments, including lump sum payment under a structured settlement, whether from the settlement obligor or the annuity issuer, where:

(1) the payee or any other interested party is domiciled in the state;

(2) the structured settlement agreement was approved by a court or responsible administrative authority in the commonwealth; or

(3) the settled claim was pending before a court of the commonwealth when the parties entered into the structured settlement agreement.

"Terms of the structured settlement", the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement and an order or approval of a court, responsible administrative authority or other government authority authorizing or approving the structured settlement.

"Transfer", a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration.

"Transfer agreement", the agreement providing for transfer of structured settlement payment rights from a payee to a transferee.

"Transferee", a person who is receiving or will receive structured settlement payment rights resulting from a transfer.

Section 2. (a) No direct or indirect transfer of structured settlement payment rights shall be effective, and no structured settlement obligor or annuity issuer shall be required to make a payment directly or indirectly to a transferee of structured settlement payment rights, unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or responsible administrative authority, such as an administrative law judge, based on the court's or responsible administrative authority's written express findings that:

(1) the transfer complies with the requirements of this chapter and will not contravene other applicable law;

(2) not less than ten days before the date on which the payee first incurred an obligation with respect to the transfer, the transferee has provided to the payee a disclosure statement in bold type, no smaller than 14 points, specifying:

- (i) the amounts and due dates of the structured settlement payments to be transferred;
  - (ii) the aggregate amount of the payments;
  - (iii) the discounted present value of the payments, together with the discount rate used in determining the discounted present value;
  - (iv) the gross amount payable to the payee in exchange for the payments;
  - (v) an itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, referral fees, administrative fees, legal fees, notary fees, and other commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;
  - (vi) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses and charges described in clause (v);
  - (vii) the quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments, which shall be disclosed in the statement as follows: "The net amount that you will receive from us in exchange for your future structured settlement payments represent \_\_\_\_% of the estimated current value of the payments";
  - (viii) the effective annual interest rate, which rate shall be disclosed in the statement as follows: "Based on the net amount that you receive from us and the amounts and timing of the structured settlement payments that you are turning over to us, you will, in effect, be paying interest to us at a rate of \_\_\_\_% per year"; and
  - (ix) the amount of any penalty and the aggregate amount of any liquidated damages, including penalties payable by the payee in the event of a breach of the transfer agreement by the payee;
- (3) the payee has established that the transfer is in the best interests of the payee and the payee's dependents;
- (4) the payee has received, or waived the right to receive independent professional advice regarding the legal, tax and financial implications of the transfer;
- (5) the transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of the notice with the court or responsible administrative authority;
- (6) the transfer agreement provides that if the payee is domiciled in the commonwealth, any disputes between the parties shall be governed, interpreted, construed, and enforced in accordance with the laws of the commonwealth and that the domicile state of the payee is the proper place of venue to bring any cause of action arising out of a breach of the agreement; and
- (7) the court or responsible administrative agency has made a determination that the net amount payable to the payee is fair, just and reasonable under the circumstances then existing.
- (b) The transfer agreement shall also provide that the parties agree to the jurisdiction of any court of competent jurisdiction located in the commonwealth. If the transfer would contravene the terms of the structured settlement, upon the filing of a written objection by

any interested party and after considering the objection and any response to it, the court or responsible administrative authority may grant, deny or impose conditions upon the proposed transfer as the court or responsible administrative authority deems just and proper under the facts and circumstances in accordance with established principles of law. Any order approving the transfer shall require that the transferee indemnify the annuity issuer and the structured settlement obligor for any liability including reasonable costs and attorney's fees arising from compliance by the issuer or obligor with the order of the court or responsible administrative authority.

(c) A provision in a transfer agreement giving a transferee power to confess judgment against a payee shall be unenforceable to the extent the amount of the judgment would exceed the amount paid by the transferee to the payee, less any payments received from the structured settlement obligor or the payee.

(d) In negotiating a structured settlement of claims brought by or on behalf of a claimant who is domiciled in the commonwealth, the structured settlement obligor shall disclose in writing to the claimant or the claimant's legal representative all of the following information that is not otherwise specified in the structured settlement agreement:

(1) the amounts and due dates of the periodic payments to be made under the structured settlement agreement; in the case of payments that will be subject to periodic percentage increases, the amounts of future payments may be disclosed by identifying the base payment amount, the amount and timing of scheduled increases, and the manner in which increases will be compounded;

(2) the amount of the premium payable to the annuity issuer;

(3) the discounted present value of all periodic payments that are not life-contingent, together with the discount rate used in determining the discounted present value;

(4) the nature and amount of any cost that may be deducted from any of the periodic payments;

(5) where applicable, that any transfer of the periodic payments is prohibited by the terms of the structured settlement and may otherwise be prohibited or restricted under applicable law; and

(6) that any transfer of the periodic payments by the claimant may subject the claimant to serious adverse tax consequences.

(e) The district court shall have nonexclusive jurisdiction over an application for authorization of a transfer of structured settlement payment rights.

(f) Not less than 20 days before the scheduled hearing on an application for authorization of a transfer of structured settlement payment rights, the transferee shall file with the court or responsible administrative authority, any other government authority that previously approved the structured settlement, and all interested parties a notice of the proposed transfer and the application for its authorization. The notice shall include:

(1) a copy of the transferee's application to the court or responsible administrative authority;

(2) a copy of the transfer agreement;



(3) a copy of the disclosure statement required under this section;

(4) notification that an interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority or by participating in the hearing; and

(5) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application shall be filed, in order to be considered by the court or responsible administrative authority.

Written responses to the application shall be filed within 15 days after service of the transferee's notice.

Section 3. (a) The provisions of sections 2 to 4, inclusive, shall not be waived.

(b) No payee who proposes to make a transfer of structured settlement payment rights shall incur a penalty, forfeit an application fee or other payment, or otherwise incur any liability to the proposed transferee based on the failure of the transfer to satisfy the conditions of section 2.

Section 4. (a) If in connection with a transfer of structured settlement payment rights, a transferee has violated the discount/finance charge stipulation, neither the transferee nor any assignee shall be entitled to collect from the transferred payment rights, or from the payee, any amount in excess of the net advance amount, and the payee shall have a right to recover from the transferee or any assignee:

(1) a refund of any excess amounts previously received by the transferee or any assignee;

(2) a penalty in an amount determined by the court; and

(3) reasonable costs and attorney's fees.

(b) If in connection with a transfer of structured settlement payment rights, the transferee has violated the disclosure requirements in section 3, the transferee and any assignees shall be liable to the payee for:

(1) a penalty in an amount determined by the court; and

(2) reasonable costs and attorney's fees.

(c) A transferee or assignee shall not be liable for a penalty in any action brought under this section if the transferee or assignee establishes by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the transferee's maintenance of procedures reasonably designed to avoid such errors.

(d) No action may be brought under this section if:

(1) in the case of a violation of the discount/finance charge stipulation, more than one year after the due date of the last transferred structured settlement payment; and

(2) in the case of the disclosure requirements of section 2, more than one year after the due date of the first transferred structured settlement payment.

(e) If the attorney general has reason to believe that any transferee has violated this chapter, the attorney general may bring a civil action for injunctive relief and such penalties and other relief as may be appropriate to secure compliance with this chapter.



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**Chap. 427**

Section 5. Nothing contained in this chapter shall be construed to authorize any transfer of workers' compensation payment rights in contravention of applicable law or to give effect to any transfer of workers' compensation or other payment rights that is invalid under applicable law.

**SECTION 2.** This act shall not apply to transfers made on or before the effective date of this act.

Approved January 12, 2001.

**Chapter 428. AN ACT RELATIVE TO THE PROCEDURES FOR JUNKING  
MOTOR VEHICLES.**

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

Section 67A of chapter 140 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any person licensed under section 54 or 59 shall comply with subsection (a) of section 20E of chapter 90D.

Approved January 12, 2001.

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**Resolve 1      PROVIDING FOR AN INVESTIGATION AND STUDY BY A  
SPECIAL COMMISSION RELATIVE TO THE AUTHORITY OF  
THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE  
CORPORATION.**

RESOLVED, That a special commission, to consist of three members of the senate, including the senate chairman of the committee on banks and banking, three members of the house of representatives, including the house chairman of the committee on banks and banking, the commissioner of banks or his designee, and two persons to be appointed by the governor, one of whom shall be the president and chief executive officer of the Massachusetts Credit Union Share Insurance Corporation, and one of whom shall be the designee of the board of directors of the Massachusetts Credit Union Share Insurance Corporation, is hereby established for the purpose of making an investigation and study relative to permitting the Massachusetts Credit Union Share Insurance Corporation to establish a subsidiary to provide excess insurance to credit unions located outside of Massachusetts. The house and senate chairmen of the joint committee on banks and banking shall serve as joint chairs of the special commission. The director of Region 1 of the National Credit Union Administration and the president of The Massachusetts Credit Union League, Inc. shall be invited by the joint chairs of the special commission to attend each and every meeting of said commission, but shall not have a vote on any matters brought to a vote by the joint chairs.

Said commission, in the course of its investigation and study, shall consider the public policy and regulatory issues relative to expansion, the legal structure and legal risks associated with expansion, regulatory restrictions and limitations imposed by jurisdictions in which the Massachusetts Credit Union Share Insurance Corporation plans to offer excess insurance, growth rates of excess shares, concentration of risk, reinsurance, investment risks, management fees, the risk monitoring and management procedures to be used by the Massachusetts Credit Union Share Insurance Corporation for out of state credit unions, marketing and such other matters as the chairs of the commission may determine.

Said commission may expend such sums as may be appropriated therefore for the employment of such administrative, legal, actuarial, research, clerical and other assistance as it deems necessary, may summon witnesses, compel testimony under oath and require the production of books, papers, records, correspondence or other documents which it deems relevant.

Said commission may report to the general court, from time to time, the results of its investigation and study, and its recommendations, if any, including drafts of legislation necessary to carry such recommendations into effect and shall file its final report with the clerk of the Senate on or before the last Wednesday in December, 2000.

*Emergency Letter: August 31, 2000 @ 3:09 P.M.*

Approved August 31, 2000.



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SUMMARY OF THE ACTS AND RESOLVE APPROVED, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO, ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION, LAWS ENACTED BY THE PEOPLE AT THE NOVEMBER 7, 2000 STATE ELECTION AND CONSTITUTIONAL AMENDMENTS APPROVED BY THE PEOPLE AT THE NOVEMBER 7, 2000 STATE ELECTION.

During the second session of the General Court held in 2000, 428 Acts were enacted of which 425 Acts and one Resolve received the Governor's approval.

One Act was returned by the Governor to the House, the branch in which it originated, with his objections in writing thereto. Chapter 114 was passed by the House on June 21, 2000 and by the Senate on June 22, 2000. The Governor's objections notwithstanding, this chapter has the force of law and has been so certified.

This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

Three Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution. These are Chapters 33, 108, and 264.

Chapter 343, An Act to Roll Back the State Income Tax Rate to 5 Percent by the Year 2003, and Chapter 344, An Act to Encourage Charitable Giving, were adopted by the people at the November 7, 2000 state election under Article XLVIII of the Amendments to the Constitution, the Initiative, Part V, Section 1, as amended; according to the determination of the Governor and Council dated December 6, 2000.

Article CXIX, a legislative amendment to the Constitution relative to the Effective Date of State Legislative and Executive Councillor Redistricting and Article CXX, a legislative amendment to the Constitution relative to the Right to Vote for Incarcerated Persons were submitted to the people at the November 7, 2000 state election. The proposed amendments were approved under Article XLVIII of the Amendments to the Constitution, the Initiative, Part IV, Section 5, and were thereby approved, by a majority of voters thereon, according to a determination of the Governor and Council dated December 6, 2000.

The 2000 session of the General Court was dissolved at midnight on Tuesday January 2, 2001 the session having lasted 363 days.

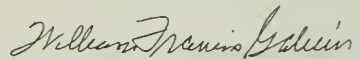


William Francis Galvin  
Secretary of the Commonwealth



I hereby certify that the Acts and Resolve 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, section 52.

A handwritten signature in cursive script, reading "William Francis Galvin".

William Francis Galvin  
Secretary of the Commonwealth

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## TABLE OF CHANGES

### SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 1998 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 1999.

#### **CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.**

§ 3 amended, 2000, 313 § 1.

#### **CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.**

§ 34 revised, 2000, 32.

§ 45 added, 2000, 38.

§ 46 added, 2000, 59.

§ 47 added, 2000, 323.

#### **CHAPTER 3 - The General Court.**

§ 9B revised, 2000, 159 § 10; **section amended**, 2000, 313 §§ 2, 3. (See 2000, 159 § 489.)  
§ 66, subsection (1), sentence added, 1999, 127 § 9. (See 1999, 127, 390.)

#### **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.**

§ 1 amended, 2000, 11 § 1. (See 2000, 11 § 9.)

§ 2 amended, 2000, 11 § 2. (See 2000, 11 § 9.)

§ 3 amended, 2000, 159 § 11. (See 2000, 159 § 489.)

§ 12XX added, 2000, 263.

§ 15BBBB, inserted by 1998, 401, stricken out, 2000, 313 § 4.

§ 15EEEE added, 1999, 97.

§ 15FFFF added, 2000, 42.

§ 15GGGG added, 2000, 94.

§ 15HHHH added, 2000, 288.

§ 15 IIII added, 2000, 317.

§ 116 amended, 2000, 313 § 5.

§ 156 amended, 2000, 313 § 6.

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## CHAPTER 6 - continued

- § 162, first and second sentences revised, 2000, 11 § 3. (See 2000, 11 § 9.)
- § 172F added, 1999, 127 § 11. (See 1999, 127, 390.)
- § 178C revised, 1999, 74 § 2.
- § 178D revised, 1999, 74 § 2.
- § 178E revised, 1999, 74 § 2.
- § 178F revised, 1999, 74 § 2.
- § 178F½ inserted, 1999, 74 § 2.
- § 178G revised, 1999, 74 § 2.
- § 178H revised, 1999, 74 § 2.
- § 178I revised, 1999, 74 § 2.
- § 178J revised, 1999, 74 § 2.
- § 178K revised, 1999, 74 § 2.
- § 178L inserted, 1999, 74 § 2.
- § 178M revised, 1999, 74 § 2.
- § 178N revised, 1999, 74 § 2.
- § 178O revised, 1999, 74 § 2.
- § 178P revised, 1999, 74 § 2.
- § 196, paragraph added, 1999, 127 § 12. (See 1999, 127, 390.)

## CHAPTER 6A - Executive Offices.

- § 16D added, 2000, 141 § 1; subsection (d), fourth sentence revised, 2000, 236 § 4. (See 2000, 236 § 104.)

## CHAPTER 6B - Acute Hospital Finance.

## CHAPTER 7 - Executive Office for Administration and Finance. (Former title: Commission on Administration and Finance.)

- § 4A, paragraph added, 1999, 127 § 13. (See 1999, 127, 390.)
- § 38E, subsection (g) inserted, 2000, 159 § 13. (See 2000, 159 § 498.)
- § 38G, subsections (d) and (e) added, 2000, 237 § 7.
- § 38H, subparagraph (d) stricken out, 2000, 159 § 14. (See 2000, 159 § 498.)
- § 39B, before first paragraph, paragraph inserted, 1999, 127 § 14. (See 1999, 127, 390.)
- § 40B amended, 159 § 15. (See 2000, 159 § 498.)
- § 40F amended, 2000, 313 § 7.
- § 40G, third paragraph stricken out, 2000, 159 § 16; **section amended**, 2000, 237 § 8; third paragraph stricken out, 2000, 237 § 9. (See 2000, 159 § 498.)

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## **CHAPTER 7A - Office of the Comptroller.**

§ 16, clause (1) of paragraph (c) of the first paragraph, subclause (B) revised, 1999, 127 § 15;  
clause (6) revised, 1999, 127 § 16. (See 1999, 127, 390.)

## **CHAPTER 8 - State Superintendent of Buildings, and State House.**

§ 1 revised, 1999, 127 § 17. (See 1999, 127, 390.)  
§ 4, amended, 1999, 127 §§ 18. (See 1999, 127, 390.)  
§ 10, last sentence revised, 1999, 127 § 19. (See 1999, 127, 390.)  
§ 16A, second paragraph, last sentence revised, 1999, 127 § 20. (See 1999, 127, 390.)  
§ 17, first sentence revised, 1999, 127 § 21. (See 1999, 127, 390.)

## **CHAPTER 9 - Department of the State Secretary.**

§ 1 amended, 2000, 11 § 4. (See 2000, 11 § 9.)

## **CHAPTER 9A - Address Confidentiality Program. (New Chapter added, 2000, 409.)**

## **CHAPTER 10 - Department of the State Treasurer.**

§ 1 amended, 2000, 11 § 5. (See 2000, 11 § 9.)  
§35J, clause (e) added, 2000, 208 § 13C. (See 2000, 208 § 14.)  
§ 35L revised, 1999, 127 § 22. (See 1999, 127, 390.)  
§ 35S revised, 2000, 236 § 5. (See 2000, 236 § 104.)  
§ 35T added, 1999, 127 § 23. (See 1999, 127, 385.)  
§ 35U added, 2000, 236 § 6. (See 2000, 236 § 104.)  
§ 37 revised, 2000, 129 § 1.  
§ 38 revised, 2000, 129 § 2.  
§ 47, sixth and seventh sentences revised, 2000, 11 § 6. (See 2000, 11 § 9.)  
§ 63 added, 2000, 87 § 7; paragraph inserted after third paragraph, 2000, 125 § 3.

## **CHAPTER 11 - Department of the State Auditor.**

§ 1 amended, 2000, 11 § 7. (See 2000, 11 § 9.)

## **CHAPTER 12 - Department of the Attorney General, and the District Attorneys.**

§ 1 amended, 2000, 11 § 8. (See 2000, 11 § 9.)  
§ 5A added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5B added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5C added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5D added, 2000, 159 § 18. (See 2000, 159 § 498.)



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## **CHAPTER 12 - continued**

§ 5E added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5F added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5G added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5H added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5 I added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5J added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5K added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5L added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5M added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5N added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 5O added, 2000, 159 § 18. (See 2000, 159 § 498.)  
§ 15 amended, 2000, 10 § 1. (See 2000, 10 § 2.)  
§ 32 added, 2000, 159 § 20. (See 2000, 159 § 498.)

## **CHAPTER 12A - Office of the Inspector General.**

## **CHAPTER 12B - State Gambling and Advisory Commission.**

## **CHAPTER 13 - Division and Boards of Registration. (Former title: Department of Civil Service and Registration.) (Title revised, 1998, 161 § 59.)**

§ 8, first sentence revised, 2000, 159 § 21. (See 2000, 159 § 498.)  
§ 9 amended, 2000, 159 §§ 22, 23. (See 2000, 159 § 498.)  
§ 9A amended, 2000, 159 § 24. (See 2000, 159, § 498.)  
§ 11C amended, 2000, 159 § 25. (See 2000, 159 § 498.)  
§ 11D added, 1999, 127 § 25; first paragraph, first sentence revised, 2000, 159 § 26; **section amended**, 2000, 159 §§ 27, 28. (See 1999, 127, 390; 2000, 159 § 498.)  
§ 11E added, 2000, 44 § 1.  
§ 38 amended, 2000, 159 § 29. (See 2000, 159 § 498.)  
§ 43 amended, 2000, 159 § 30. (See 2000, 159 § 498.)  
§ 84 amended, 2000, 159 § 31. (See 2000, 159 § 498.)  
§ 88 amended, 2000, 159 § 32. (See 2000, 159 § 498.)  
§ 92 amended, 2000, 159 § 33. (See 2000, 159 § 498.)  
§ 96 added, 1999, 146 § 1; first sentence revised, 2000, 159 § 34. (See 2000, 159 § 498.)  
§ 97 added, 1999, 146 § 1.

## **CHAPTER 14 - Department of Revenue.**

§ 9 added, 1999, 127 § 26. (See 1999, 127, 390.)  
§ 10 added, 1999, 127 § 26. (See 1999, 127, 390.)  
§ 11 added, 1999, 127 § 26. (See 1999, 127, 390.)

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**CHAPTER 15 - Department of Education.**

§ 1E, first paragraph, sixth sentence revised, 1999, 127 § 27. (See 1999, 127, 390.)  
§ 1I amended; 2000, 159 § 35; third paragraph stricken out, 2000, 159 § 36. (See 2000, 159 § 498.)  
§ 16 revised, 2000, 159 § 37. (See 2000, 159 § 498.)  
§ 54 subsection (j) revised, 1999, 127 § 28. (See 1999, 127, 390.)  
§ 55A revised, 2000, 384 § 4. (See 2000, 384 § 59.)

**CHAPTER 15A - Public Education.**

§ 9, paragraph added, 1999, 127 § 29. (See 1999, 127, 390.)  
§ 15F added, 2000, 159 § 39. (See 2000, 159 § 498.)  
§ 16, ninth paragraph, sentence added, 2000, 159 § 41. (See 2000, 159 § 498.)  
§ 19, paragraph added, 1999, 127 § 30; paragraph added, 2000, 159 § 42. (See 1999, 127 § 390; 2000, 159 § 498.)  
§ 19E added, 2000, 236 § 7. (See 2000, 236 § 104.)

**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.)**

§ 2 amended, 1999, 127 § 31; section amended, 2000, 166 § 1, 2, 3; subsection (D), paragraph (f) of the seventh paragraph, paragraph added, 2000, 166 § 4. (See 1999, 127, 390.)  
§ 5G amended, 2000, 159 § 44. (See 2000, 159 § 498.)  
§ 29 amended, 1999, 127 § 32. (See 1999, 127, 390.)

**CHAPTER 18A - Department of Youth Services.**

**CHAPTER 18B - Department of Social Services.**

**CHAPTER 19 - Department of Mental Health.**

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**CHAPTER 19A - Department of Elder Affairs.**

§ 4C added, 2000, 159 § 45. (See 2000, 159 § 498.)

§ 39 added, 2000, 159 § 46; **section repealed**, 2000, 159 § 47. (See 2000, 159 §§ 497, 498.)

§ 40 added, 2000, 159 § 46; **section repealed**, 2000, 159 § 47. (See 2000, 159 §§ 497, 498.)

**CHAPTER 19B - Department of Mental Retardation.**

**CHAPTER 19C - Disabled Persons Protection Commission.**

**CHAPTER 19D - Assisted Living.**

(New chapter inserted, 1994, 354 § 3.)

**CHAPTER 20 - Department of Food and Agriculture.**

**CHAPTER 21 - Department of Environmental Management.**

**CHAPTER 21A - Executive Office of Environmental Affairs.**

§ 11A revised, 2000, 235 § 14. (See 2000, 235 § 107.)

**CHAPTER 21B - Mining Regulation and Reclamation.**

**CHAPTER 21C - Massachusetts Hazardous Waste Management Act.**

**CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.**

**CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.**

**CHAPTER 21F - Coastal Facilities Improvement.**

**CHAPTER 21G - Massachusetts Water Management Act.**

**CHAPTER 21H - Solid Waste Facilities.**

(New chapter inserted, 1987, 584 § 3.)

**CHAPTER 21I - Massachusetts Toxics Use Reduction Act.**

(New chapter inserted, 1989, 265 § 3.)

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**CHAPTER 21J - Underground Storage Tank Petroleum Product Cleanup Fund.**  
(New chapter inserted, 1990, 524 § 1).

§ 4 amended, 2000, 159 § 48; subsection (a), introductory paragraph revised, 2000, 384 § 6.  
(See 2000, 159 § 498; 384 § 59.)

§ 8 amended, 2000, 159 § 49. (See 2000, 159 § 498.)

**CHAPTER 21K - Mitigation of Hazardous Material.**  
(New chapter inserted, 1998, 194 § 64.)

**CHAPTER 22 - Department of Public Safety.**

§ 11 amended, 2000, 159 § 50. (See 2000, 159 § 498.)

§ 15D **repealed**, 1999, 127 § 33. (See 1999, 127, 390.)

**CHAPTER 22A - Central Register for Missing Children.**

**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.)

§ 10, second paragraph, first sentence stricken out and two sentences inserted, 2000, 23 § 1.

§ 14, first paragraph revised, 2000, 159 § 51. (See 2000, 159 § 498.)

§ 24A added, 2000, 159 § 52. (See 2000, 159 § 498.)

§ 36A added, 2000, 166 § 5.

**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, 196, 151 § 110, Former title: Department of Labor and Industries.) (See 1996, 151 § 690.)

**CHAPTER 23A - Department of Economic Development.**  
(New title inserted, Former title: Department of Commerce and Development.)



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**CHAPTER 23B - Department of Housing and Community Development.**  
(Title changed, 1996, 204 § 15, Former title: Division of Housing and Community Development.)

§ 3 amended, 1999, 127 § 34. (See 1999, 127, 377.)

§ 24B amended, 1999, 127 § 35; clause (a) revised, 1999, 127 § 36. (See 1999, 127, 390.)

**CHAPTER 23C - Board of Conciliation and Arbitration.**

**CHAPTER 23D - Massachusetts Industrial Service Program.**

**CHAPTER 23E - Division of Industrial Accidents.**  
(Former title: Department of Industrial Accidents)

**CHAPTER 23F - The Economic Diversification Program.**  
(New chapter inserted, 1990, 525.)

**CHAPTER 23G - The Massachusetts Development Finance Agency.**  
(New chapter inserted, 1998, 289§ 24.) (See 1998, 289 § 33.)

§28 amended, 1999, 158 § 1.

§29A, subsection (n), sentence added, 1999, 158 § 2.

§42 added, 2000, 310 § 1.

§ 43 added, 2000, 310 § 1.

**CHAPTER 24 - Department of Industrial Accidents.**  
(Chapter repealed, 1953, 314 § 14.)

**CHAPTER 24A - Office of Consumer Affairs and Business Regulation.**  
(New chapter inserted, 1996, 151 § 148.) (See 1996, 151 § 690.)

**CHAPTER 25 - Department of Public Utilities.**

**CHAPTER 25A - Division of Energy Resources.**  
(Formerly, Executive Office of Energy Resources.)

**CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.**

**CHAPTER 26 - Department of Banking and Insurance.**

**CHAPTER 27 - Department of Correction.**

**CHAPTER 28 - Metropolitan District Commission.**

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## **CHAPTER 28A - Office of Child Care Services.**

**(2000 313 § 8.)**

**(Former title: Office for Children.)**

§ 10 amended, 1999, 3 § 1; **section amended**, 1999, 127 § 37. (See 1999, 3 § 26; 127 § 390.)

§ 10C added, 2000, 85 § 2. (See 2000, 85 § 17.)

§ 11B added, 1999, 3 § 2. (See 1999, 3 § 26.)

## **CHAPTER 29 - State Finance.**

§ 2C½ amended, 1999, 127 § 38; **section amended**, 2000, 236 § 8. (See 1999, 127, 385; 2000, 236 § 104.)

§ 2F amended, 2000, 313 § 9.

§ 2G amended, 2000, 313 § 10.

§ 2H, first paragraph, sentence added, 1999, 127 § 39. (See 1999, 127, 390.)

§ 2S revised, 2000, 384 § 7. (See 2000, 384 § 59.)

§ 2U revised, 2000, 159 § 53. (See 2000, 159 § 498.)

§ 2FF, first paragraph, last sentence of clause (d) stricken out, 2000, 159 § 54. (See 2000, 159 § 492.)

§ 2II revised, 2000, 159 § 55. (See 2000, 159 § 498.)

§ 2RR, subsection (e) added, 1999, 127 § 41. (See 1999, 127 § 390.)

§ 2WW added, 1999, 3 § 3.

§ 2XX added, 1999, 127 § 42. (See 1999, 127 § 390.)

§ 2YY added, 2000, 159 § 56. (See 2000, 159 § 498.)

§ 2ZZ added, 2000, 159 § 56. (See 2000, 159 § 498.)

§ 3 amended, 2000, 313 § 11.

§ 4 amended, 2000, 313 § 12.

§ 5B amended, 2000, 313 § 13.

§ 7A amended, 2000, 313 § 14.

§ 7B amended, 2000, 313 § 15.

§ 7C amended, 2000, 313 § 16.

§ 7E amended, 2000, 313 § 17.

§ 7G amended, 2000, 313 § 18.

§ 7I amended, 2000, 313 § 19.

§ 7J amended, 2000, 313 § 20.

§ 7K amended, 2000, 313 § 21.

§ 31 amended, 2000, 34 § 3, 4, 5. (See 2000, 34 § 10.)

§ 34 amended, 2000, 236 § 9. (See 2000, 236 § 104.)

§ 34A amended, 2000, 236 § 10. (See 2000, 236 § 104.)

§ 49 amended, 1999, 68 §§ 4, 4A, 5; paragraph added, 2000, 235 § 15. (1999, 68 § 58; 2000, 235 § 107.)

§ 52 repealed, 1999, 68 §§ 7. (1998, 68 § 58.)

§ 53, first four sentences stricken out, three sentences inserted, 1999, 68 §§ 8. (1998, 68 § 58.)

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## **CHAPTER 29 - continued**

§ 53A amended, 1999, 68 §§ 9, 10. (1998, 68 § 58.)

§ 54 revised, 1999, 68 § 11. (1998, 68 § 58.)

### **CHAPTER 29A - Financing the Judicial System.**

### **CHAPTER 29B - State Revenue Growth Control.**

(Chapter repealed, 1998, 194 § 103.) (See 1998, 194 § 433.)

### **CHAPTER 29C - Water Pollution Abatement Revolving Loan Program.**

(New chapter inserted, 1989, 275 § 8.)

§ 6, second paragraph, sentence inserted after second sentence, 2000, 159 § 57; **section amended**, 2000, 236 § 11. (See 2000, 159 § 498; 236 § 104.)

§ 18, subsection (g), sentence inserted after first sentence, 2000, 159 § 58; **section amended**, 2000, 236 § 12. (See 2000, 159 § 498; 236 § 104.)

### **CHAPTER 29D - THE HEALTH CARE SECURITY TRUST.**

(New chapter inserted, 1999, 127 § 43.) (See 1999, 127 § 390.)

§ 3, paragraph (b) revised, 2000, 159 § 59; paragraph (I) added, 2000, 159 § 60. (See 2000, 159 § 498.)

### **CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.**

§ 39K, paragraph added, 2000, 159 § 61. (See 2000, 159 § 498.)

§ 39M amended, 2000, 159 §§ 62, 63. (See 2000, 159 § 498.)

### **CHAPTER 30A - State Administrative Procedure.**

### **CHAPTER 30B - Uniform Procurement Act.**

(New chapter inserted, 1989, 687 § 3.)

§ 1, subsection (b), clause (9) revised, 2000, 159 § 65; clauses (32) and (33) revised, clause (34) added, 2000, 54 § 2. (See 2000, 54 § 12; 2000, 159 § 498.)

§ 2 amended, 2000, 159 § 66. (See 2000, 159 § 498.)

§ 4 amended, 2000, 159 §§ 67, 68, 69, 70. (See 2000, 159 § 498.)

§ 5 amended, 2000, 159 § 71; subsection (g), last sentence revised, 2000, 159 § 72. (See 2000, 159 § 498.)

§ 6 amended, 2000, 159 § 73; subsection (j), last sentence revised, 2000, 159 § 74. (See 2000, 159 § 498.)

§ 7 amended, 2000, 128 § 1; **section amended**, 2000, 159 § 75. (See 2000, 159 § 498.)

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## CHAPTER 30B - continued

§ 13, clause (4) revised, clause (5) inserted, 2000, 159 § 76. (See 2000, 159 § 498.)

§ 15 amended, 2000, 159 § 77. (See 2000, 159 § 498.)

§ 16, subsection (i) added, 2000, 159 § 78. (See 2000, 159 § 498.)

## CHAPTER 31 - Civil Service.

§ 58A added, 2000, 242.

§ 60 A added, 2000, 312 § 1.

§ 61A amended, 2000, 31 §§ 1, 2, 3, 4, 5; fifth paragraph, sixth and seventh sentences stricken out, 2000, 31 § 6.

## CHAPTER 31A - Municipal Personnel Systems.

## CHAPTER 32 - Retirement Systems and Pensions.

§ 1, definition of “Maximum age” revised, 2000, 123 § 2; definition of “State police surgeon” inserted, 2000, 159 § 79. (See 2000, 159 § 498.)

§ 3 amended, 2000, 123 §§ 3, 4, 5, 6; subdivision (2), paragraph (a), subparagraphs (xii) and (xiii) stricken out, 2000, 123 § 7; paragraph (e) stricken out, 2000, 123 § 8; paragraph (f) revised, 2000, 193 § 9; **section amended**, 2000, 123 §§ 7A, 9A, 10, 11, 12, 13, 14, 15; **section amended**, 2000, 159 §§ 80, 81. (See 2000, 159 §§ 485, 498.)

§ 4, subdivision (1), paragraph (g½) inserted, 2000, 114 § 1.

§ 5 amended, 1999, 68 § 12; subdivision (1), paragraph (a), second and third sentences stricken out and one sentence inserted, 2000, 123 § 16; paragraphs (c) and (d) stricken out, 2000, 123 § 17; paragraph (f) stricken out, 2000, 123 § 18; paragraph (h) stricken out, 2000, 123 § 19; paragraph (k) stricken out, 2000, 123 § 20; **section amended**, 2000, 123 § 21; subdivision (4) added, 2000, 114 § 2; **section amended**, 2000, 159 § 82. (See 1999, 68 § 58; 2000, 159 § 498.)

§ 5B amended, 2000, 159 §§ 83, 84, 85, 86. (See 2000, 159 § 498.)

§ 6 amended, 2000, 123 §§ 22, 23;

§ 7, subdivision (1) amended, 2000, 123 § 23A; subdivision (2), paragraph (b½) stricken out, 2000, 123 § 24.

§ 9 amended, 2000, 159 § 87. (See 2000, 159 § 498.)

§ 10 amended, 2000, 123 §§ 24A, 24B, 24C, 24D; subdivision (4), last sentence stricken out, 2000, 123 § 24E.

§ 12, option (d) of subdivision (2), eleventh paragraph stricken out, 2000, 159 § 88; **section amended**, 2000, 159 §§ 89, 90. (See 2000, 159 § 498.)

§ 20, subsection (5), paragraph (c) revised, 2000, 159 § 91. (See 2000, 159 § 498.)

§ 21, subdivision (3), paragraph (g) added, 2000, 114 § 3.

§ 22, subdivision (1), paragraph (b) revised, 2000, 114 § 4; paragraph (b½), sentence added, 2000, 114 § 5.



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## CHAPTER 32 - continued

- § 23 amended, 1999, 64 § 1; **section amended**, 1999, 109.
- § 26, subdivision (1) definition of "Department" inserted, 2000, 159 § 92; subdivision (5) added, 2000, 159 § 93. (See 2000, 159 § 498.)
- § 28K, paragraph added, 2000, 159 § 94. (See 2000, 159 § 498.)
- § 90A amended, 2000, 159 § 95. (See 2000, 159 § 498.)
- § 90C¾ added, 2000, 159 § 96. (See 2000, 159 § 498.)
- § 90F **repealed**, 2000 § 123 § 25.
- § 90G **repealed**, 2000 § 123 § 25.
- § 90G½ **repealed**, 2000 § 123 § 25.
- § 90G¾ amended, 2000 § 123 §§ 26, 27.
- § 90H **repealed**, 2000 § 123 § 28.
- § 90I **repealed**, 2000 § 123 § 28.
- § 91, paragraph (e) added. 2000, 114 § 6.
- § 94 amended, 2000, 313 § 22.
- § 100, first paragraph, second sentence stricken out, 2000, 159 § 97; **section amended**, 2000, 159 §§ 98, 99. (See 2000, 159 § 498.)
- § 100A, subsection (e) revised, 2000, 313 § 23.
- § 101 amended, 2000, 159 § 100. (See 2000, 159 § 498.)
- § 103, paragraph (i) added, 1999, 127 § 51; **section amended**, 2000, 159 § 101. (See 1999, 127 § 390; 2000, 159 § 498.)

## CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

- § 17G added, 2000, 81 § 1.
- § 17H added, 2000, 355 § 1.
- § 22 added, 2000, 80 § 1. (See 2000, 80 §§12, 13, 14,15.)
- § 23 added, 345 § 1.

## CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and Their Dependents.

## CHAPTER 33 - Militia.

## CHAPTER 34 - Counties and County Commissioners.

## CHAPTER 34A - County Charter Procedures.

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**CHAPTER 34B - Abolition of County Government.**

(New chapter inserted, 1999, 127 § 53.) (See 1999, 127 § 390.)

§ 18, paragraph inserted after second paragraph, 2000, 159 § 102. (See 2000, 159 § 498.)

**CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.**

**CHAPTER 36 - Registers of Deeds.**

**CHAPTER 37 - Sheriffs.**

§ 17, second paragraph revised, 2000, 159 § 103. (See 2000, 159 § 489.)

**CHAPTER 38 - Medical Examiners.**

§ 2, eighth paragraph, sentence inserted after first sentence, 2000, 171.

§ 2A added, 2000, 247 § 1.

§ 3 amended, 2000, 247 §§ 2, 3.

§ 4, last paragraph, sentence added, 2000, 247 § 4.

**CHAPTER 39 - Municipal Government.**

§ 6A amended, 1999, 7 § 1.

**CHAPTER 40 - Powers and Duties of Cities and Towns.**

§ 4E, seventh paragraph revised, 2000, 384 § 8. (See 2000, 384 § 59.)

§ 21, clause 23, paragraph (b), sentence added, 2000, 384 § 9. (See 2000, 384 § 59.)

§ 22A, first paragraph, sentence added, 2000, 90; second paragraph, last sentence revised, 2000, 384 § 10. (See 2000, 384 § 59.)

§ 32, two paragraphs added, 2000, 299.

§ 49, second paragraph, sentence inserted after first sentence, 2000, 105.

**CHAPTER 40A - Zoning Regulations.**

§ 3 amended, 1999, 127 § 54. (See 1999, 127 § 390.)

§ 6 amended, 2000, 29; seventh paragraph revised, 2000, 232.

§ 9 paragraph inserted after fourth paragraph, 2000, 148.

**CHAPTER 40B - Regional Planning.**

§ 26 amended, 2000, 313 § 24.

**CHAPTER 40C - Historic Districts.**

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- CHAPTER 40D - Industrial Development of Cities and Towns.**
- CHAPTER 40E - Massachusetts Industrial Development Authority.**
- CHAPTER 40F - The Massachusetts Community Development Finance Corporation.**
- CHAPTER 40G - Massachusetts Technology Development Corporation.**
- CHAPTER 40H - Community Economic Development Assistance Corporation.**
- CHAPTER 40I - THE BAY STATE SKILLS CORPORATION ACT.**  
(Chapter repealed, 1996, 151 § 196.) (See 1996, 151 §690.)
- CHAPTER 40J - Massachusetts Technology Park Corporation.**
- CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORATION.**  
(Chapter repealed, 1996, 58 § 23.) (See 1996, 58 § 105.)
- CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.**
- CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.**
- CHAPTER 40N - MODEL WATER AND SEWER COMMISSION.**  
(New chapter inserted, 1992, 343 § 2.)
- CHAPTER 40O - BUSINESS IMPROVEMENT DISTRICTS.**  
(New chapter inserted, 1994, 173.)
- CHAPTER 40P - The Massachusetts Rent Control Prohibition Act.**  
(New chapter inserted, 1994, 368 § 1.) (See 1994, 368 §2.) (Voted by the people under Art. 48.) (Chapter stricken out, 1997, 19 § 10.) (See 1997, 19 § 127.)
- CHAPTER 40Q - The Massachusetts Rent Control Prohibition Act.**  
(New chapter inserted, 1997, 19 § 10.) (See 1997, 19 § 127.)
- CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.**
- § 19K added, 1999, 170 § 1.
- § 108B amended, 1999, 170 § 2.
- § 108O amended, 2000, 423 §§ 1, 2.
- § 108P added, 1999, 170 § 3.

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**CHAPTER 42 -     Boundaries of Cities and Towns.**

**CHAPTER 43 -     City Charters.**

§ 17A amended, 1999, 7 § 2.

**CHAPTER 43A -   Standard Form of Representative Town Meeting Government.**

**CHAPTER 43B -   Home Rule Procedures.**

**CHAPTER 43C -   OPTIONAL FORMS OF MUNICIPAL ADMINISTRATION ACT.**  
(New chapter inserted, 1987, 756.)

**CHAPTER 44 -     Municipal Finance.**

§ 8, clauses (8) and (8A) revised, 2000, 12 § 1.

§ 53A½ added, 2000, 274.

§ 72 revised, 1999, 127 § 55. (See 1999, 127 § 390.)

**CHAPTER 44A -   QUALIFIED BOND ACT.**

**CHAPTER 44B - COMMUNITY PRESERVATION.**  
(New chapter inserted, 2000, 267 § 1.)

**CHAPTER 45 -     Public Parks, Playgrounds and the Public Domain.**

**CHAPTER 46 -     Return and Registry of Births, Marriages and Death.**

**CHAPTER 47 -     Infirmaries.**

**CHAPTER 48 -     Fires, Fire Departments and Fire Districts.**

**CHAPTER 49 -     Fences, Fence Viewers, Pounds and Field Drivers.**

**CHAPTER 49A -   Use of Certain Animals for Scientific Investigation, Experiment or Instruction.**

**CHAPTER 50 -     General Provisions Relative to Primaries, Caucuses and Elections.**

**CHAPTER 51 -     Voters.**

§ 4 revised, 2000, 384 § 11. (See 2000, 384 § 59.)

§ 47C amended, 2000, 384 §§ 12, 13. (See 2000, 384 § 59.)



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**CHAPTER 52 - Political Committees.**

**CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.**

**CHAPTER 54 - Elections.**

§ 143A amended, 2000, 313 § 25.

**CHAPTER 54A - Election of City and Town Officers by Proportional Representation and Preferential Voting.**

**CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests.**

§ 9, first paragraph revised, 2000, 159 § 108. (See 2000, 159 § 498.)

**CHAPTER 55A - THE MASSACHUSETTS CLEAN ELECTION LAW.**  
(Chapter revised, 1998, 395 § 2) (New title inserted, 1998, 395 § 2,  
Former title: Limited Public Financing of Campaigns for Statewide  
Elective Office.)

§ 17, paragraph (b) revised, 1999, 127 § 58. (See 1999, 127 § 390.)

**CHAPTER 55B - The State Ballot Law Commission.**

**CHAPTER 56 - Violations of Elections Laws.**

**CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportionment of Representatives.**

§ 4 amended, 2000, 313 § 26.

**CHAPTER 58 - General Provisions Relative to Taxation.**

**CHAPTER 58A - Appellate Tax Board.**  
(Former title: Board of Tax Appeals.)  
(Chapter revised, 1998, 485 § 2.) (See 1998, 485 § 23.)

§ 7, paragraph inserted after first paragraph, 2000, 324 § 1.

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## **CHAPTER 59 - Assessment of Local Taxes.**

§ 5 amended, 2000, 159 § 109; clause Seventeenth E added, 2000, 380 § 1; clause Twenty-second A, sentence added in first paragraph; 2000, 159 § 110; clause Twenty-second B, sentence added in first paragraph, 2000, 159 § 111; clause Twenty-second C, sentence added in first paragraph, 2000, 159 § 112; clause Twenty-second E, sentence added in first paragraph, 2000, 159 § 113; clause Forty-first D added, 2000, 380 § 2; clause Fifty-fourth added, 2000, 159 § 114. (See 2000, 159 § 498.)

§ 5I amended, 2000, 159 § 115; two paragraphs added, 2000, 159 § 116. (See 2000, 159 § 498.)

§ 5K added, 1999, 127 § 59. (See 1999, 127 § 390.)

§ 21C, paragraph (m) revised, 2000, 70.

§ 38H, subsection (c), paragraph added, 1999, 24 § 1; **section amended**, 2000, 128 § 2. (See 1999, 24 § 2; 2000, 128 § 13.)

§ 59, paragraph added, 2000, 324 § 2.

§ 59A, fourth sentence stricken out and two sentences inserted, 1999, 158 § 3.

§ 64, paragraph added, 2000, 324 § 3.

§ 65, paragraph added, 2000, 324 § 4.

## **CHAPTER 59A - Classification of Real Property.**

## **CHAPTER 60 - Collection of Local Taxes.**

§ 3A amended, 2000, 159 § 117. (See 2000, 159 § 498.)

§ 79 amended, 2000, 159 § 118. (See 2000, 159 § 498.)

## **CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.**

## **CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.**

## **CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products. (Former title: Taxation of Forest Products and Classification and of Forest Lands.)**

## **CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.**

## **CHAPTER 61B - Classification and Taxation of Recreational Land.**

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## **CHAPTER 62 - Taxation of Incomes.**

- § 2, subsection (a), paragraph (2) amended, 2000, 79 § 1; subsection (c), paragraph (2) revised, 1999, 127 § 64; subparagraph (a), second sentence revised, 2000, 236 § 13; subparagraph (b), second sentence revised, 2000, 236 § 14; subsection (e), paragraph (I) added, 1999, 127 § 67; stricken out, 2000, 313 § 27; subparagraph (1) revised, 2000, 236 § 15; subparagraph (2), first sentence revised, 2000, 236 § 16; paragraph (M) added, 2000, 313 § 28. (See 1999, 127 § 376; 2000, 236 § 104.)
- § 3 amended, 1999, 127 § 68; paragraph (a) of Part B, subparagraph (8) revised, 1999, 127 § 69; subparagraph (9) revised, 1999, 127 § 70; subparagraph (12) added, 1999, 127 § 71; subparagraph (13) added, 2000, 159 § 119; paragraph (b), subparagraph (5) revised, 1999, 127 § 72. (See 1999, 127 §§ 379, 390; 2000, 159 § 498.)
- § 4 amended, 1999, 127 §§ 73, 74, 75; subsection (c), last paragraph stricken out, 1999, 127 § 77; paragraph (b) revised. 2000, 343 § 1. (See 1999, 127 §§ 372, 373, 374, 376.)
- § 5 amended, 1999, 127 § 78. (See 1999, 127 § 386.)
- § 6, subsection (h), second sentence revised, 1999, 127 § 79; subsection (j), paragraph (1) revised, 2000, 159 § 120; paragraph (4) revised, 2000, 159 § 121; subsection (k) added, 1999, 127 § 80; paragraph (2) amended, 1999, 127 § 81. (See 1999, 127 §§ 379, 387, 388, 390; see 2000, 159 § 498.)
- § 6I added, 1999, 127 § 82. (See 1999, 127 § 378.)
- § 6I added, 2000, 344 § 2.
- § 8, paragraph (c), sentence inserted after third sentence, 2000, 159 § 122; last paragraph revised, 2000, 159 § 123. (See 2000, 159 § 498.)

## **CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.**

## **CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.**

## **CHAPTER 62C - Administrative Provisions Relative to State Taxation.**

- § 32, paragraph added, 1999, 127 § 83. (See 1999, 127 § 390.)
- § 33A, paragraph inserted after second paragraph, 2000, 324 § 5.
- § 36, paragraph added, 2000, 166 § 6. (See 2000, 166 § 19.)
- § 37C, subsection (f) revised, 1999, 127 § 84. (See 1999, 127 § 375.)
- § 40, subsection (b), first sentence revised, 1999, 127 § 85. (See 1999, 127 § 375.)
- § 65, paragraph added, 1999, 127 § 86. (See 1999, 127 § 390.)
- § 86 added, 1999, 68 § 13. (1999, 68 § 58.)

## **CHAPTER 62D - SET-OFF DEBT COLLECTION.**

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## **CHAPTER 62E - WAGE REPORTING SYSTEM.**

§ 1 amended, 1999, 127 § 87. (See 1999, 127 § 390.)

§ 8, two sentences inserted after first sentence, 2000, 166 § 7.

## **CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.**

## **CHAPTER 63 - Taxation of Corporations.**

§ 31A, paragraphs (k) and (l) revised, 1999, 127 § 88. (See 1999, 127 § 390.)

§ 31H added, 1999, 127 § 90. (See 1999, 127 § 378.)

§ 38Q, subsection (a) revised, 2000, 159 § 124; subsection (d) revised, 2000, 159 § 125. (See 2000, 159 § 498.)

§ 52A, paragraph (1) subparagraph (c) revised, 2000, 128 § 3.

## **CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.**

## **CHAPTER 63B - Declaration of Estimated Tax by Corporations.**

## **CHAPTER 63C - Taxation of Income of Certain Corporations. (Chapter repealed, 1985, 593 § 24.)**

## **CHAPTER 64 - Taxation of Stock Transfers.**

## **CHAPTER 64A - Taxation of Sales of Gasoline. (Former title: Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)**

§ 1 amended, 2000, 159 § 126. (See 2000, 159 § 498.)

## **CHAPTER 64B - Excise upon Charges for Meals Served to the Public.**

## **CHAPTER 64C - Cigarette Excise.**

## **CHAPTER 64D - Excise on Deeds, Instruments and Writings.**

§ 11 revised, 2000, 159 § 127. (See 2000, 159 § 498.)

§ 13, first and second paragraphs revised, 2000, 159 § 128. (See 2000, 159 § 498.)

## **CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.**

§ 4, last sentence revised, 2000, 159 § 129. (See 2000, 159 § 498.)



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**CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.**

**CHAPTER 64G - Room Occupancy Excise.**

**CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.**

§ 1 amended, 1999, 127 § 91. (See 1999, 127 § 383.)

§ 3, subsection (b) inserted, 2000, 159 § 130. (See 2000, 159 § 498.)

§ 6, paragraph (rr) added, 1999, 127 § 92; added, 2000, 235 § 16; paragraph (ss) added, 2000, 159 § 131; **section amended**, 2000, 209. (See 1999, 127 § 383; 2000, 159 § 498; 235 § 106.)

**CHAPTER 64I - Tax on Storage, Use or Other Consumption of Certain Tangible Personal Property.**

§ 34, second sentence revised, 2000, 159 § 132. (See 2000, 159 § 498.)

**CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.**

**CHAPTER 64K - Controlled Substances Tax.**

(New Chapter inserted, 1993, 110 § 127.) (See 1993, 110 § 390.)

**CHAPTER 65 - Taxation of Legacies and Successions.**

**CHAPTER 65A - Taxation of Transfers of Certain Estates.**

**CHAPTER 65B - Settlement of Disputes Respecting the Domicile of Decedents for Death Tax Purposes.**

**CHAPTER 65C - Massachusetts Estate Tax.**

**CHAPTER 66 - Public Records.**

§ 10, subsection (d), last paragraph revised, 2000, 159 § 133. (See 2000, 159 § 498.)

§ 17A, two sentences inserted after first sentence, 2000, 166 § 8.

**CHAPTER 66A - Fair Information Practices.**

**CHAPTER 67 - Parishes and Religious Societies.**

**CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.**

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**CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.**

**CHAPTER 69 - Powers and Duties of the Department of Education.**

- § 1 amended, 2000, 159 § 134. (See 2000, 159 § 489.)
- § 1A, four paragraphs inserted after seventh paragraph, 2000, 159 § 135. (See 2000, 159 § 498.)
- § 1B amended, 2000, 159 § 136. (See 2000, 159 § 498.)
- § 1I, two paragraphs inserted after the eight paragraph, 2000, 159 § 137. (See 2000, 159 § 498.)

**CHAPTER 70 - School Funds and State Aid for Public Schools.  
(Former title: School Funds and Other State Aid for Public Schools.) (Chapter revised, 1993, 71 § 32.)**

- § 2, definition of “Minimum required local contribution” revised, 1999, 127 § 93. (See 1999, 127 § 93.)
- § 4 revised, 2000, 159 § 139. (See 2000, 159 § 498.)

**CHAPTER 70A - EQUAL EDUCATIONAL OPPORTUNITY GRANTS.  
(Chapter repealed, 1993, 71 § 33.)**

**CHAPTER 70B - SCHOOL BUILDING ASSISTANCE PROGRAM.  
(New chapter inserted, 2000, 159 § 140. (See 2000, 159 § 498.))**

**CHAPTER 71 - Public Schools.**

- § 1C added, 2000, 159 § 141. (See 2000, 159 § 498.)
- § 37G, subsection (c) added, 2000, 159 § 142. (See 2000, 159 § 498.)
- § 38G, first paragraph, definition of “Temporary certificate” inserted, 2000, 284 § 1; paragraph inserted after twentieth paragraph, 2000, 159 § 143; paragraph inserted after twenty-third paragraph, 2000, 159 § 144; definition of “Provisional educator with advanced standing” revised, 2000, 264; **section amended**, 2000, 284 § 2. (See 2000, 159 §§ 494, 496.)
- § 38Q amended, 2000, 159 § 145; first paragraph, sentence inserted after second sentence, 2000, 159 § 146. (See 2000, 159 § 498.)
- § 38Q½ added, 2000, 159 § 147. (See 2000, 159 § 498.)
- § 59C, fourth paragraph revised, 2000, 159 § 148. (See 2000, 159 § 498.)
- § 68, sentence inserted after sixth sentence, 2000, 85 § 3. (See 2000, 85 § 17.)
- § 89, subsection (b), sentence added, 2000, 227 § 1; subsection (i) revised, 2000, 227 § 2; subsection (aa), paragraph added, 2000, 227 § 3; subsection (ff), sentence added, 2000, 227 § 4; subsection (ll) amended, 2000, 227 § 5; subsection (qq) and (rr) added, 2000, 227 § 6.

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## CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.

## CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

- § 1, definition of “Free appropriate public education” inserted, 2000, 159 § 149; definition of “Least restrictive environment” revised, 2000, 159 § 150; definition of “School age child with special needs” stricken out and definition of “school age child with a disability” inserted, definitions of “school age child requiring special education” and “Special education” revised, 2000, 159 § 151; definition of “School age child with a disability” revised, 2000, 159 § 152. (See 2000, 159 §§ 489, 493.)
- § 2, first paragraph stricken out and three paragraphs inserted, 2000, 159 § 153; first paragraph revised, 2000, 159 § 154; **section amended**, 2000, 159 § 155. (See 2000, 159 §§ 489, 493.)
- § 3, first and second paragraphs stricken out, three paragraphs inserted, 2000, 159 § 156; **section amended**, 2000, 159 § 157; fifth paragraph, sentence inserted after first sentence, 2000, 159 § 158; fourth and fifth sentences revised, 2000, 159 § 159; seventh to tenth paragraphs, inclusive, stricken out, three paragraphs inserted, 2000, 159 § 160; eleventh paragraph, first sentence revised, 2000, 159 § 161; twelfth paragraph, sentence inserted after third sentence, 2000, 159 § 162; third sentence revised, 2000, 159 § 163; paragraph inserted after twelfth paragraph, 2000, 159 § 164; sixteenth paragraph, first sentence revised, 2000, 159 § 165; third sentence stricken out and two sentences inserted, 2000, 159 § 166; third sentence revised, 2000, 159 § 167; paragraph added, 2000, 159 § 168. (See 2000, 159 §§ 489, 493, 498.)
- § 4 amended, 2000, 159 § 169. (See 2000, 159 § 498.)
- § 5 amended, 159 § 170. (See 2000, 159 § 489.)
- § 5A revised, 2000, 159 § 171. (See 2000, 159 § 494.)
- § 5B added, 2000, 159 § 172. (See 2000, 159 § 498.)
- § 5C added, 2000, 159 § 172. (See 2000, 159 § 498.)
- § 6 amended, 2000, 159 § 173. (See 2000, § 498.)
- § 7 amended, 2000, 159 § 174. (See 2000, § 498.)
- § 8 amended, 2000, 159 § 175. (See 2000, § 489.)
- § 9 amended, 2000, 159 § 176. (See 2000, § 489.)
- § 9A added, 2000, 159 § 177. (See 2000, § 498.)
- § 10, first, second and third paragraphs revised, 2000, 159 § 178; **section amended**, 2000, 159 § 179. (See 2000, 159 §§ 489, 498.)
- § 11A amended, 2000, 159 § 180. (See 2000, 159 § 489.)
- § 12 amended, 2000, 159 § 181. (See 2000, 159 § 489.)
- § 12C amended, 2000, 159 §§ 182, 183. (See 2000, 159 § 489.)

## CHAPTER 72 - School Registers and Returns.

## CHAPTER 73 - State Colleges and Community Colleges. (Former title: State Teachers Colleges and Community Colleges.)

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**CHAPTER 74 - Vocational Education.**

- § 25 amended, 2000, 159 § 184. (See 2000, 159 § 498.)  
§ 26, last paragraph stricken out, 2000, 159 § 185. (See 2000, 159 § 498.)  
§ 28, last paragraph stricken out, 2000, 159 § 186. (See 2000, 159 § 498.)  
§ 31C **repealed**, 2000, 159 § 187. (See 2000, 159 § 498.)  
§ 32 revised, 2000, 313 § 29.  
§ 33 revised, 2000, 159 § 188. (See 2000, 159 § 498.)  
§ 35, last sentence stricken out, 2000, 159 § 189. (See 2000, 159 § 498.)  
§ 35A **repealed**, 2000, 159 § 190. (See 2000, 190 § 498.)

**CHAPTER 74A - INDEPENDENT AGRICULTURAL AND TECHNICAL SCHOOL**  
(Chapter inserted 2000, 159 § 191.) (See 2000, 159 § 498.)

**CHAPTER 75 - University of Massachusetts.**  
(Former title: Massachusetts State College.)

- § 1A, fourth paragraph, last sentence revised, 1999, 11.  
§ 15A added, 1999, 127 § 103. (See 1999, 127 § 390.)  
§ 38 amended, 1999, 127 § 104; subsection (a) revised, 2000, 313 § 30. (See 1999, 127 § 390.)

**CHAPTER 75A - University of Lowell.**  
(Former title: Lowell Technological Institute of Massachusetts.)  
(Chapter repealed, 1991, 142 § 23.) (See 1991, 142 §§ 4, 50.)

**CHAPTER 75B - Southeastern Massachusetts University.**  
(Former title: South Eastern Massachusetts University)  
(Former title: Southeastern Massachusetts Technological Institute.)  
(Chapter repealed, 1991, 142 § 24. (See 1991, 142 §§ 19, 50.)

**CHAPTER 75C - Private Correspondence Schools.**

**CHAPTER 75D - Private Business Schools.**

**CHAPTER 76 - School Attendance.**

- § 12B, paragraph added, 2000, 159 § 192. (See 2000, 159 § 498.)

**CHAPTER 77 - School Offenders and County Training Schools.**



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**CHAPTER 78 - Libraries.**

§ 19C amended, 2000, 159 §§ 193, 194, 195, 196. (See 2000, 159 § 498.)

**CHAPTER 78A - YOUTH CONSERVATION AND SERVICE CORPS.**  
(Chapter inserted 1993, 19 § 19.)

**CHAPTER 79 - Eminent Domain.**

**CHAPTER 79A - Relocation Assistance.**

**CHAPTER 80 - Betterments.**

**CHAPTER 80A - Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.**

**CHAPTER 81 - State Highways.**

**CHAPTER 81A - THE MASSACHUSETTS TURNPIKE AUTHORITY AND THE METROPOLITAN HIGHWAY SYSTEM.**  
(Chapter inserted 1997, 3 § 6.)

§ 10, subsection (a), six sentences added, 2000, 235 § 17; subsection (b), six sentences added, 2000, 235 § 18. (See 2000, 235 § 107.)

**CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.**

**CHAPTER 83 - Sewers Drains and Sidewalks.**

**CHAPTER 84 - Repair of Ways and Bridges.**

**CHAPTER 85 - Regulations and By Laws to Ways and Bridges.**

§ 2B amended, 2000, 159 § 197. (See 2000, 159 § 498.)

**CHAPTER 86 - Boundaries of Highways and Other Public Places, and Encroachments Thereon.**

**CHAPTER 87 - Shade Trees.**

**CHAPTER 88 - Ferries, Canals and Public Landings.**

**CHAPTER 89 - Law of the Road.**

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## **CHAPTER 90 - Motor Vehicles and Aircraft.**

- § 2, eighth paragraph, ninth to fourteenth sentences, inclusive, stricken out, paragraph inserted, 2000, 384 § 15; **section amended**, 2000, 422. (See 2000, 384 § 59.)
- § 7B, paragraph added, 2000, 414.
- § 8B, first paragraph amended, 1999, 127 § 106. (See 1999, 127 § 390.)
- § 8E amended, 2000, 159 § 198. (See 2000, 159 § 498.)
- § 19 amended, 2000, 159 § 199. (See 2000, 159 § 498.)
- § 19F amended, 2000, 159 § 200. (See 2000, 159 § 498.)
- § 20, after third paragraph, paragraph inserted, 1999, 127 § 107. (See 1999, 127 § 390.)
- § 20G added, 2000, 235 § 19. (See 2000, 235 § 107.)
- § 22, subsection (i) added, 2000, 166 § 9.
- § 24, paragraph (a) of subdivision (1), subparagraph (1), second paragraph revised, 1999, 127 § 108; paragraph (a) of subdivision (2), second paragraph revised, 1999, 127 § 109. (See 1999, 127 § 390.)
- § 24I revised, 2000, 294 § 1.
- § 33 revised, 2000, 87 § 8.

## **CHAPTER 90A - The Highway Safety Act.**

### **CHAPTER 90B - Motorboats, Other Vessels and Recreational Vehicles.**

**Former title: Motorboats and Other Vessels.**

**(Title revised, 1998, 463 § 72.)**

- § 11, paragraph inserted after third paragraph, 1999, 127 § 110. (See 1999, 127 § 390.)
- § 22 amended, 1999, 127 § 111; second paragraph, two sentences added, 1999, 127 § 112. (See 1999, 127 § 390.)

### **CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.**

### **CHAPTER 90D - Motor Vehicle Certificate of Title.**

- § 15A amended, 2000, 235 § 22. (See 2000, 235 § 107.)

### **CHAPTER 90E - Bikeways.**

### **CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.**

**(New chapter inserted, 1990, 246 § 2.)**

### **CHAPTER 90G - CIVIL INFRACTIONS.**

**(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)**

**(Chapter repealed, 1993, 182 § 8.)**

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- CHAPTER 90H - GATEWAY ROADS PROGRAM.**  
(New chapter inserted, 1994, 273 § 26.)
- CHAPTER 91 - Waterways.**
- CHAPTER 91A - Port of Boston Commission.**  
(Former title: Port of Boston Authority.)
- CHAPTER 92 - Metropolitan Sewers, Water and Parks.**
- CHAPTER 92A - Commonwealth Zoological Corporation.**  
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)
- CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.**  
(New chapter inserted, 1992, 286 § 165.)
- CHAPTER 93 - Regulation of Trade and Certain Enterprises.**
- § 9B repealed, 2000, 159 § 202. (See 2000, 159 § 498.)
- CHAPTER 93A - Regulation of Business Practices for Consumers Protection.**
- CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufactures, Distributors and Dealers.**
- CHAPTER 93C - Protection of Consumers against Careless and Erroneous Billings.**
- CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.**
- CHAPTER 93E - Regulation of Dealers Agreements for the Sale of Gasoline.**
- CHAPTER 93F - Regulating Certain Business Practices Between Motion Picture Distributors and Exhibitors.**
- CHAPTER 93G - EQUIPMENT DEALERS.**  
(New chapter inserted, 1996, 265.)
- CHAPTER 94 - Inspection and Sale of Food, Drugs and Various Articles.**
- CHAPTER 94A - MILK CONTROL.**
- CHAPTER 94B - Hazardous Substances.**

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- CHAPTER 94C - Controlled Substances Act.**
- CHAPTER 94D - Controlled Substances Therapeutic Research Act.**  
(New chapter inserted, 1991, 480 § 1.)
- CHAPTER 94E - Provisions Concerning Certain Tobacco Manufacturers.**  
(New chapter inserted, 2000, 117 § 2.)
- CHAPTER 95 - Measuring of Leather.**
- CHAPTER 96 - Measurement of Lumber.**
- CHAPTER 97 - Surveying of Land.**
- CHAPTER 98 - Weights and Measures.**
- CHAPTER 99 - The Metric System of Weights and Measures.**
- CHAPTER 100 - Auctioneers.**
- CHAPTER 100A - MOTOR VEHICLE DAMAGE REPAIR SHOPS.**  
(New chapter inserted, 1988, 273 § 32.) (See 1988, 273 § 77.)
- CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.**
- § 22 amended, 2000, 313 § 31.  
§ 26 amended, 2000, 313 § 32.
- CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.**
- CHAPTER 103 - Pilots.**
- § 31 revised, 2000, 365 § 1; first paragraph revised, 2000, 365 § 2. (See 2000, 365 § 3.)
- CHAPTER 104 - Agents, Consignees and Factors.**
- CHAPTER 104A - Consignment of Fine Art.**
- CHAPTER 105 - Public Warehouses.**
- CHAPTER 105A - SELF-STORAGE FACILITIES.**
- CHAPTER 106 - Uniform Commercial Code.**



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**CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and other Securities, Facsimile Signatures.**  
(Former title: Money and Negotiable Instruments.)

**CHAPTER 107A - Assignments of Accounts Receivable**

**CHAPTER 108 - Criminal Offences Relative to Bills of Lading.**  
(Former title: Bills of Lading.)

**CHAPTER 108A - Partnerships.**

**CHAPTER 109 - Limited Partnerships.**

**CHAPTER 109A - UNIFORM FRAUDULENT TRANSFER ACT.**  
(Chapter revised, 1996, 157.)

**CHAPTER 110 - Labels, Trade Marks, Names and Registration thereof.**

**CHAPTER 110A - Uniform Securities Act.**

**CHAPTER 110B - Registration and Protection of Trademarks.**

**CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.**

**CHAPTER 110D - REGULATION OF CONTROL SHARE ACQUISITIONS.**  
(New chapter inserted, 1987, 272 § 1.) (See 1987, 272 § 3.)

**CHAPTER 110E - REGULATION OF CONTROL SHARE ACQUISITIONS OF FOREIGN CORPORATIONS.**  
(New chapter inserted, 1987, 272 § 2.)

**CHAPTER 110F - BUSINESS COMBINATIONS WITH INTERESTED SHARE-HOLDERS.**  
(New chapter inserted, 1989, 242 § 8.)

**CHAPTER 111 - Public Health.**

§ 1 amended, 2000, 54 § 4; 2000, 302 §§ 1, 2. (See 2000, 54 § 12.)

§ 5S added, 2000, 248 § 1. (See 2000, 248 § 4.)

§ 25J added, 2000, 66 § 1. (See 2000, 66 § 6.)

§ 51G added, 2000, 141 § 1.

§ 53D added, 2000, 252 § 1.

§ 70 amended, 2000, 54 § 5. (See 2000, 54 § 12.)

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**CHAPTER 111 - continued**

- § 70G added, 2000, 254 § 2.
- § 203, subsection (f) added, 2000, 54 § 6; **section amended**, 2000, 302 §§ 3, 4. (See 2000, 54 § 12.)
- § 204 amended, 2000, 54 § 7; **section amended**, 2000, 302 § 5. (See 2000, 54 § 12.)
- § 217 added, 2000, 141 § 3.
- § 218 added, 2000, 355 § 2.

**CHAPTER 111A - Drug Addiction Rehabilitation.**  
**(Chapter repealed, 1969, 889 § 23A.)**

**CHAPTER 111B - Alcoholism.**

**CHAPTER 111C - Emergency Medical Services System.**  
**Chapter Revised, 2000, 54 § 3. (See 2000, 54 § 12.)**  
**(Former title: Emergency Medical Care.)**

**CHAPTER 111D - Clinical Laboratories.**

**CHAPTER 111E - DRUG REHABILITATION.**

- § 7, third paragraph stricken out, two paragraphs inserted, 1999, 127 § 114. (See 1999, 127 § 390.)

**CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.**

**CHAPTER 111G - EARLY CHILDHOOD INTERVENTION SERVICES.**

**CHAPTER 111H - MASSACHUSETTS LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ACT.**

**CHAPTER 111I - WOMEN’S, INFANTS AND CHILDREN PROGRAM**  
**(New chapter inserted, 1992, 414 § 3.)**

**CHAPTER 111J - Alcohol and Drug Counselors.**  
**(New chapter inserted, 1999, 127 § 115.)**  
**(See 1999, 127 § 390.)**

**CHAPTER 111K - CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION.**  
**(New chapter inserted, 2000, 159 § 207.) (See 2000, 159 § 498.)**

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## CHAPTER 112 - Registration of Certain Professions and Occupations.

- § 1 amended, 2000, 159 §§ 208, 209. (See 2000, 159 § 498.)
- § 5M added, 2000, 141 § 4.
- § 12V½ added, 1999, 142.
- § 24C added, 2000, 159 § 210. (See 2000, 159 § 498.)
- § 24D added, 2000, 159 § 210. (See 2000, 159 § 498.)
- § 24E added, 2000, 159 § 210. (See 2000, 159 § 498.)
- § 24F added, 2000, 159 § 210. (See 2000, 159 § 498.)
- § 39B amended, 2000, 381.
- § 52A, paragraph added, 2000, 199.
- § 58B added, 2000, 314.
- § 61 amended, 2000, 159 §§ 211, 212. (See 2000, 159 § 498.)
- § 87YY½ added, 1999, 146 § 2. (See 1999, 146 § 7.)
- § 87GGG, paragraph added, 2000, 168.
- § 129A amended, 2000, 348 § 1.
- § 163, definition of "Practice of mental health counseling" revised, 2000, 319.
- § 197, subsection (e), second sentence revised, 2000, 49.
- § 201 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 201 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 202 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 202 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 203 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 203 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 204 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 204 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 205 added, 1999, 127 § 116; **section amended**, 2000, 159 § 214. (See 1999, 127 § 390; 2000, 159 § 498.)
- § 205 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 206 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 206 added, 1999, 146 § 3; stricken out, 2000, 313 § 33. (See 1999, 146 § 7.)
- § 207 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 208 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 209 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 210 added, 1999, 127 § 116. (See 1999, 127 § 390.)
- § 211 added, 2000, 44 § 2.
- § 212 added, 2000, 44 § 2.
- § 213 added, 2000, 44 § 2.
- § 214 added, 2000, 44 § 2.
- § 215 added, 2000, 44 § 2.
- § 215A added, 2000, 159 § 215. (See 2000, 159 § 498.)
- § 216 added, 2000, 44 § 2; two paragraphs added, 2000, 159 § 216. (See 2000, 159 § 491.)
- § 217 added, 2000, 44 § 2.

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**CHAPTER 112 - continued**

- § 218 added, 2000, 44 § 2.
- § 219 added, 2000, 44 § 2.
- § 220 added, 2000, 159 § 217. (See 2000, 159 § 498.)
- § 221 added, 2000, 313 § 34.
- § 222 added, 2000, 313 § 34.
- § 223 added, 2000, 313 § 34.
- § 224 added, 2000, 313 § 34.
- § 225 added, 2000, 313 § 34.
- § 226 added, 2000, 313 § 34.

**CHAPTER 113 - Promotion of Anatomical Science.**

**CHAPTER 114 - Cemeteries and Burials.**

**CHAPTER 115 - Veteran's Benefits.**  
(Former title: State and Military Aid, Soldier's Relief, etc.)

- § 6A revised, 2000, 313 § 35.
- § 6B amended, 1999, 127 §§ 117, 118, 119. (See 1999, 127 § 390.)

**CHAPTER 115A - Soldier's Homes.**

- § 6 amended, 2000, 397.

**CHAPTER 116 - Settlement.**

**CHAPTER 117 - Support by the Commonwealth.**  
(Former title: Support by the Cities and Towns.)

**CHAPTER 117A - SUPPORT BY THE COMMONWEALTH.**  
(New chapter inserted, 1991, 255 § 4.) (See 1991, 255 § 7.)

**CHAPTER 118 - Aid to Families with Dependent Children.**  
(Former title: Aid to Dependent Children.)

**CHAPTER 118A - Assistance to the Aged and Disabled.**  
(Former title: Old Age Assistance and Medical Assistance for the Aged.)

**CHAPTER 118B - The Merit System in the Administration of Aid to Families with Dependent Children and Old Age Assistance.**



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**CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.**

**CHAPTER 118D - Assistance to Persons who are Disabled.**

**CHAPTER 118E - Medical Care and Assistance.**  
(Chapter revised, 1993, 161 § 17.)

§ 9A, subsection (2), clause (i) added, 1999, 127 § 121. (See 1999, 127 § 390.)

§ 10C added, 2000, 81 § 2.

§ 16B, second paragraph, definition of "Eligible person" revised, 1999, 68 § 14; **section amended**, 1999, 127 § 122; second paragraph, definition of "Eligible person" revised, 1999, 127 § 123; definition of "Pharmacy assistance" revised, 1999, 127 § 124; tenth paragraph, second sentence revised, 1999, 127 § 125; fifth and sixth sentences stricken out, 1999, 127 § 126; twelfth paragraph revised, 1999, 127 § 127. (1999, 68 § 58; 127 § 390.)

§ 17A added, 2000, 141 § 5. (See 2000, 141 § 35.)

§ 22 amended, 2000, 159 § 224. (See 2000, 159 § 498.)

§ 23, sixth paragraph revised, 1999, 127 § 129. (See 1999, 127 § 390.)

§ 41A added, 2000, 159 § 225. (See 2000, 159 § 498.)

§ 46A revised, 2000, 159 § 226. (See 2000, 159 § 498.)

**CHAPTER 118F - DEPARTMENT OF MEDICAL SECURITY.**

(New chapter added, 1988, 23 § 45.) (See 1988, 23 § 45.)

(Chapter repealed, 1996, 151 § 274.) (See 1996, 151 § 690.)

**CHAPTER 118G - HEALTH CARE FINANCE AND POLICY.**

(New chapter added, 1996, 151 § 275.) (See 1996, 151 § 690.)

§ 7, paragraph inserted after fourth paragraph, 2000, 66 § 2. (See 2000, 66 § 6.) § 11 amended, 2000, 66 §§ 3, 4. (See 2000, 66 § 6.)

§ 24 added, 2000, 141 § 6. (See 2000, 141, § 35.)

**CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.**

§ 1, four paragraphs added, 1999, 3 § 4.

§ 23, paragraph (C) of first paragraph, first paragraph revised, 1999, 3 § 5.

§ 24 revised, 1999, 3 § 6.

§ 25, paragraph added, 1999, 3 § 7.

§ 26, second paragraph, introductory paragraph revised, 1999, 3 § 8; clause (4) revised, 1999, 3 § 9; 1999, 6 § 1. (See 1999, 6 § 5.)

§ 26A added, 1999, 3 § 10. (See 1999, 3 § 26.)

§ 27 amended, 1999, 3 § 11. (See 1999, 3 § 26.)

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## **CHAPTER 119 - continued**

§ 29A amended, 2000, 313 § 36.

§ 29B revised, 1999, 3 § 12; second paragraph, first sentence revised, 1999, 6 § 2. (See 1999, 6 § 5.)

§ 29C revised, 1999, 3 § 12.

§ 29D added 1999, 3 § 12.

§ 32, paragraph added, 1999, 3 § 13. (See 1999, 3 § 26.)

§ 39G, first paragraph, clause (c) revised, 1999, 3 § 14.

§ 51F, paragraph inserted after first paragraph, 2000, 247 § 5.

## **CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.**

§ 5A amended, 1999, 127 § 131. (See 1999, 127 § 390.)

## **CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools. (Former title: Youth Service Board and Massachusetts Training Schools.)**

§ 23 revised, 2000, 236 § 17. (See 2000, 236 § 104.)

## **CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.**

## **CHAPTER 121A - Urban Redevelopment Corporations.**

§ 7 amended, 1999, 64 § 2.

## **CHAPTER 121B - Housing and Urban Renewal.**

§ 55, clause (d) revised, 2000, 208 § 13E (See 2000, 208 § 14.)

§ 57, third paragraph, clause (d) revised, 2000, 310 § 2.

## **CHAPTER 121C - Economic Development and Industrial Corporations.**

## **CHAPTER 121D - Affordable Housing Trust Fund. (New chapter inserted, 2000, 159 § 227.) (See 2000, 159 § 498.)**

## **CHAPTER 122 - Tewksbury Hospital. (Former title: Tewksbury State Hospital and Infirmary.)**

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**CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.**

§ 15 amended, 2000, 357.

§ 22 revised, 2000, 349 § 2.

§ 23A added, 2000, 66 § 5. (See 2000, 66 § 6.)

**CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.**

**(Former title: Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)**

§ 1, definition of "Agency with jurisdiction" inserted, 1999, 74 § 3; definitions of "Mental abnormality" and "Personality disorder" inserted, 1999, 74 § 4; **section amended**, 1999, 74 § 5; definition of "Sexually dangerous person" revised, 1999, 74 § 6.

§ 6A, first paragraph, sentence added, 1999, 74 § 7.

§ 7 amended, 2000, 249 § 1; paragraph (c), sentence added, 2000, 249 § 2.

§ 11, two sentences added, 2000, 249 § 3.

§ 12 added, 1999, 74 § 8; **section amended**, 2000, 249 §§ 4, 5; subsection (b), two paragraphs added, 2000 249, § 6; subsection (e), sentence inserted after first sentence, 2000, 249 § 7; sentence added, 2000, 249 § 8.

§ 13 added, 1999, 74 § 8.

§ 14 added, 1999, 74 § 8.

§ 15 added, 1999, 74 § 8.

§ 16 added, 1999, 74 § 8.

**CHAPTER 123B - MENTAL HEALTH.**

**CHAPTER 124 - Powers and Duties of the Department of Correction.**

§ 1, subsection (r) added, 1999, 127 § 132; clauses (s) and (t) added, 2000, 159 § 228. (See 1999, 127 § 390; 2000, 159 § 498.)

**CHAPTER 125 - Correctional Institutions of the Commonwealth.**

**(Former title: Penal and Reformatory Institutions of the Commonwealth.)**

**CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.**

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**CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.**

§ 38E added, 1999, 127 § 133. (See 1999, 127 § 390.)

§ 38F added, 1999, 127 § 133. (See 1999, 127 § 390.)

§ 38G added, 1999, 127 § 133. (See 1999, 127 § 390.)

§ 38H added, 1999, 127 § 133. (See 1999, 127 § 390.)

§ 129D, paragraph added, 1999, 127 § 134; paragraph revised, 2000, 313 § 37. (See 1999, 127 § 390.)

§ 133A amended, 2000, 159 § 230. (See 2000, 159 § 498.)

§ 133D added, 1999, 74 § 9.

**CHAPTER 128 - Agriculture.**

**CHAPTER 128A - Horse and Dog Racing Meetings.**

**CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.**

**CHAPTER 128C - SIMULCAST WAGERING OF HORSE AND DOG RACING.**  
(New chapter inserted, 1992, 101 § 5.)

§ 2 amended, 1999, 163 § 1; section amended, 2000, 354 § 3.

**CHAPTER 129 - Livestock Disease Control.**  
(Former title: Animal Industry.)

**CHAPTER 129A - Marine Fish and Fisheries, Inland Fish and Fisheries, Birds and Mammals, General Provisions.**

**CHAPTER 130 - Marine Fish and Fisheries.**  
(Former title: Marine Fish and Fisheries Including Crustacean and Shellfish.)

§ 2 amended, 1999, 127 § 135. (See 1999, 127 § 390.)

§ 4 amended, 1999, 127 § 136. (See 1999, 127 § 390.)

§ 17, clause (12) added, 1999, 127 § 137. (See 1999, 127 § 390.)

§ 38 amended, 1999, 127 § 138. (See 1999, 127 § 390.)

§ 83 amended, 1999, 127 § 139. (See 1999, 127 § 390.)



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**CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.**  
**(Former title: Powers and Duties of the Division of Fisheries and Game.)**

§ 11, paragraph added, 2000, 139 § 1.

§ 19B added, 2000, 139 § 2.

§ 80A amended, 2000, 139 § 3; second paragraph, two sentences added, 2000, 139 § 4; seven paragraphs inserted after second paragraph, 2000, 139 § 5.

**CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.**  
**(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)**

§ 6, subsections (c) and (d) revised, subsection (e) inserted, 2000, 159 § 231. (See 2000, 159 § 498.)

**CHAPTER 132 - Forestry.**

**CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.**  
**(Former title: State Parks and Reservations outside of the Metropolitan Parks District.)**

§ 13 amended, 2000, 313 § 38.

**CHAPTER 132B - Massachusetts Pesticide Control Act.**

§ 2, definition of "Agency" inserted, 2000, 85 § 4; definition of "Anti-microbial pesticide" inserted, 2000, 85 § 5; definition of "Day care center" inserted, 2000, 85 § 6; definition of "Integrated pest management" inserted, 2000, 85 § 7; definitions of "School", "School administration", "School age child care program" and "Standard written notification" inserted, 2000, 85 § 8. (See 2000, 85 § 17.)

§ 5A added, 2000, 85 § 9. (See 2000, 85 § 17.)

§ 6B revised, 2000, 85 § 10. (See 2000, 85 § 17.)

§ 6C added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6D added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6E added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6F added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6G added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6H added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6I added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6J added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 6K added, 2000, 85 § 11. (See 2000, 85 § 17.)

§ 7A added, 2000, 85 § 12; subsection (b), second sentence amended, 2000, 159 § 232. (See 2000, 85 § 17; 159 § 498.)

§ 10, eight paragraph, sentence added, 2000, 85 § 13. (See 2000, 85 § 17.)

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**CHAPTER 132B - continued**

§ 14 amended, 2000, 85 § 14. (See 2000, 85 § 17.)

§ 14A added, 2000, 85 § 15. (See 2000, 85 § 17.)

§ 16 added, 2000, 85 § 16. (See 2000, 85 § 17.)

**CHAPTER 133 - Disposition of Old and Infirm Animals.**

**CHAPTER 134 - Lost Goods and Stray Beasts.**

**CHAPTER 135 - Unclaimed and Abandoned Property.**

**CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.**  
(Former title: **Observance of the Lord's Day and Legal Holidays.**)

§ 6, amended, 1999, 27.

**CHAPTER 137 - Gaming.**

**CHAPTER 138 - Alcoholic Liquors.**  
(Former title: **Intoxicating Liquors and Certain Non-intoxicating Beverages.**)

§ 16D repealed, 2000, 64.

§ 17 amended, 2000, 225.

§ 34, first paragraph revised, 2000, 175.

**CHAPTER 139 - Common Nuisances.**

**CHAPTER 140 - Licenses.**

§ 12A added, 2000, 167.

§ 12B added, 2000, 167.

§ 12C added, 2000, 167.

§ 12D added, 2000, 167.

§ 67A, first sentence revised, 2000, 428.

§ 96, second paragraph revised, 2000, 50 § 1.

§ 121, third paragraph revised, 1999, 1 § 1.

§ 129B, paragraph (9), second sentence stricken out, 2000, 236 § 18; **section amended**, 2000, 236 § 19; **section amended**, 2000, 159 § 233. (See 2000, 236 § 104; 159 § 498.)

§ 129C amended, 1999, 1 § 2.

§ 131K, third paragraph, sentence added, 1999, 1 § 3.

§ 131L, subsection (f) added, 1999, 1 § 4.

§ 138A amended, 2000, 233.

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**CHAPTER 140A - Regulation of Certain Credit Transactions.**

**CHAPTER 140B - Control of Certain Junkyards.**

**CHAPTER 140C - Consumer Credit Cost Disclosure.**  
(Chapter repealed, 1981, 733 § 1.)

**CHAPTER 140D - CONSUMER CREDIT COST DISCLOSURE.**  
(New chapter inserted, 1981, 733 § 2.)

**CHAPTER 140E - CONSUMER ACCOUNT DISCLOSURE.**

**CHAPTER 141 - Supervision of Electricians.**

**CHAPTER 142 - Supervision of Plumbing.**

§ 11B added, 2000, 370.

**CHAPTER 142A - REGULATION OF HOME IMPROVEMENT CONTRACTORS.**  
(New chapter inserted, 1991, 453.)

**CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.**

**CHAPTER 144 - Tenement Houses in Cities.**

**CHAPTER 145 - Tenement Houses in Towns.**

**CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.**

§ 53A added, 2000, 251 § 1.

§ 54 revised, 2000, 251 § 2.

§ 54A amended, 2000, 251 § 3.

**CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.**

**CHAPTER 148 - Fire Prevention.**

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## **CHAPTER 149 - Labor and Industries.**

§ 27C amended, 1999, 127 §§ 140, 141, 142. (See 1999, 127 § 390.)

§ 44D amended, 2000, 159 §§ 236, 237, 238; subsection (7) revised, 2000, 159 § 239. (See 2000, 159 § 498.)

§ 44E½ added, 1999, 127 § 143; **section revised**, 2000, 236 § 20. (See 1999, 127 § 390; 2000, 236 § 104.)

§ 148, second paragraph revised, 1999, 127 § 144. (See 1999, 127 § 390.)

§ 150 amended, 1999, 127 § 145. (See 1999, 127 § 390.)

§ 187 added, 1999, 127 § 146. (See 1999, 127 § 390.)

## **CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.**

### **CHAPTER 150A - Labor Relations.**

### **CHAPTER 150B - Peaceful Settlement of Industrial Disputes Dangerous to Public Health and Safety.**

### **CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.**

### **CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.**

### **CHAPTER 150E - Labor Relations; Public Employees.**

### **CHAPTER 151 - Minimum Fair Wages.**

**(Former title: Minimum Fair Wages for Women and Minors.)**

§ 1 amended, 1999, 47 §§ 1, 2; sentence added, 1999, 47 § 3. (See 1999, 47 §§ 6, 7.)

§ 7, second paragraph stricken out, two paragraphs inserted, 1999, 47 § 4.

### **CHAPTER 151A - EMPLOYMENT AND TRAINING.**

**(Title revised, 1990, 177 § 247. Former title: Employment Security.)**

§ 14G amended, 2000, 159 §§ 241, 242; subsection (k), last sentence stricken out, three sentences inserted, 2000, 159 § 243. (See 2000, 159 § 498.)

§ 25, subsection (i) added, 2000, 166 § 10. (See 2000, 166 § 19.)

§ 46 amended, 1999, 127 § 147; subsection (c), clause (6) added, 2000, 166 § 11. (See 1999, 127 § 390.)

§ 53A, paragraph inserted after first paragraph, 1999, 68 § 15. (1998, 68 § 58.)



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**CHAPTER 151B - Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex.**  
(Former title: Unlawful Discrimination against Race, Color, Religious Creed, National Origin or Ancestry.)

§ 1. subsections 22 and 23 added, 2000, 254 § 3.

§ 3 amended, 2000, 254 §§ 4, 5.

§ 4 added, 2000, 254 §§ 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23;  
subsection 19 added, 2000, 254 § 23A.

**CHAPTER 151C - Fair Education Practices.**

**CHAPTER 151D - Health, Welfare and Retirement Funds.**

**CHAPTER 151E - Prohibition of Certain Discrimination by Business.**

**CHAPTER 152 - Workers' Compensation.**  
(Former title: Workmen's Compensation.)

§ 7. subsection (3) added, 2000, 166 § 12. (See 2000, 166 § 19.)

§ 25G. paragraph (c) of subsection (1), sentence added, 2000, 266 § 1.

§ 25 O, subsection (3), sentence added, 2000, 266 § 2.

§ 53A. subsection (16). sentence inserted after third sentence, 2000, 379.

**CHAPTER 153 - Liability of Employers to Employees for Injuries not resulting in Death.**

**CHAPTER 154 - Assignment of Wages.**

**CHAPTER 155 - General Provisions Relative to Corporations.**

**CHAPTER 156 - Business Corporations.**

**CHAPTER 156A - Professional Corporations.**

**CHAPTER 156B - Certain Business Corporations.**

**CHAPTER 156C - LIMITED LIABILITY COMPANY ACT.**  
(New chapter inserted, 1995, 281 § 18.) (See 1995, 281 § 22.)

**CHAPTER 157 - Co-operative Corporations.**

**CHAPTER 157A - EMPLOYEE COOPERATIVE CORPORATIONS.**

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**CHAPTER 157B - Cooperative Housing Corporations.**

**CHAPTER 158 - Certain Miscellaneous Corporations.**

**CHAPTER 159 - Common Carriers.**

§ 12 amended, 2000, 12 § 2; paragraph (d), sentence added, 2000, 12 § 3.  
§ 19A, second paragraph revised, 1999, 77.

**CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.**

**CHAPTER 159B - Carriers of Property by Motor Vehicle.**

**CHAPTER 160 - Railroads.**

**CHAPTER 161 - Street Railways.**

**CHAPTER 161A - Massachusetts Bay Transit Authority.**  
(Chapter revised, 1999, 127 § 151.) (See 1999, 127 § 385.)

§ 1 amended, 1999, 127 § 148; definition of "Fifty-one cities and towns" revised, 2000, 313 § 39. (See 1999, 127 § 390; 2000, 313 § 57.)  
§ 3, third sentence revised, 2000, 313 § 40. (See 2000, 313 § 57.)  
§ 9, paragraph added, 2000, 125 § 4. (See 2000, 125 § 31.)  
§ 12 revised, 1999, 127 § 149. (See 1999, 127 § 385.)  
§ 12A stricken out, 1999, 127 § 149. (See 1999, 127 § 385.)  
§ 13, second paragraph revised, 1999, 127 § 150. (See 1999, 127 § 390.)  
§ 48 added, 2000, 125 § 5. (See 2000, 125 § 32.)

**CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.**

**CHAPTER 161C - Rail Transportation in the Commonwealth.**

**CHAPTER 161D - THE MASSACHUSETTS INTERCITY BUS CAPITAL ASSISTANCE PROGRAM.**

**CHAPTER 162 - Electric Railroads.**

**CHAPTER 163 - Trackless Trolley Companies.**

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## **CHAPTER 164 - Manufacture and Sale of Gas and Electricity.**

§ 1A amended, 2000, 128 § 4.

§ 1B amended, 2000, 128 § 5.

§ 1F, paragraph (8), subparagraph (a) revised, 2000, 128 § 6.

§ 1G amended, 2000, 128 §§ 7, 8.

§ 47D amended, 2000, 128 § 9.

§ 47E added, 2000, 12 § 4.

§ 69H, second paragraph revised, 1999, 127 § 152. (See 1999, 127 § 390.)

§ 69J¼ amended, 2000, 128 § 10.

## **CHAPTER 164A - New England Power Pool.**

## **CHAPTER 165 - Water and Aqueduct Companies.**

## **CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.**

§ 1 amended, 2000, 12 § 5.

§ 11, last sentence revised, 2000, 12 § 6.

§ 13, sentence added, 2000, 12 § 7.

§ 15E, subsection (a), definition of "Common carrier", sentence added, 2000, 12 § 8.

§ 21, sentence added, 2000, 12 § 8A.

§ 25A, first paragraph, definition of "Licensee" revised, 2000, 12 § 8B.

## **CHAPTER 166A - Community Antenna Television Systems.**

## **CHAPTER 167 - Supervision of Banks.**

§ 2 amended, 1999, 64 § 3.

§ 24 amended, 1999, 64 § 4.

§ 40 amended, 1999, 64 § 5.

## **CHAPTER 167A - Bank Holding Companies.**

## **CHAPTER 167B - ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.**

## **CHAPTER 167C - BANK LOCATIONS.**

§ 5 **repealed**, 2000, 46 § 1.

§ 11 added, 2000, 46 § 2.

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## **CHAPTER 167D - DEPOSITS AND ACCOUNTS.**

§ 33, first sentence revised, 2000, 48.

## **CHAPTER 167E - MORTGAGES AND LOANS.**

§ 2, subsection B, paragraph 5 of the third paragraph, last sentence stricken out, 2000, 12 § 1; paragraph 6, fourth sentence stricken out; 2000, 152 § 1; second paragraph of paragraph 7, second sentence stricken out, 2000, 152 § 2; paragraph 7B, sentence added, 2000, 50 § 2; paragraph 9, third sentence stricken out, 2000, 152 § 3.

§ 11, clause (b) revised, 2000, 47.

## **CHAPTER 167F - INVESTMENTS AND OTHER POWERS.**

§ 6 amended, 1999, 64 § 6.

## **CHAPTER 167G - TRUST DEPARTMENT.**

## **CHAPTER 167H - MUTUAL HOLDING COMPANIES.**

(New chapter inserted, 1987, 630.)

## **CHAPTER 168 - Savings Banks.**

§ 5 amended, 1999, 64 § 7.

§ 8 revised, 2000, 152 § 4.

§ 9, second sentence revised, 2000, 152 § 5.

§ 13, first sentence of second paragraph revised, 2000, 152 § 6.

§ 27A amended, 1999, 64 § 8.

§ 34A amended, 1999, 64 § 9.

§ 34B amended, 1999, 64 §§ 10, 11, 12.

§ 34D amended, 1999, 64 §§ 13, 14, 15.

§ 36 amended, 1999, 64 § 16.

§ 37 amended, 1999, 64 § 17.

§ 38 amended, 1999, 64 § 18.

§ 39 amended, 1999, 64 § 19.

## **CHAPTER 169 - Deposits with Others than Banks.**

(Chapter revised, 1995, 337 § 1.)

## **CHAPTER 169A - LICENSING OF CHECK CASHERS.**

(New chapter inserted, 1993, 308 § 1.) (See 1993, 308 § 2.)

## **CHAPTER 170 - Co-operative Banks.**



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## CHAPTER 171 - Credit Unions.

§ 65, seventh paragraph, subparagraph 3, third sentence stricken out, 2000, 152 § 7; subparagraph 4, fourth sentence stricken out, 2000, 152 § 8; subparagraph 5, third sentence of first paragraph stricken out, 2000, 152 § 9; clause 11, sentence added, 2000, 50 § 3.

## CHAPTER 172 - Trust Companies.

### CHAPTER 172A - Banking Companies.

### CHAPTER 173 - Mortgage Loan Investment Companies.

### CHAPTER 174 - BOND AND INVESTMENT COMPANIES. (Chapter repealed, 1950, 822 § 1.)

### CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance, and Rating Organizations.

### CHAPTER 174B - Regulation of Automobile Clubs.

## CHAPTER 175 - Insurance.

§ 10, amended, 1999, 143 § 2; amended, 2000, 313 § 41.

§ 20A amended, 2000, 419 §§ 1, 2; subsection (1), first paragraph, sentence added, 2000, 419 § 3; paragraph (G) added, 2000, 419 § 5; **section amended**, 2000, 419 § 4;

§ 22A, sentence added, 2000, 33.

§ 24B, two sentences inserted after first sentence, 2000, 141 § 7. (See 2000, 141, § 35.)

§ 24D, subsection (a) revised, 1999, 127 § 153; 2000, 313 § 42. (See 1999, 127 § 390.)

§ 35 revised, 2000, 153.

§ 46A amended, 2000, 78 § 2.

§ 47B revised, 2000, 80 § 2. (See 2000, 80 §§12, 13, 14,15.)

§ 47N revised, 2000, 81 § 3.

§ 47U added, 2000, 141 § 8. (See 2000, 141, § 35.)

§ 47U added, 2000, 345 § 2.

§ 47V added, 2000, 355 § 3.

§ 99, first paragraph, clause First revised, 2000, 96 § 1.

§ 108 amended, 2000, 141 §§ 9, 10.

§ 108E amended, 2000, 80 § 3. (See 2000, 80 §§12, 13, 14,15.)

§ 108H added, 2000, 254 § 24.

§ 108I added, 2000, 254 § 24; **section repealed**, 2000, 254 § 24A. (See 2000, 254 § 31.)

§ 110, subdivision (N) added, 1999, 143 § 3; **section amended**, 2000, 141 §§ 11, 12.

§ 120E added, 2000, 254 § 25; **section repealed**, 2000, 254 § 25A. (See 2000, 254 § 31.)

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## **CHAPTER 175 - continued**

§ 132I added, 2000, 78 § 3.

§ 150 amended, 2000, 96 § 2.

§ 157 repealed, 2000, 96 § 3.

§ 180A, definition of “General assets”, sentence added, 2000, 78 § 4; definition of “Separate account agreement” added, 2000, 78 § 5.

§ 180F, fifth paragraph revised, 2000, 78 § 6; paragraph added, 2000, 78 § 7.

§ 212 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 213 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 214 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 215 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 216 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 217 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 218 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 219 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 220 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 221 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 222 added, 2000, 326 § 1. (See 2000, 326 § 3.)

§ 223 added, 2000, 326 § 1. (See 2000, 326 § 3.)

### **CHAPTER 175A - Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.**

### **CHAPTER 175B - Unauthorized Insurer’s Process Act.**

### **CHAPTER 175C - Urban Area Insurance Placement Facility.**

### **CHAPTER 175D - Massachusetts Insurers Insolvency Fund.**

### **CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.**

### **CHAPTER 175F - Medical Malpractice Self-Insurance Trust Funds.**

### **CHAPTER 175G - POLLUTION LIABILITY REINSURANCE CORPORATION.** (New chapter inserted, 1987, 650 § 2.)

### **CHAPTER 175H - FALSE HEALTH CARE CLAIMS.** (New chapter inserted, 1988, 295.)

### **CHAPTER 175I - INSURANCE INFORMATION AND PRIVACY PROTECTION.** (New chapter inserted, 1991, 516 § 1.) (See 1991, 516 § 6.)

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**CHAPTER 175J - ADMINISTRATIVE SUPERVISION AND HAZARDOUS  
FINANCIAL CONDITIONS OF INSURITIES.**

(New chapter inserted, 1993, 226 § 52.)

§ 110, subsection (F) added, 1999, 143 § 4.

**CHAPTER 176 - Fraternal Benefit Societies.**

§ 1, second paragraph revised, 2000, 320 § 1. (See 2000, 313 § 20.)

§ 3 revised, 2000, 320 § 2. (See 2000, 313 § 20.)

§ 4, subsection (1), clause (b) revised, 2000, 320 § 3; **section amended**, 2000, 320 §§ 4, 5.  
(See 2000, 313 § 20.)

§ 9, second paragraph, last sentence stricken out, 2000, 320 § 6; three paragraphs added,  
2000, 320 § 7. (See 2000, 313 § 20.)

§16 revised, 2000, 320 § 8. (See 2000, 313 § 20.)

§17, clause (g) revised, 2000, 320 § 9; paragraph added, 2000, 320 § 10. (See 2000, 313  
§ 20.)

§21 revised, 2000, 320 § 11. (See 2000, 313 § 20.)

§24 revised, 2000, 320 § 12. (See 2000, 313 § 20.)

§26 repealed, 2000, 320 § 13. (See 2000, 313 § 20.)

§28, paragraph added, 2000, 320 § 14. (See 2000, 313 § 20.)

§35 amended, 2000, 320 § 15; subsection (1), paragraph (b) revised. (See 2000, 313 § 20.)

§39, paragraph added, 2000, 320 § 17. (See 2000, 313 § 20.)

§41, paragraph (6½) inserted, 2000, 320 § 18. (See 2000, 313 § 20.)

**CHAPTER 176A - Non Profit Hospital Service Corporations.**

§ 1D added, 2000, 177 § 1.

§ 3B added, 2000, 254 § 26.

§ 8 amended, 2000, 141 § 13.

§ 8A revised, 2000, 80 § 4. (See 2000, 80 §§12, 13, 14,15.)

§ 8A½ stricken out, 2000, 80 § 5. (See 2000, 80 §§ 12, 13, 14,15.)

§ 8P revised, 2000, 81 § 4.

§ 8U added, 2000, 141 § 14. (See 2000, 141, § 35.)

§ 8U added, 2000, 355 § 3.

§ 8V added, 2000, 355 § 4.

§ 33 added, 1999, 143 § 5.

**CHAPTER 176B - Medical Service Corporations.**

§ 3A added, 2000, 177 § 2.

§ 4A revised, 2000, 80 § 6. (See 2000, 80 §§ 12, 13, 14, 15.)

§ 4B stricken out, 2000, 80 § 7. (See 2000, 80 §§ 12, 13, 14, 15.)

§ 4S revised, 2000, 81 § 5.

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**CHAPTER 176B - continued**

§ 4U added, 2000, 141 § 15. (See 2000, 141, § 35.)

§ 4U added, 2000, 345 § 4.

§ 4V added, 2000, 355 § 5.

§ 5B added, 2000, 254 § 27.

§ 7 amended, 2000, 141 §§ 16, 17, 18.

§ 21 added, 1999, 143 § 6.

**CHAPTER 176C - Non-Profit Medical Service Plans.**

**CHAPTER 176D - UNFAIR PRACTICES AND UNFAIR DECEPTION ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE.**

**CHAPTER 176E - Dental Service Corporations.**

**CHAPTER 176F - Optometric Service Corporations.**

**CHAPTER 176G - Health Maintenance Organizations.**

§ 4, first sentence revised, 2000, 80 § 8. (See 2000, 80 §§ 12, 13, 14, 15.)

§ 4B, introductory paragraph revised, 2000, 80 § 9. (See 2000, 80 §§ 12, 13, 14, 15.)

§ 4H revised, 2000, 81 § 6.

§ 4M added, 2000, 80 § 10. (See 2000, 80 §§ 12, 13, 14, 15.)

§ 4N added, 2000, 345 § 5.

§ 4N, added, 2000, 355 § 6.

§ 5 revised, 2000, 141 § 19. (See 2000, 141, § 35.)

§ 6, paragraph added, 2000, 141 § 20.

§ 7 **repealed**, 2000, 141 § 21. (See 2000, 141, § 35.)

§ 14 revised, 2000, 141 § 22. (See 2000, 141 § 35.)

§ 20 added, 1999, 143 § 7.

§ 21 added, 1999, 143 § 7.

§ 22 added, 1999, 143 § 7.

§ 23 added, 1999, 143 § 7.

§ 24 added, 2000, 254 § 28.

**CHAPTER 176H - Legal Service Plans.**

**CHAPTER 176I - PREFERRED PROVIDER ARRANGEMENTS.**

(New chapter inserted, 1988, 23 § 65.) (See 1988, 23 § 92.)

§ 1, definition of "Emergency care" revised, 2000, 141 § 23. (See 2000, 141 § 35.)

§ 2, paragraph added, 2000, 141 § 24.



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## **CHAPTER 176I - continued**

§ 3 amended, 2000, 141 § 25. (See 2000, 141 § 35.)

§ 4A added, 2000, 254 § 29.

§ 9, first sentence revised, 2000, 141 § 26. (See 2000, 141 § 35.)

## **CHAPTER 176J - SMALL GROUP HEALTH INSURANCE.**

**(New chapter inserted, 1991, 495 § 42.)**

§ 3, subsection (b), third paragraph, penultimate and last sentence stricken out, 1999, 61 § 1;  
last paragraph stricken out and two paragraphs inserted, 1999, 61 § 2.

§ 4, subsection (a), paragraph (2) revised, 1999, 61 § 3.

## **CHAPTER 176K - MEDICARE SUPPLEMENT INSURANCE PLANS.**

**(New chapter inserted, 1993, 495 § 45.)**

## **CHAPTER 176L - RISK RETENTION AND RISK PURCHASING GROUPS.**

**(New chapter inserted, 1993, 226 § 53.)**

§ 5 repealed, 2000, 96 § 4.

## **CHAPTER 176M - NONGROUP HEALTH INSURANCE.**

**(New chapter inserted, 1996, 297 § 29.) (See 1997, 297 § 34.)**

§ 1, definitions of "Adjusted composite rate" revised, definition of "Average composite rate" stricken out and definitions of "Alternative benefit plans" and Average adjusted composite rate inserted, 2000, 140 § 1; definition of "Creditable coverage" inserted, 2000, 140 § 2; definition of "Eligible individual" revised, 2000, 140 § 3; definition of "Group health plan" inserted, 2000, 140 § 4; definitions of "Guaranteed issue managed care plan", "Guaranteed issue medical plan" and "Guaranteed issue preferred provider plan" revised, 2000, 140 § 5; definition of "Health plan", second sentence revised, 2000, 140 § 6; definition of "Modified community rate" revised, 2000, 140 § 7; definition of "Pre-existing condition provision" stricken out, definition of "Pre-existing exclusion" inserted, 2000, 140 § 8; definition of "Standard benefits plan" revised, 2000, 140 § 9. (See 2000, 140 §§ 24, 25.)

§ 2, subsection (d) added, 2000, 140 § 10. (See 2000, 140 § 25.)

§ 3, subsection (a) revised, 2000, 140 § 11; subsection (b), introductory paragraph, last sentence stricken out, 2000, 140 § 12; paragraphs (1) and (2) revised, 2000, 140 § 13; subsection (d) revised, 2000, 140 § 14; subsection (h), first two sentences stricken out, one sentence inserted, 2000, 140 § 15. (See 2000, 140 §§ 24, 25.)

§ 4, subsection (a), paragraphs (1) to (6) revised, 2000, 140 § 16. (See 2000, 140 § 24.)

§ 5, Paragraph (2) of subsection (a), clause (ii) revised, 2000, 140 § 17. (See 2000, 140 § 24.)

§ 6 revised, 2000, 140 § 18.

§ 7 added, 2000, 140 § 19.

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**CHAPTER 176N - PORTABILITY OF HEALTH INSURANCE.**

(New chapter inserted, 1996, 297 § 30.) (See 1996, 297 § 34.)

**CHAPTER 176O - HEALTH INSURANCE CONSUMER PROTECTIONS.**

(New chapter inserted, 2000, 141 § 27.) (See 2000, 141 § 35.)

**CHAPTER 176P - LIMITED SOCIETIES.**

(New chapter inserted, 2000, 320 § 19.) (See, 2000, 320 § 20.)

**CHAPTER 177 - ASSESSMENT INSURANCE.**

(Chapter repealed, 1924, 406 § 17; 1929, 24, § 1.)

**CHAPTER 178 - Savings Bank Life Insurance.**

(Chapter repealed, 1990, 499 § 22.) (See 1990, 499 § 24.)

**CHAPTER 178A - SAVINGS BANK LIFE INSURANCE.**

(New chapter inserted, 1990, 499 § 23.) (See 1990, 499 § 24.)

**CHAPTER 179 - Proprietors of Wharves, Real Estate lying in Common, and General Fields.**

**CHAPTER 180 - Corporations for Charitable and Certain Other Purposes.**

§ 8A, subsection (d) added, 2000, 141 § 28. (See 2000, 141 § 35.)

§ 17K added, 2000, 236 § 21. (See 2000, 236 § 104.)

§ 17L added, 2000, 384 § 22. (See 2000, 384 § 59.)

**CHAPTER 180A - Management of Institutional Funds.**

**CHAPTER 181 - Foreign Corporations.**

**CHAPTER 182 - Voluntary Associations and Certain Trusts.**

**CHAPTER 183 - Alienation of Land.**

§ 28B, second sentence revised, 2000, 50 § 4.

**CHAPTER 183A - Condominiums.**

§ 10, subsection (d), second paragraph revised, 2000, 203 § 1; section amended, 2000, 203 § 2.

**CHAPTER 183B - REAL ESTATE TIME-SHARES.**

(New chapter inserted, 1987, 760 § 1.) (See 1987, 760 § 2.)

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**CHAPTER 184 - General Provisions Relative to Real Property.**

**CHAPTER 184A - The Rule against Perpetuities.**

**CHAPTER 184B - SHORT FORM TERMS FOR WILLS AND TRUSTS.**

**CHAPTER 185 - The Land Court and Registration of Title to Land.**

§ 52 revised, 2000, 413.

**CHAPTER 185A - Housing Court of the City of Boston, Jurisdiction and Powers.**

**CHAPTER 185B - Housing Court of the County of Hampden, Jurisdiction and Powers.**

**CHAPTER 185C - Housing Court Department.**

§ 1 amended, 2000, 159 § 244. (See 2000, 159 § 498.)

§ 3 amended, 2000, 159 §§ 245, 246. (See 2000, 159 § 498.)

§ 4, first paragraph revised, 2000, 159 § 247. (See 2000, 159 § 498.)

§ 8 amended, 2000, 159 §§ 248, 249. (See 2000, 159 § 498.)

§ 9 amended, 2000, 159 § 250. (See 2000, 159 § 498.)

**CHAPTER 186 - Estates for Years and at Will.**

**CHAPTER 187 - Easements.**

**CHAPTER 188 - Homesteads.**

§ 1 amended, 2000, 174 § 1.

§ 1A amended, 2000, 174 § 2.

**CHAPTER 189 - Dower and Curtesy.**

**CHAPTER 190 - Descent and Distribution of Real and Personal Property.**

**CHAPTER 190A - Effect of Apparently Simultaneous Deaths Upon Devolution and Disposition of Property, including Proceeds of Insurance.**

**CHAPTER 191 - Wills.**

**CHAPTER 191A - Disclaimer of Certain Property Interest Act.**

**CHAPTER 191B - UNIFORM STATUTORY WILL ACT.**  
(New chapter inserted, 1987, 319 § 2.)

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**CHAPTER 192 - Probate of Wills and Appointment of Executors.**

**CHAPTER 193 - Appointment of Administrators.**

**CHAPTER 194 - Public Administrators.**

**CHAPTER 195 - General Provisions Relative to Executors and Administrators.**

**CHAPTER 196 - Allowances to Widows and Children, and Advancements.**

**CHAPTER 197 - PAYMENT OF DEBTS, LEGACIES AND DISTRIBUTIVE SHARES.**

**CHAPTER 198 - Insolvent Estates of Deceased Persons.**

**CHAPTER 199 - Settlement of Estates of Deceased Non-residents.**

**CHAPTER 199A - General Provisions Regarding Certain Foreign Fiduciaries.**

**CHAPTER 200 - Settlement of Estates of Absentees.**

**CHAPTER 200A - Abandoned Property.**

§ 1 revised, 2000, 198 § 1.

§ 5, paragraph added, 2000, 198 § 2.

§ 12, subsections (f), (g), (h) and (i) added, 2000, 198 § 3.

**CHAPTER 201 - Guardians and Conservators.**

**CHAPTER 201A - UNIFORM TRANSFER TO MINORS ACT.**

(Title revised, 1987, 465 § 57.) (Former title: Uniform Gifts to Minors Act.)

**CHAPTER 201B - UNIFORM DURABLE POWER OF ATTORNEY ACT.**

**CHAPTER 201C - STATUTORY CUSTODIANSHIP TRUSTS.**

**CHAPTER 201D - HEALTH CARE PROXIES.**

(New chapter inserted, 1990, 332 § 1.)

(Title inserted, 1992, 286 § 252.)

**CHAPTER 201E - UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT.**

(New chapter inserted, 1998, 377.)



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**CHAPTER 202 - Sales, Mortgages and Leases of Real Estate by Executors, Administrators, Guardians and Conservators.**

**CHAPTER 203 - Trusts.**

**CHAPTER 203A - Uniform Common Trust Fund Act.**  
(Former title: Collective Investment of Small Trust Funds.)

**CHAPTER 203B - UNIFORM CUSTODIAL TRUST ACT.**  
(New chapter inserted, 1993, 434 § 1.) (See 1993, 434 §§ 2, 3.)

**CHAPTER 203C - PRUDENT INVESTMENT.**  
(New chapter inserted, 1990, 398 § 1.)

**CHAPTER 204 - General Provisions Relative to Sales, Mortgages, Releases, Compromises, etc., by Executors, etc.**

**CHAPTER 205 - Bonds of Executors, Administrators, Guardians, Conservators, Trustees, and Receivers.**

**CHAPTER 206 - Accounts and Settlements of Executors, Administrators, Guardians, Conservators, Trustees and Receivers.**

**CHAPTER 207 - Marriage.**

**CHAPTER 208 - Divorce.**

**CHAPTER 209 - Husband and Wife.**

**CHAPTER 209A - Abuse Prevention.**

§ 3 amended, 1999, 127 § 155; clause (g) revised, 2000, 236 § 22; clause (i), fourth paragraph revised, 2000, 236 § 23. (See 1999, 127 § 390; 2000, 236 § 101.)  
§ 8, paragraph added, 1999, 127 § 156; first and third paragraphs stricken out, paragraph added, 2000, 236 § 24. (See 1999, 127 § 390; 2000, 236 § 101.)

**CHAPTER 209B - Massachusetts Child Custody Jurisdiction Act.**

**CHAPTER 209C - CHILDREN BORN OUT OF WEDLOCK.**

**CHAPTER 209D - UNIFORM INTERSTATE FAMILY SUPPORT ACT.**  
(New chapter inserted, 1995, 5 § 87.) (See 1995, 5 § 143.)

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## **CHAPTER 210 - Adoption of Children and Change of Names.**

§ 1 amended, 1999, 3 § 15. (See 1999, 3 § 26.)

§ 2B added, 1999, 3 § 16. (See 1999, 3 § 26.)

§ 3 revised, 199, 3 § 17; paragraph (b), two paragraphs inserted after first paragraph, 1999, 6 § 3; paragraph (c), clause (iii) of third paragraph revised, 1999, 6 § 4. (See 1999, 6 § 5.)

§ 3B added, 1999, 3 § 18. (See 1999, 3 § 26.)

§ 5E added, 1999, 3 § 19; first sentence revised, 1999, 127 § 157. (See 1999, 3 § 26; 127 § 390.)

§ 6, after third paragraph, paragraph inserted, 1999, 3 § 20. (See 1999, 3 § 26.)

§ 6C added, 1999, 3 § 21. (See 1999, 3 § 26.)

§ 6D added, 1999, 3 § 21. (See 1999, 3 § 26.)

§ 6E added, 1999, 3 § 21. (See 1999, 3 § 26.)

## **CHAPTER 211 - The Supreme Judicial Court.**

### **CHAPTER 211A - Appeals Court.**

§ 1 amended, 2000, 159 § 251, 252. (See 2000, 159 §§ 489, 490.)

### **CHAPTER 211B - Trial Court of the Commonwealth.**

§ 1 amended, 2000, 159 § 253. (See 2000, 159 § 498.)

§ 2, first sentence revised, 2000, 159 § 254. (See 2000, 159 § 498.)

### **CHAPTER 211C - Commission on Judicial Conduct.**

### **CHAPTER 211D - Committee for Public Counsel Services.**

§ 16 added, 1999, 74 § 10.

## **CHAPTER 211E - MASSACHUSETTS SENTENCING COMMISSION.**

(New chapter inserted, 1996, 12 § 9.)

## **CHAPTER 211F - OFFICE OF COMMUNITY CORRECTIONS.**

(New chapter inserted, 1996, 12 § 9.)

§ 1, definition of "Commissioner" inserted, 1999, 127 § 159. (See 1999, 127 § 390.)

§ 2 amended, 1999, 127 §§ 160, 161, 162; **section amended**, 2000, 72 § 1. (See 1999, 127 § 390.)

§ 3 amended, 1999, 127 § 163. (See 1999, 127 § 390.)

§ 4 amended, 2000, 72 § 2.

§ 5 amended, 1999, 127 § 164. (See 1999, 127 § 390.)

§ 6 amended, 1999, 127 § 165; **section amended**, 2000, 72 § 3. (See 1999, 127 § 390.)

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**CHAPTER 212 - The Superior Court.**

**CHAPTER 213 - Provisions Common to the Supreme Judicial and Superior Courts.**

**CHAPTER 214 - Equity Jurisdiction.**  
(Former title: Equity Jurisdiction and Procedure in the Supreme Judicial and Superior Courts.)

**CHAPTER 215 - Probate Courts.**

§ 30A, inserted by 1998, 398 § 2, stricken out, 2000, 313 § 43.

§ 30B added, 2000, 313 § 43.

**CHAPTER 216 - Courts of Insolvency.**

**CHAPTER 217 - Judges and Registers of Probate and Insolvency.**

§ 3C amended, 2000, 159 § 255. (See 2000, 159 § 498.)

§ 23A revised, 1999, 127 § 166; **section revised**, 2000, 159 § 256. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 23B added, 1999, 127 § 167; **section amended**, 2000, 159 § 257. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 27 amended, 1999, 127 § 168. (See 1999, 127 § 390.)

§ 28 amended, 2000, 159 § 258. (See 2000, 159 § 498.)

§ 29 amended, 2000, 159 §§ 259, 260. (See 2000, 159 § 498.)

§ 29C, first sentence revised, 1999, 127 § 169; 2000, 159 § 261. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 29E, first sentence revised, 1999, 127 § 170; 2000, 159 § 262. (See 1999, 127 § 390; 2000, 159 § 262.)

§ 29F, first sentence revised, 1999, 127 § 171; 2000, 159 § 263. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 29H amended, 2000, 159 § 264. (See 2000, 159 § 498.)

§ 35 amended, 1999, 127 § 172. (See 1999, 127 § 390.)

§ 35C added, 1999, 127 § 173. (See 1999, 127 § 390.)

**CHAPTER 218 - District Courts.**

§ 1 amended, 2000, 313 § 44; **section amended**, 2000, 388 §§ 1, 2.

§ 6 amended, 2000, 159 §§ 265, 266, 267. (See 2000, 159 § 498.)

§ 10 revised, 1999, 127 § 174; **section revised**, 2000, 159 § 268; **section amended**, 2000, 236 §§ 25, 25A. (See 1999, 127 § 390; 2000, 159 § 498; 236 § 104.)

§ 53, first paragraph, first sentence revised, 1999, 127 § 175. (See 1999, 127 § 390.)

§ 57 amended, 2000, 159 §§ 269, 270. (See 2000, 159 § 498.)

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**CHAPTER 218 - continued**

§ 58, fourth paragraph revised, 1999, 127 § 176l; **section amended**, 2000, 159 § 271, 272, 273, 274; fourth paragraph revised, 2000, 159 § 275. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 59 amended, 1999, 3 § 22.

**CHAPTER 219 - Trial Justices.**

**CHAPTER 220 - Courts and Naturalization.**

**CHAPTER 221 - Clerks, Attorneys and Other Officers of Judicial Court.**

§ 5 revised, 1999, 127 § 177; **section revised**, 2000, 159 § 276; two paragraphs added, 2000, 159 § 277. (See 1999, 127 § 390; 2000, 159 § 498.)

§ 6N added, 1999, 127 § 178. (See 1999, 127 § 390.)

§ 6O added, 1999, 127 § 178. (See 1999, 127 § 390.)

§ 34E, preceding caption “Massachusetts Defenders Committee” stricken out, 2000, 313 § 45.

**CHAPTER 221A - THE MASSACHUSETTS LEGAL ASSISTANCE CORPORATION ACT.**

**CHAPTER 221B - CHILD SUPPORT HEARING OFFICERS.**

**CHAPTER 221C - COURT INTERPRETERS FOR THE TRIAL COURT.**

**CHAPTER 222 - Justices of the Peace, Notaries Public and Commissioners.**

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§ 27A amended, 1999, 127 § 180, 1999, 127 § 180; definition of "Inmate" added, 1999, 127 § 181; definition of "Indigent" revised, 2000, 313 § 46. (See 1999, 127 § 390.)

§ 29 added, 1999, 127 § 182. (See 1999, 127 § 390.)

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§ 4 amended, 2000, 159 § 292. (See 2000, 159 § 498.)

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§ 43A added, 2000, 164.

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