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ACTS
AND
RESOLVES

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

2003

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH



The General Court, which was chosen November 5, 2002, assembled on Wednesday, the first day of January 2003 for the first session.

His Excellency W. Mitt Romney and the Honorable Kerry M. Healey served as Governor and Lieutenant Governor respectively for the political year of 2003.

2003 ACTS AND RESOLVES

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Secretary of the Commonwealth

Chapter 1. AN ACT EXPANDING THE GOVERNOR'S AUTHORITY TO ADDRESS DEFICIENCIES IN REVENUE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to enable the governor to address forthwith the current fiscal crisis, therefore 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 9B of chapter 29 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding any general or special law to the contrary, except an appropriation act or other law expressly citing and prohibiting the application of this section, any monies appropriated by the general court, and funds distributed in accordance with section 3 of the general appropriations act, but excluding monies otherwise appropriated to the general court, the courts, the office of the comptroller, the office of inspector general or constitutional officers, shall be expended only in such amounts as may be allotted as provided in this section.

SECTION 2. Said section 9B of said chapter 29, as amended by section 1 of this act, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Any monies made available by appropriation or otherwise, to state agencies under the control of the governor or a secretary, but not including the courts, the office of the governor and the office of the lieutenant governor, shall be expended only in such amounts as may be allotted as provided in this section.

SECTION 3. Section 9C of said chapter 29, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Whenever, in the opinion of the commissioner of administration, available revenues as determined by him from time to time during any fiscal year under section 5B will be insufficient to meet all of the expenditures authorized to be made from any fund, whether by appropriation or distribution, he shall immediately notify the governor and the house and senate committees on ways and means of the amount of such probable deficiency of revenue and the governor shall, within 15 days of such notification, reduce allotments under section 9B, stating the reason for and effect of such reductions, or submit to the general court specific proposals to raise additional revenues by a total amount equal to such deficiency. Any action challenging the legality of an allotment reduction pursuant to this section shall be commenced in the supreme judicial court for Suffolk county.

SECTION 4. Any allotment reduction in items 0611-5500, 7061-0008 and 7061-0022 and Lottery Distributions in sections 2 and 3 of chapter 184 of the acts of 2002, shall be not more than $\frac{1}{3}$ of the total reductions made by the governor in the current fiscal year after the effective date of this act.

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SECTION 5. The governor shall not reduce the allocation to a city, town or regional school district of state school aid funds appropriated in item 7061-0008 of section 2 of chapter 184 of the acts of 2002, as allocated by section 3 of said chapter 184, so as to reduce the sum of those allocated state school aid funds and the minimum required local contribution below foundation budget for that city, town or regional school district, as those terms are defined in section 2 of chapter 70 of the General Laws.

SECTION 6. In any reduction in payments to a municipality or regional school district pursuant to items 0611-5500, 7061-0008, 7061-0022, or Lottery Distributions in sections 2 and 3 of chapter 184 of the acts of 2002, from the amounts appropriated in said chapter 184, the governor shall consider the following: (1) the impact on the annual budget of each municipality or regional school district; (2) the existence of any local reserve funds; (3) the percentage of the municipality's or regional school district's budget that comes from the state; and (4) any other factor that he considers important.

SECTION 7. Section 2 shall take effect on July 1, 2003.

Approved January 17, 2003.

Chapter 2. **AN ACT RELATIVE TO THE SPECIAL STATE PRIMARIES AND ELECTION IN THE FIFTH NORFOLK REPRESENTATIVE DISTRICT.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to change certain dates relative to certain scheduled special state primaries and election, therefore 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 section 28 of chapter 53 of the General Laws or any other general or special law to the contrary, the special state primaries for the Fifth Norfolk representative district shall be held on the sixth Tuesday preceding the date of the special state election.

SECTION 2. Notwithstanding section 10 of chapter 53 of the General Laws or any other general or special law to the contrary, the deadline for filing nomination papers for the special state primaries and special state election for the Fifth Norfolk representative district shall be 5:00 p.m. on the eleventh Tuesday preceding the date of the special state election.

SECTION 3. All other dates and deadlines associated with special state primaries shall be in accordance with the General Laws.

SECTION 4. Notwithstanding section 3 of chapter 503 of the acts of 1983 or any

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other general or special law to the contrary, the commonwealth is not required to pay additional costs for extended polling hours to the towns within the Fifth Norfolk representative district for the special state primary to be held on April 1, 2003.

SECTION 5. The commonwealth shall pay additional costs for extended polling hours to the towns within the Fifth Norfolk representative district for the special state election to be held on May 13, 2003. The amount required to be paid to those municipalities shall be based on the amount estimated by the state auditor in accordance with section 3 of chapter 503 of the acts of 1983.

SECTION 6. Notwithstanding any other provision of this act to the contrary, municipalities shall be reimbursed for the net costs of the special state election for the Fifth Norfolk representative district as set forth in section 10A of chapter 3 of the General Laws.

SECTION 7. Chapter 55A of the General Laws shall not apply to the special primaries and election for state representative for the Fifth Norfolk district.

Approved February 6, 2003.

Chapter 3. AN ACT RELATIVE TO THE OFFICE OF THE DISTRICT ATTORNEY FOR THE EASTERN DISTRICT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the district attorney for the eastern district to delay certain payments because of the pending fiscal crisis, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or applicable personnel policy to the contrary, at the time of the termination of an employee's service with the office of the district attorney for the eastern district, by retirement or otherwise, that office may establish a schedule for the payment of any sum in excess of \$15,000 that is owed to such an employee in lieu of accrued vacation time, unused sick leave or other benefit under an established and applicable personnel policy. That office may determine the time period over which such payment schedule shall apply, but that schedule shall require completion of payments not later than June 30, 2005, except that those employees whose service with the office was so terminated before January 2, 2003 shall receive ½ of any such payment owed on or before February 14, 2003 and shall receive the remaining ½ of any such payment owed on or before July 18, 2003. On or before March 1, 2003, the office shall file with the house and senate committees on ways and means a report detailing the terms of any such payment schedule as of the date of the filing of the report.

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SECTION 2. This act shall not apply to the termination of service of any employee of the office of the district attorney for the eastern district who belongs to a bargaining unit for which a collective bargaining agreement is in effect at the time of the employee's termination of service. This act shall only apply to the termination of service of any employee of the office of the district attorney for the eastern district if the termination shall have occurred or occurs during fiscal year 2003.

SECTION 3. This act shall expire on June 30, 2005.

Approved February 27, 2003.

Chapter 4. AN ACT MAKING APPROPRIATIONS FOR FISCAL YEAR 2003 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 related 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. To provide for certain unanticipated obligations of the commonwealth, to provide for alterations of purpose for current appropriations and to meet certain requirements of law, the sum set forth in this section is hereby appropriated from the general fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2003. Said sum shall be in addition to any amounts previously appropriated and made available for the purposes of said item.

OFFICE OF THE COMPTROLLER.

1599-4148 For a reserve for the payment of certain court judgments, settlements and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in fiscal year 2003 or a prior fiscal year; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item; provided further, that not more than \$3,662,500 shall be expended to the Tufts School of Veterinary Medicine for services rendered during fiscal years 2003 and before; provided further, that the comptroller may transfer funds from this item to the Liability

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Management and Reduction Fund established in section 2TT of chapter 29 of the General Laws; and provided further, that no funds appropriated in this item shall be expended on any settlements pursuant to chapter 55A of the General Laws \$8,462,500.

SECTION 2. Chapter 9 of the General Laws is hereby amended by adding the following section:-

Section 31. Notwithstanding any general or special law to the contrary, the fees of the registers of deeds and of the assistant recorders, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$5. The surcharge shall be imposed for the purpose of automation, modernization, operation and technological improvements at the registries of deeds. Only those registries under the control of the state secretary shall be subject to the terms and conditions of this section. From March 15, 2003 until June 30, 2008, all surcharges on fees collected pursuant to this section shall be forwarded to the Registers Technological Fund established in section 2JJJ of chapter 29. From July 1, 2008, all of the surcharges shall be forwarded to the general fund as provided in section 2 of said chapter 29.

SECTION 3. Section 39 of chapter 19A of the General Laws, as appearing in section 11 of chapter 177 of the acts of 2001, is hereby amended by adding the following subsection:-

(s) The secretary may negotiate with pharmaceutical companies in order to reduce the pricing or cost of prescription medications made available through the program. The secretary may adopt any tools or programs available to achieve reduced pricing or cost of prescription medications. Nothing included in this section shall preclude the secretary from negotiating with manufacturers on other initiatives that may benefit the program.

SECTION 4. Chapter 29 of the General Laws is hereby amended by inserting after section 2III the following 2 sections:-

Section 2JJJ. (a) There shall be established on the books of the commonwealth a separate fund to be known as the Registers Technological Fund for the benefit of the registers of deeds under the control of the state secretary. This fund shall consist of the amounts specified in and collected pursuant to section 31 of chapter 9. The state treasurer shall deposit these amounts into the fund, which shall be expended solely for the purposes of automation, modernization, operation and technological improvements at the registries of deeds. The state secretary for the benefit of the registers under his control, shall submit a spending plan to the clerks of the house of representatives and senate, who shall refer the plan to the house and senate committees on ways and means and house and senate committees on post audit and oversight. In preparing the plan, the secretary shall consult with the commonwealth's chief information officer and require that the projects and purchases funded through disbursements in this section shall be consistent with the enterprise information technology strategy, plan and information technology standards adopted by him. All such monies shall be used to purchase information technology systems that are interoperable with other like systems that are used or will be used by all registries. The plan

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shall include, but not be limited to, the cost and description of all intangible, personal and real property to be purchased or services to be received and any and all personnel changes for the automation, modernization, operation and technological improvements. If the general court takes no final action relative to the plan within 30 days after the date on which the plan is first referred to those committees, the state treasurer shall disburse the funds according to the plan.

(b) In conjunction with the preparation of the commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenue and expenditure of the fund.

Section 2KKK. (a) There shall be established on the books of the commonwealth a separate fund for the counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Nantucket, to be known as the County Registers Technological Fund, for the benefit of the registers of deeds under the control of the governments of those counties. The fund shall consist of the amounts specified in and collected pursuant to section 41 of chapter 36. The state treasurer shall deposit these amounts into the fund, which shall be expended, subject to section 40 of said chapter 36, solely for the purposes of automation, modernization, operation and technological improvements at the registries of deeds. Each such register shall submit a spending plan to the clerks of the house of representatives and senate, who shall refer the plan to the house and senate committees on ways and means and house and senate committees on post audit and oversight. In preparing the plan, the register shall consult with the commonwealth's chief information officer and the state secretary and require that the projects and purchases funded through disbursements in this section shall be consistent with the enterprise information technology strategy, plan information and technology standards adopted by him. All such monies shall be used to purchase information technology systems that are interoperable with other like systems that are used or will be used by all registries. The plan shall include, but not be limited to, the cost and description of all intangible, personal and real property to be purchased or services to be received for the automation, modernization, operation and technological improvements. If the general court takes no final action relative to the plan within 30 days after the date on which the plan is first referred to those committees, the state treasurer shall disburse the funds according to the plan.

(b) In conjunction with the preparation of the commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenue and expenditure of the fund.

SECTION 5. Chapter 36 of the General Laws is hereby amended by adding the following section:-

Section 41. Notwithstanding any general or special law to the contrary, the fees of each of the registers of deeds and of the assistant recorders, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$5. The surcharge shall be imposed for the purpose of automation, modernization, operation and technological improvements at the registries of deeds. Only registries presently under the control of county government shall be subject to this section. From March 15, 2003 until June 30, 2008, all surcharges on fees collected pursuant to this

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section shall be forwarded to the County Registers Technological Fund established in section 2KKK of chapter 29. From July 1, 2008, all of the surcharges shall be forwarded to the general fund as provided in section 2 of chapter 29.

SECTION 6. Section 23 of chapter 60 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 44, the words "four dollars" and inserting in place thereof the following figure:- \$50.

SECTION 7. Subsection (a) of section 5A of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out the last 2 sentences and inserting in place thereof the following 5 sentences:- Items of gross income from sources within the commonwealth are items of gross income derived from or effectively connected with: (1) any trade or business, including any employment carried on by the taxpayer in the commonwealth, whether or not the nonresident is actively engaged in a trade or business or employment in the commonwealth in the year in which the income is received; (2) the participation in any lottery or wagering transaction within the commonwealth; and (3) the ownership of any interest in real or tangible personal property located in the commonwealth. In computing the taxable income of each Part, the nonresident shall be allowed the deductions and exemptions provided as to each Part in section 3. For purposes of this section, gross income derived from or effectively connected with any trade or business, including any employment, carried on by the taxpayer in the commonwealth shall mean the income that results from, is earned by, is credited to, accumulated for or otherwise attributable to either the taxpayer's trade or business in the commonwealth in any year or part thereof, regardless of the year in which that income is actually received by the taxpayer and regardless of the taxpayer's residence or domicile in the year it is received. It shall include, but not be limited to, gain from the sale of a business or of an interest in a business, distributive share income, separation, sick or vacation pay, deferred compensation and nonqualified pension income not prevented from state taxation by the laws of the United States and income from a covenant not to compete. The foregoing shall not be deemed to include income from qualified tax-deferred retirement plans which are exempt from taxation under any other provision of this chapter.

SECTION 8. Section 8 of said chapter 62, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Paragraph (a) shall not apply to a corporate trust which: (i) is a regulated investment company under section 851 of the Code or a real estate investment trust under section 856 of the Code; (ii) is a holding company as hereinafter defined; (iii) is exempt under subdivision (1) or (2) of section 23 of chapter 32; or (iv) has made a valid election for the taxable year to be treated as a real estate mortgage investment conduit, as defined in section 860D of the Code for federal income tax purposes. As used in this paragraph, the term "holding company" shall mean a corporate trust in which 90 per cent of the book value of its assets, at the end of the taxable year, are securities and at least 75 per cent of such securities are issued by affiliates and at least 90 per cent of its Massachusetts gross income is Part A gross income and Part C gross income; the word "affiliate" shall mean a member

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of an affiliated group as defined under section 1504 of the Code; and the word "securities" shall mean transferable shares of beneficial interest in a corporation or other entity, bonds or debentures of an issuer or notes and other evidences of indebtedness of affiliates.

SECTION 9. The first paragraph of section 17 of said chapter 62, as so appearing, is hereby amended by adding the following sentence:- If a limited liability company has only 1 member and is not treated as a separate taxable entity for federal tax purposes, it shall not be separately taxed under this chapter and such member shall include separately in his return the limited liability company's income or loss taxable under this chapter and any item of deduction or credit.

SECTION 10. Chapter 62C of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. In applying the laws referred to in section 2, the commissioner may, in his discretion, disallow the asserted tax consequences of a transaction by asserting the application of the sham transaction doctrine or any other related tax doctrine, in which case the taxpayer shall have the burden of demonstrating by clear and convincing evidence as determined by the commissioner that the transaction possessed both: (i) a valid, good-faith business purpose other than tax avoidance; and (ii) economic substance apart from the asserted tax benefit. In all such cases, the taxpayer shall also have the burden of demonstrating by clear and convincing evidence as determined by the commissioner that the asserted nontax business purpose is commensurate with the tax benefit claimed. Nothing in this section shall be construed to limit or negate the commissioner's authority to make tax adjustments as otherwise permitted by law.

SECTION 11. Section 1 of chapter 63 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the definition of "Borrowing or credit card holder located in this commonwealth" the following definition:-

"Code", the Internal Revenue Code of the United States, as amended and in effect for the taxable year, unless otherwise provided.

SECTION 12. The definition of "Net income" in said section 1 of said chapter 63, as amended by section 4 of chapter 96 of the acts of 2002, is hereby further amended by inserting after the first sentence the following 2 sentences:- The term "dividends received" shall be treated in the same manner as under the Code, as amended and in effect for the taxable year. For purposes of this section, any dividend received from a real estate investment trust, as provided in sections 856 to 859, inclusive, of the Code, for the taxable year of the trust in which the dividend is paid, shall not be treated as a dividend.

SECTION 13. Section 30 of said chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as appearing in the 2000 Official Edition, and inserting in place thereof the following 2 paragraphs:-

1. "Domestic corporation", (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited

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liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that the term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to section 2. A limited liability company having as its sole member a domestic corporation, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member.

2. "Foreign corporation", a corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B or sections 19F to 19W, inclusive, of chapter 175 or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that the term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under section 2; provided further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member.

SECTION 14. Paragraph 4 of said section 30 of said chapter 63, as amended by section 9 of chapter 300 of the acts of 2002, is hereby amended by inserting after the second sentence the following sentence:- For purposes of this section, a dividend received from a real estate investment trust, as provided under sections 856 to 859, inclusive, of the Code, for the taxable year of the trust in which the dividend is paid shall not be: (i) treated as a dividend; and (ii) included as part of the dividends received deduction otherwise available to the taxpayer under paragraph (1) of subsection (a) of section 38.

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SECTION 15. Said paragraph 4 of said section 30 of said chapter 63, as amended by said section 9 of said chapter 300, is hereby further amended by adding the following clause:-

(v) except as otherwise provided in section 31J, interest expense paid, accrued or asserted in connection with a dividend of a note or similar obligation stating the requirement that such interest is to be paid by the corporation that dividends such obligation to its shareholders.

SECTION 16. Said section 30 of said chapter 63, as most recently amended by section 10 of said chapter 300, is hereby further amended by adding the following paragraph:-

16. Except as otherwise provided in sections 31 to 52, inclusive, the term "Code" shall mean the Internal Revenue Code of the United States, as amended and in effect for the taxable year.

SECTION 17. Said chapter 63 is hereby further amended by inserting after section 31H the following 2 sections:-

Section 31I. (a) As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Code", the federal Internal Revenue Code as amended and in effect for the taxable year.

"Intangible expenses and costs", includes (1) expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deductions and special deductions for the taxable year under the Code; (2) losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions; (3) royalty, patent, technical and copyright fees; (4) licensing fees; and (5) other similar expenses and costs.

"Intangible property", patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets and similar types of intangible assets.

"Interest expenses and costs", amounts directly or indirectly allowed as deductions under section 163 of the Code for purposes of determining taxable income under the Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, management, ownership, sale, exchange or disposition of intangible property.

"Related member", a person that, with respect to the taxpayer during all or any portion of the taxable year, is: (1) a related entity, (2) a component member as defined in subsection (b) of section 1563 of the Code; (3) a person to or from whom there is attribution of stock ownership in accordance with subsection (e) of section 1563 of the Code; or (4) a person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in (1) to (3), inclusive.

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"Related entity", (1) a stockholder who is an individual, or a member of the stockholder's family set forth in section 318 of the Code if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 per cent of the value of the taxpayer's outstanding stock; (2) a stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 per cent of the value of the taxpayer's outstanding stock; or (3) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Code if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 per cent of the value of the corporation's outstanding stock. The attribution rules of the Code shall apply for purposes of determining whether the ownership requirements of this definition have been met.

(b) For purposes of computing its net income under this chapter, a taxpayer shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related members.

(c) (i) The adjustments required in subsection (b) shall not apply if: (A) the taxpayer establishes by clear and convincing evidence, as determined by the commissioner, that the adjustments are unreasonable; or (B) the taxpayer and the commissioner agree in writing to the application or use of an alternative method of apportionment under section 42. Nothing in this subsection shall be construed to limit or negate the commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(ii) The adjustments required in subsection (b) shall not apply to the portion of interest expenses and costs and intangible expenses and costs that the taxpayer establishes by a preponderance of the evidence meets both of the following: (A) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person that is not a related member, and (B) the transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the taxpayer and the related member did not have as a principal purpose the avoidance of any portion of the tax that would be otherwise due.

(d) Nothing in this section shall be construed to limit or negate the commissioner's authority to make adjustments under sections 33 and 39A.

Section 31J. (a) For purposes of computing its net income under this chapter, a taxpayer shall add back otherwise deductible interest paid, accrued or incurred to a related member, as defined in section 31I, during the taxable year, except that a deduction shall be permitted when either: (1) the taxpayer establishes by clear and convincing evidence, as determined by the commissioner, that the disallowance of the deduction is unreasonable, or (2) the taxpayer and the commissioner agree in writing to the application of an alternative method of apportionment under section 42. Nothing in this subsection shall be construed to

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limit or negate the commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(b) The adjustments required in subsection (a) shall not apply if the taxpayer establishes by clear and convincing evidence, as determined by the commissioner, that: (i) a principal purpose of the transaction giving rise to the payment of interest was not to avoid payment of taxes due under this chapter; (ii) the interest is paid pursuant to a contract that reflects an arm's length rate of interest and terms; and (iii) (A) the related member was subject to tax on its net income in this state or another state or possession of the United States or a foreign nation; (B) a measure of said tax included the interest received from the taxpayer; and (C) the rate of tax applied to the interest received by the related member is no less than the statutory rate of tax applied to the taxpayer under this chapter minus 3 percentage points.

(c) For purposes of subsection (a), interest payments by the taxpayer to a person or entity that is not a related member will be treated as if made to a related member if the interest is paid in connection with a debt incurred to acquire the taxpayer's assets or stock in a transaction that is referenced in section 368 of Internal Revenue Code, as amended and in effect for the taxable year. For purposes of this subsection, subsection (b) shall not apply.

(d) Nothing in this section shall be construed to limit or negate the commissioner's authority to make adjustments under sections 33 and 39A.

SECTION 18. Said chapter 63 is hereby further amended by striking out section 32D, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 32D. (a) Any domestic business corporation or foreign corporation subject to an excise under section 32 or 39 which is an S corporation or a qualified subchapter S subsidiary, as defined under section 1361 of the Code, as amended and in effect for the taxable year, shall determine the net income measure of the excise as follows:

(i) The net income shall be determined by taking into account subchapter S of said Code. Income or loss shall be determined as if it were realized or incurred directly by an owner subject to taxation under chapter 62 or 63, as applicable. In the case of an S corporation, income shall be included in the net income measure under this subsection to the extent that such income is taxed to the S corporation for federal income tax purposes. In the case of a qualified subchapter S subsidiary, income shall be included in the net income measure under this subsection to the extent that such income would have been taxed to the subchapter S subsidiary for federal income tax purposes had it been treated as a separate corporation; and

(ii) Any such domestic business corporation or foreign corporation which is an S corporation or a qualified subchapter S subsidiary and which has total receipts for the taxable year of \$6,000,000 or more shall also include in the net income measure of the excise imposed under section 32 or 39 an amount determined by multiplying its net income determined to be taxable in accordance with this chapter by one of the following rates, in lieu of the rate provided in said section 32 or 39:

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(1) if total receipts for the taxable year are at least \$6,000,000 but less than \$9,000,000, 2.63 per cent; and

(2) if total receipts for the taxable year are \$9,000,000 or more, 3.95 per cent.

For purposes of this subsection, net income determined to be taxable in accordance with this chapter shall be determined without taking into account subchapter S of said Code, and shall not include income that is taxed to the S corporation or qualified subchapter S subsidiary at the entity level under paragraph (i) of subsection (a). The term "total receipts" shall mean gross receipts or sales, less returns and allowances, and shall include dividends, interest, royalties, capital gain net income, rental income and all other income. The cost of goods sold or the cost of operations shall not be deductible in determining such total receipts. The commissioner shall, by regulation, apply such limits on an aggregate basis to S corporations engaged in a unitary business with majority direct or indirect ownership by common stockholders. Such aggregating shall also include any other type of entity, including any qualified subchapter S subsidiary, so engaged and so owned which the commissioner finds was established for the purpose of avoiding the foregoing limits.

(b) For purposes of this section, in determining the net income of any qualified subchapter S subsidiary, its gross income shall be determined by computing its gross income as defined under the Code as if it had been taxed as a separate corporation for federal income tax purposes.

SECTION 19. Section 33 of said chapter 63, as so appearing, is hereby amended by inserting after the word "subsidiary", in lines 2 and 17, the following words:- or parent corporation.

SECTION 20. Said section 33 of said chapter 63, as so appearing, is hereby further amended by inserting after the word "corporation", in lines 4 and 6, the following words:- or subsidiary.

SECTION 21. Said section 33 of said chapter 63, as so appearing, is hereby further amended by inserting after the word "parent", in lines 20 and 24, the following words:- or subsidiary.

SECTION 22. The last paragraph of said section 33 of said chapter 63, as so appearing, is hereby amended by adding the following sentence:- This section shall be broadly construed to include the situation in which the corporations referenced transact with one another through persons or entities that are not corporations within the meaning of this chapter.

SECTION 23. Section 38B of said chapter 63, as so appearing, is hereby amended by adding the following subsection:-

(d) Ownership interest in a real estate investment trust which is a related member, as defined in section 31I, shall not be considered a security for the purposes of this section. A real estate investment trust shall have the same meaning as that contained in section 856 of the Code.

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SECTION 24. Section 38C of said chapter 63, as so appearing, is hereby amended by striking out, in line 2, the words "one hundred and fifty-six B" and inserting in place thereof the following words:- 156B and every limited liability company organized under chapter 156C which is not classified as a partnership and has elected to be taxed as a corporation separate from its members for federal income tax purposes.

SECTION 25. Section 39A of said chapter 63, as so appearing, is hereby amended by inserting after the word "subsidiary", in lines 1 and 2, and in line 16, the following words:- or parent corporation.

SECTION 26. Said section 39A of said chapter 63, as so appearing, is hereby further amended by inserting after the word "corporation", in lines 4 and 6, the following words:- or subsidiary.

SECTION 27. Said section 39A of said chapter 63, as so appearing, is hereby further amended by inserting after the word "parent", in lines 18 and 22, the following words:- or subsidiary.

SECTION 28. The last paragraph of said section 39A of said chapter 63, as so appearing, is hereby amended by adding the following sentence:- This section shall be broadly construed to include the situation in which the corporations referenced transact with one another through persons or entities that are not corporations within the meaning of this chapter.

SECTION 29. Section 42B of said chapter 63, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "Every corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, which has a usual place of business in the commonwealth and" and inserting in the place thereof the following words:- Every foreign limited liability company taxed as a corporation separate from its members for federal income tax purposes and every corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, which has a usual place of business in the commonwealth, and.

SECTION 30. Section 52A of said chapter 63, as so appearing, is hereby amended by adding the following definition:-

(e) "Code", the Internal Revenue Code of the United States, as amended and in effect for the taxable year.

SECTION 31. Section 6 of chapter 110 of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "'limited partnership'" and inserting in place thereof the following words:- "limited partnership"; nor to a limited liability company or limited liability partnership which is doing business under its true name and which has registered or qualified with the office of the state secretary.

SECTION 32. Chapter 156B of the General Laws is hereby amended by striking out section 83A, as so appearing, and inserting in place thereof the following section:-

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Section 83A. Any 1 or more corporations may consolidate or merge with or into 1 or more domestic limited liability companies or 1 or more foreign limited liability companies as defined in section 2 of chapter 156C or may consolidate or merge with or into 1 or more limited liability partnerships or foreign limited liability partnerships as defined in section 2 of chapter 108A. The agreement of consolidation or merger shall be adopted by each constituent in accordance with the laws under which it is organized and, in the case of a Massachusetts corporation, in the manner provided in section 78. Articles of consolidation or merger shall contain the information required by said section 78 and shall become effective when the articles are filed in accordance with section 6, unless the articles specify a later effective date not more than 30 days after filing, in which event the consolidation or merger shall become effective on such later date.

SECTION 33. Section 2 of chapter 156C of the General Laws, as so appearing, is hereby amended by striking out, in line 40, the word "two" and inserting in place thereof the following figure:- 1.

SECTION 34. Subsection (b) of section 6 of said chapter 156C, as so appearing, is hereby amended by adding the following sentence:- Without limitation of the foregoing and except as otherwise expressly set forth in a written operating agreement, a limited liability company shall have the power to make guarantees of the obligations of another person or entity.

SECTION 35. Section 8 of said chapter 156C, as so appearing, is hereby amended by inserting after the word "a", in line 20, the following words:- member or.

SECTION 36. Said section 8 of said chapter 156C, as so appearing, is hereby further amended by inserting after the word "company", in line 21, the following words:- or to another member or manager.

SECTION 37. Section 14 of said chapter 156C, as so appearing, is hereby amended by striking out, in line 3, the words "fewer than two" and inserting in place thereof the following word:- no.

SECTION 38. Said section 14 of said chapter 156C, as so appearing, is hereby further amended by striking out, in line 9, the words "not two" and inserting in place thereof the following word:- no.

SECTION 39. Section 17 of said chapter 156C, as so appearing, is hereby amended by inserting after the word "merger", in line 4, the following words:- or conversion.

SECTION 40. Section 22 of said chapter 156C, as so appearing, is hereby amended by striking out, in line 5, the words "obligated personally" and inserting in place thereof the following words:- personally liable, directly or indirectly, including, without limitation, by way of indemnification, contribution, assessment or otherwise,.

SECTION 41. Section 24 of said chapter 156C, as so appearing, is hereby amended by striking out, in line 1, the word "Unless" and inserting in place thereof the following:- (a) Unless.

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SECTION 42. Said section 24 of said chapter 156C, as so appearing, is hereby further amended by adding the following 3 subsections:-

(b) If a limited liability company has at least 1 manager, then unless otherwise provided in the operating agreement, the manager shall manage and control the limited liability company and no member shall manage or control the limited liability company. If a limited liability company has no manager then, unless otherwise provided in the operating agreement, the members shall manage and control the limited liability company.

(c) If a limited liability company has at least 1 manager then, unless otherwise provided in the operating agreement, each manager may execute documents and act for the limited liability company and no member shall execute documents or act for the limited liability company. If a limited liability company has no manager then, unless otherwise provided in the operating agreement, each member may execute documents and act for the limited liability company.

(d) Unless otherwise provided in the operating agreement, a member or manager of a limited liability company may delegate some or all of such member's or manager's rights and powers to execute documents and act for and manage and control the business and affairs of the limited liability company, including delegating to agents and employees of a member or manager of the limited liability company, and delegating by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the operating agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager, as the case may be, of the limited liability company.

SECTION 43. Section 43 of said chapter 156C, as so appearing, is hereby amended by striking out, in line 6, the word "except" and inserting in place thereof the following words:- with respect to a limited liability company formed prior to January 1, 1997, except.

SECTION 44. Section 59 of said chapter 156C, as so appearing, is hereby amended by striking out, in lines 8 to 10, inclusive, the words ", and as having filed a copy of its instrument or declaration with the state secretary in compliance with, chapter one hundred eighty-two".

SECTION 45. Said chapter 156C is hereby further amended by adding the following section:-

Section 69. (a) As used in this section the term "other business entity" shall mean an association or trust as defined in section 1 of chapter 182, and a partnership, whether general or limited and whether domestic or foreign as each may be defined in section 6 of chapter 108A or section 1 of chapter 109, including a foreign or domestic registered limited liability partnership as defined in section 2 of said chapter 108A.

(b) Any other business entity may convert to a domestic limited liability company by complying with subsection (h) and filing with the office of the state secretary in accordance with section 17:

(1) a certificate of conversion to a limited liability company that has been executed in accordance with section 15; and

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(2) a certificate of organization of a limited liability company that complies with section 12 and has been executed in accordance with said section 15.

(c) The certificate of conversion to a limited liability company shall state:

(1) the date on which, and jurisdiction in which, the other business entity was first created, incorporated or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic limited liability company;

(2) the name of the other business entity immediately prior to the filing of the certificate of conversion to a limited liability company;

(3) the name of the limited liability company as set forth in its certificate of organization filed in accordance with subsection (b); and

(4) the future effective date, which shall be a date certain, of the conversion to a limited liability company if it is not to be effective upon the filing of the certificate of conversion and certificate of organization.

(d) Upon the effective date of the filing of the certificate of conversion and certificate of organization in the office of the state secretary, the other business entity shall be converted into a domestic limited liability company and the limited liability company shall thereafter be subject to this chapter.

(e) The conversion of any other business entity into a domestic limited liability company shall not be deemed to affect any obligations or liabilities of the other business entity incurred prior to such conversion or the personal liability of any person incurred prior to such conversion.

(f) When a conversion becomes effective under this section, for all purposes of the laws of the commonwealth, all of the rights, privileges and powers of the other business entity that has converted and all property, real, personal and mixed, and all debts due to such other entity, as well as all other things and causes of action belonging to such other entity, shall be vested in the domestic limited liability company and shall thereafter be the property of the domestic limited liability company as they were of such other entity. The title to any real property vested by deed or otherwise under the laws of the commonwealth in such other entity shall not revert or be in any way impaired by reason of this chapter, but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired and all debts, liabilities and duties of such other entity shall then attach to the domestic limited liability company and may be enforced against it to the same extent as if the debts, liabilities and duties had been incurred or contracted by it.

(g) Unless otherwise agreed or required under the laws of another jurisdiction applicable to the other business entity, such other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets and the conversion shall not be deemed to constitute a dissolution of such other entity.

(h) Prior to filing a certificate of conversion to a limited liability company with the state secretary, the conversion and the operating agreement of the limited liability company shall be approved by the other business entity in the manner provided in its governing documents or the laws applicable to it for authorization of a merger of the other business entity

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into a limited liability company or, in the absence of such provisions, in the manner of a sale of all or substantially all of its assets.

(i) This section shall not be construed to limit the ability of another business entity to change its governing law, its legal status or its domicile by any other means provided for in its governing documents, instruments or agreements or by applicable laws, including by amendment of the governing documents or operating agreement.

SECTION 46. Section 1A of chapter 200A of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "A or six B" and inserting in place thereof the following words:- A, six B or six D.

SECTION 47. Said chapter 200A is hereby further amended by inserting after section 6C the following section:-

Section 6D. Notwithstanding any provision of this chapter to the contrary, unclaimed property payable or distributable in the course of a demutualization or related reorganization of an insurance company shall be presumed abandoned 3 years after the earlier of: (a) the date of last contact with the policyholder; (b) the date of last activity on the account of the policyholder, as defined in 960 CMR 4.02; or (c) the date the property becomes payable or distributable.

Before presuming property abandoned pursuant to this section, the treasurer shall determine that the insurance company holding the unclaimed proceeds from its demutualization or related reorganization has made all reasonable, good faith efforts to locate, contact and inform the policyholder or other apparent owner of the existence of the property.

SECTION 48. Section 7 of said chapter 200A, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "companies", in line 29, the following words:- , and persons holding unclaimed proceeds from the demutualization or related reorganization of a life insurance company.

SECTION 49. Section 8A of said chapter 200A, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A person who has filed a report as provided in section 7 shall, by November 1 or, in the case of life insurance companies and persons holding unclaimed proceeds from demutualization or related reorganization of a life insurance company, May 1, pay or deliver to the treasurer at the time of filing the report all property presumed abandoned specified in the report.

SECTION 50. Section 12 of said chapter 200A, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words "or 6B" and inserting in place thereof the following words:- ,6B or 6D.

SECTION 51. Chapter 262 of the General Laws is hereby amended by striking out section 38, as so appearing, and inserting in place thereof the following section:-

Section 38. 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 as follows:

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For entering and recording any paper, certifying the same on the original, and indexing it and for all other duties pertaining thereto, \$50;

For recording a declaration of trust, \$200;

For recording a deed or conveyance, \$100;

For recording a mortgage, \$150;

For recording a declaration of homestead, \$30;

For recording and filing a plan, \$50 per sheet; and

For all copies of documents, whether copied out of books or generated electronically, \$1 per page, and all coin operated copy machines shall be \$.50 per page.

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 52. Section 39 of said chapter 262 is hereby amended by striking out, in lines 11 and 12, as so appearing, the words "twenty dollars" and inserting in place thereof the following words:- \$50 per sheet.

SECTION 53. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 38, as so appearing, the words "forty dollars" and inserting in place thereof the following figure:- \$100.

SECTION 54. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 39, as so appearing, the words "forty dollars" and inserting in place thereof the following figure:- \$50.

SECTION 55. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 40, as so appearing, the words "twenty dollars" and inserting in place thereof the following figure:- \$50.

SECTION 56. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 41, as so appearing, the words "three dollars" and inserting in place thereof the following figure:- \$5.

SECTION 57. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 42, as so appearing, the words "thirty dollars" and inserting in place thereof the following figure:- \$150.

SECTION 58. Said section 39 of said chapter 262 is hereby further amended by striking out, in lines 55 and 59, as so appearing, the words "thirty dollars" and inserting in place thereof, in each instance, the following figure:- \$50.

SECTION 59. Section 39 of said chapter 262 is hereby further amended by adding the following 2 paragraphs:-

The fee for filing a declaration of homestead shall be \$30.

The fee for the filing and registration of a declaration of trust shall be \$200.

SECTION 60. The first sentence of section 2 of chapter 313 of the acts of 1998 is hereby amended by inserting after the words "Terminal A", the following words:- and renovations of the central parking garage.

SECTION 61. Item 4000-0300 in section 2 of chapter 184 of the acts of 2002 is hereby amended by inserting after the words "shall be deemed current fiscal year expenditure refunds, so-called" the following words:- ; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of recoveries and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts up to the projected total recoveries to be received by June 30, 2003.

SECTION 62. Item 4130-1000 of said section 2 of said chapter 184 is hereby amended by adding the following words:-

General Fund 84.75%
Transitional Aid to Needy Families Fund . 15.25%.

SECTION 63. Section 165 of said chapter 184 is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) not more than \$15,500,000 shall be credited to the Capital Needs Investment Fund; provided, that \$12,500,000 shall be expended for the purposes of clause (a) of the first paragraph of said section 357, of which, not less than \$10,000,000 shall be paid at the beginning of fiscal year 2003, and not less than \$2,500,000 shall be paid in the second half of fiscal year 2003.

SECTION 64. Section 2D of said chapter 184 is hereby amended by inserting after item 7002-6644 the following item:-

7002-6645 For the purposes of a federally funded grant entitled, Reed Act State Unemployment Trust Distribution, to support the costs of initiatives which will enhance and improve the operations and offerings of the Massachusetts One-Stop Career Center system and provide increased direct benefits to workers and employers; provided, that not more than \$925,000 shall be expended for the operation of the New Perspectives Program, an effort to provide intensive assessment and counseling services to workers who need assistance in adjusting to career changes; provided further, that not more than \$800,000 shall be expended for enhancement to the Massachusetts One-Stop Employment System, MOSES, including, but not limited to, the construction of a relational database, the creation of a capacity for job seekers to conduct intelligent searches of multiple commercial internet-based job banks and improvements in the services offered to employers in the Massachusetts job bank; provided further, that not less than \$300,000 shall be expended for a comprehensive job vacancy survey; provided further, that not less than \$400,000 shall be expended for the costs associated with integrating existing

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stand-alone workforce development performance management systems into the MOSES system; and provided further, that not more than \$2,000,000 shall be expended for the Massachusetts One-Stop Career Centers; and provided further that all funds appropriated under this item shall be expended within 2 years of the effective date of this act \$4,425,000.

SECTION 65. Section 6 of chapter 244 of the acts of 2002 is hereby amended by adding the following paragraph:-

During fiscal year 2003, funds may be expended by the department of housing and community development, through its contract with the Massachusetts Housing Financing Agency, from the sums set forth and made available in item 7004-7014 of section 2 for the production of housing as such production is authorized under chapter 121D of the General Laws.

SECTION 66. Section 5 of chapter 510 of the acts of 2002 is hereby repealed.

SECTION 67. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, the comptroller shall transfer to the general fund the following: \$12,000,000 from the Workforce Training Fund, established in section 2RR of chapter 29 of the General Laws, the balance of the Clean Elections Judgment Fund, established pursuant to subsection (b) of section 174 of chapter 184 of the acts of 2002; \$6,500,000 from the Caseload Increase Mitigation Fund established in section 2NN of said chapter 29; and \$6,500,000 from the Health Protection Fund established pursuant to 2GG of said chapter 29.

SECTION 68. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, the comptroller shall transfer the balance, as of January 1, 2003, of the account established in clause (b) of section 5C of chapter 29 of the General Laws to the general fund. Any funds encumbered or transferred after January 1, 2003 shall be unencumbered or transfers reversed. Nothing in this section shall affect any underlying capital authorizations and the ability to subsequently finance these authorizations through bond proceeds.

SECTION 69. Notwithstanding any general or special law to the contrary, not later than 15 days after the effective date of this act, the Massachusetts Technology Collaborative shall develop a plan that ensures that on or before June 30, 2003 it shall pay to the state treasurer a total of \$17,000,000 for deposit in the general fund from the Renewable Energy Trust Fund established pursuant to section 4E of chapter 40J of the General Laws in a manner that minimizes disruption to the fund.

SECTION 70. A school facilities capital or major reconstruction project which has received final municipal approval by a favorable vote by the legislative body of the municipality, subject to its charter, on or before June 30, 2003 and which meets all department of education criteria shall be placed on the priority waiting list for reimbursement pursuant to section 10 of chapter 70B of the General Laws at the rate for which it would have

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been eligible on January 31, 2003, subject to the requirements of section 6 and all other sections of said chapter 70B. Notwithstanding said section 6, the department of education shall not implement a comprehensive moratorium on review or approval of pending school construction applications prior to June 30, 2003.

SECTION 71. Sections 12 and 14 are intended to clarify existing laws with respect to distributions received by businesses subject to tax under chapter 63 of the General Laws. The laws have recently been interpreted by some taxpayers to substantially exempt from taxation real estate investment trust distributions received by such businesses. By the enactment of this law, it is the statement of the general court's intent that, for the purposes of those subject to an excise under said chapter 63, such distributions, in conformity with section 243(d) of the Internal Revenue Code, shall not be treated as dividends, have never been exempt or partially exempt and are subject to taxation.

SECTION 72. In order to maximize the revenues of the commonwealth in fiscal years 2003 and 2004 and notwithstanding section 14 of chapter 65 of the General Laws and section 97 of chapter 684 of the acts of 1975, the commissioner of revenue shall accept, in full satisfaction of the tax required on future interests under said chapter 65, an amount less than would otherwise be required to be paid by strict application of said chapter 65. The commissioner may compromise and settle such future interest liability provided the full amount agreed under the compromise is paid in full not later than December 15, 2003.

The commissioner shall exercise his authority in a manner that will allow the greatest number of taxpayers to pay such future interest liability in advance of the payment date under said chapter 65. No taxpayer who has paid all or any part of the tax due under said chapter 65 shall have any claim for an abatement or refund which exceeds the amount which could be paid pursuant to this act.

Not more than 30 days after the effective date of this act, the commissioner shall publish any rules and regulations necessary for the implementation of this section.

SECTION 73. (a) The terms used in this section shall have the following meanings unless the context clearly requires otherwise:

"Amnesty period", a period of time commencing not earlier than the date a municipal legislative body establishes a municipal tax amnesty program according to this act and expiring on December 31, 2003 or on such earlier date as the municipal legislative body might determine, during which the municipal tax amnesty program established by the municipal legislative body shall be in effect in that city or town.

"Collector", as defined in chapter 60 of the General Laws.

"Covered amount", the aggregate of all penalties, fees, charges and accrued interest assessed by the collector or treasurer for the failure of a certain taxpayer to timely pay a subject liability; provided, that the covered amount shall not include the subject liability itself.

"Municipal legislative body", the legislative body of a municipality, subject to its charter.

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"Municipal tax amnesty program", a temporary policy whereby a city or town forever waives its right to collect all or any uniform proportion of the covered amount, as determined by the local enacting authority, then due from any person who, prior to the expiration of the amnesty period, voluntarily pays the collector or treasurer the full amount of the subject liability that serves as the basis for said covered amount; provided, that a municipal tax amnesty program shall not include any policy that enables or requires a city or town to waive its right to collect the covered amount from any person who, as of the time the amnesty period commences, is or was the subject of a criminal investigation or prosecution for failure to pay the city or town any subject liability or covered amount.

"Subject liability", the principal amount of a particular tax or excise liability payable by a taxpayer under chapter 59, 60, 60A, or 60B of the General Laws, as determined by the municipal legislative body.

"Treasurer", as defined in chapter 41 of the General Laws.

(b) Notwithstanding any general or special law to the contrary, the municipal legislative body in any city or town may vote to establish a municipal tax amnesty program according to the provisions of this section and shall, at the same time as such vote, determine the amnesty period. The commissioner of revenue may issue such guidelines as he deems appropriate to carry out this section.

SECTION 74. Notwithstanding any general or special law to the contrary, not more than 20 days after the effective date of this act, the comptroller shall transfer to the general fund from budgeted funds other than funds that contribute to the consolidated net surplus in the operating funds as defined in chapter 29 of the General Laws, an amount equal to allotment reductions made in items of appropriation charged to such other budgeted funds pursuant to section 9C of said chapter 29; provided, however, that no such transfer shall be made from a budgeted fund that currently has or is projected to have a deficiency during fiscal year 2003; provided further, that no such transfer shall be made from any fund if the transfer would cause the loss of federal funding in excess of the amount transferred; and provided further, that the comptroller shall file with the house and senate committees on ways and means a plan detailing by fund the amount proposed to be transferred from the budgeted funds 10 days before the transfers occur.

SECTION 75. Notwithstanding section 3 of this act, nothing in subsection (s) of section 39 of chapter 19A of the General Laws shall authorize the violation or breach of any existing contractual agreements between the secretary of elder affairs and any pharmacy benefits managers that are in place on the effective date of this act.

SECTION 76. Notwithstanding any general or special law to the contrary, the comptroller in collaboration with the commissioner of revenue, shall transfer to the Commonwealth Stabilization Fund all monies assessed and received for tax years 1999, 2000 and 2001 pursuant to sections 12 and 14.

SECTION 77. Notwithstanding any general or special law to the contrary, the comptroller in collaboration with the commissioner of revenue, shall transfer to the Commonwealth Stabilization Fund all monies received pursuant to section 72.

SECTION 78. Notwithstanding any general or special law to the contrary, the comptroller, in collaboration with the commissioner of revenue, shall transfer to the Commonwealth Stabilization Fund any and all monies received during fiscal year 2003 pursuant to sections 47 to 49, inclusive.

SECTION 79. Notwithstanding any general or special law to the contrary, fees collected pursuant to the fee structure in place under section 23 of chapter 60 of the General Laws and section 38 of chapter 262 of the General Laws prior to March 15, 2003 shall continue to be deposited into the General Fund by the registries of deeds operated by the commonwealth pursuant to section 5 of chapter 34B of the General Laws. The registries of deeds operated by counties shall continue to deposit such fees with the county treasurer pursuant to section 39 of chapter 36 of the General Laws. Fees collected in excess of said prior fee structure on or after March 15, 2003 pursuant to sections 6 and 51 of this act, including all such fees collected by the registers of deeds which are operated by counties, shall be deposited into the General Fund of the commonwealth.

Fees collected pursuant to the fee structure in place for section 39 of chapter 262 of the General Laws prior to March 15, 2003 shall continue to be deposited into the General Fund. Fees collected on or after March 15, 2003, in excess of the prior fee structure and pursuant to said section 39 of said chapter 262, as amended by sections 52 to 59, inclusive, shall also be deposited into the General Fund of the commonwealth.

SECTION 80. There shall be an advisory group to make recommendations to register of deeds about the Registers Technological Fund and the County Registers Technological Fund established in sections 2JJJ and 2KKK of chapter 29 of the General Laws, which shall be chaired by the state secretary or his designee, and shall include the registers of each registry district, or their designees, and representatives nominated by the following organizations: 2 from the Massachusetts Conveyancers Association, 1 of whom shall be a title examiner with significant experience in searching and abstracting real property titles and 1 of whom shall be a practicing attorney; and 1 from each of the following organizations: the Massachusetts Association of Realtors, the Greater Boston Real Estate Board, the Massachusetts Land Title Association, the Massachusetts Bankers Association and the Massachusetts Mortgage Bankers Association, all of whom shall be appointed by the state secretary. The advisory group shall create a plan within 90 days of the effective date of this act with specific recommendations for the use of monies in the funds. This plan shall be distributed to all registers upon its completion. This plan shall be used to inform the decisions of the state secretary and of each registry under the control of county government with respect to expenditures from the funds. The advisory group shall also report appropriate recommendations to the state secretary, from time to time, so long as the surcharges required under sections 2 and 5 shall remain in effect.

SECTION 81. (A) Notwithstanding section 9C of chapter 29 of the General Laws, of the funds appropriated in item 4130-1000 of section 2 of chapter 184 of the acts of 2002, \$13,121,630 shall be expended for statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns.

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SECTION 82. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Agreement", the Streamlined Sales and Use Tax Agreement.

"Certified automated system", software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

"Certified service provider", an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions.

"Person", an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation or any other legal entity.

"Sales tax", the tax levied under chapter 64H of the General Laws.

"Seller", a person making sales, leases or rentals of personal property or services.

"State", a state of the United States and the District of Columbia.

"Use tax", the tax levied under chapter 64I of the General Laws.

"Vendor", shall have the same meaning as in section 1 of said chapter 64H.

(b) The commonwealth finds that a simplified sales and use tax system will reduce and, over time, eliminate the burden and cost for vendors to collect the commonwealth's sales and use tax. The commonwealth further finds that it should participate in multi-state discussions to review or amend the terms of the agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and all types of commerce.

(c) For the purpose of reviewing or amending the agreement embodying the simplification requirements as contained in subsection (f), the commonwealth shall enter into multistate discussions. For purposes of the discussions, the commonwealth shall be represented by not more than 4 delegates, 2 of whom shall be appointed by the governor, 1 of whom shall represent the department of revenue and 1 of whom shall represent the Retailers Association of Massachusetts, 1 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the speaker of the house of representatives.

(d) Notwithstanding any general or special law to the contrary, the department of revenue shall enter into the Agreement with 1 or more states to simplify and modernize the administration of the sales and use tax in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the Agreement, the department of revenue may act jointly with the states that are members of the Agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers. The department of revenue may take other actions reasonably required to implement this section or to otherwise substantially reduce the administrative burdens associated with sales and use tax compliance. Other actions authorized by this section shall include, but not be limited to, the adoption of rules and regulations and the joint procurement with other member states of goods and services in furtherance of the cooperative Agreement. The department of revenue

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or the department's designee may represent the commonwealth before the other states that are signatories to the Agreement.

(e) Notwithstanding any general or special law to the contrary, the Agreement shall not, in whole or in part, invalidate or amend any laws of the commonwealth. Adoption of the Agreement by the commonwealth shall not amend or modify any other law. Implementation of any condition of the Agreement in the commonwealth, whether adopted before, at, or after membership of this state in the Agreement, shall be by the action of the commonwealth.

(f) The department of revenue shall not enter into the Agreement unless the Agreement requires each state to abide by the following requirements:

(1) The Agreement shall set restrictions to limit over time the number of the state rates.

(2) The Agreement shall establish uniform standards for the following:

(i) the sourcing of transactions to taxing jurisdictions;

(ii) the administration of exempt sales; and

(iii) sales and use tax returns and remittances.

(3) The Agreement shall provide for a central electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(4) The Agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory states shall not be used as a factor in determining whether the seller has nexus with a state for any tax.

(5) The Agreement shall provide for reduction of the burdens of complying with local sales and use taxes through the following:

(i) restricting variances between the state and local tax bases;

(ii) requiring states to administer any sales and use taxes levied by local jurisdictions within the state so the sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(iii) restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes;

(iv) providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(6) The Agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The Agreement shall allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2003.

(7) The Agreement shall require each state to certify compliance with the terms of the Agreement prior to joining and to maintain compliance under the laws of the member state, with all provisions of the Agreement while a member.

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(8) The Agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(9) The Agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the Agreement.

(g) The Agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

(h) The Agreement binds and inures only to the benefit of the commonwealth and the other member states. No person is an intended beneficiary of the Agreement.

(i) Any benefit to a person is established by the law of the commonwealth and the other member states and not by the terms of the Agreement. No law of the commonwealth, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement. No person shall have any cause of action or defense under the Agreement or by virtue of the commonwealth's approval of the Agreement. No person shall challenge, in any action brought under any provision of law, any action or inaction by any department, agency or other instrumentality of the commonwealth or any political subdivision of the commonwealth on the ground that the action or inaction is inconsistent with the Agreement.

SECTION 83. (a) The general court finds that:

(1) the reconstruction of the central artery and of the central artery north area and the construction of the Ted Williams tunnel, as those terms are defined in section 3 of chapter 81A of the General Laws, and related improvements, in this section called the project, represent the most expensive and complex public works project in the commonwealth's history;

(2) evidence only recently available indicates that substantial breaches of agreements relating to the project may have occurred and significant further investigation is necessary before litigation can be commenced to recover funds owed the commonwealth, its authorities and agencies, and others;

(3) the failure to recover substantial sums owed to the commonwealth would impose a significant burden on scarce public resources;

(4) under these circumstances, it is fundamentally unfair to prevent the recovery of any of these funds wrongfully paid by the commonwealth and others; and

(5) therefore, this section is reasonable and necessary to serve important public purposes.

(b) Notwithstanding any general or special law or contract to the contrary, except chapter 258 of the General Laws, every action arising out of the planning, design, management or construction of the project, if the action is brought by the commonwealth or

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the United States, or by any of their agencies or authorities, or by any contractor or subcontractor of any of them, shall be brought not later than 10 years from the date that the cause of action arises or from the effective date of this section, whichever is later. This section shall apply regardless of when the action or claim accrued or was filed, and regardless of whether it may have lapsed or otherwise be barred by time under the laws of the commonwealth.

(c) Notwithstanding any general or special law or contract to the contrary, any sums owed to the commonwealth and recovered pursuant to this section shall be deposited in the Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of the General Laws. The Comptroller shall notify the house and senate committees on ways and means no later than 30 days after any such deposit in said Commonwealth Stabilization Fund.

SECTION 83A. Notwithstanding any general or special law to the contrary, if there is insufficient funding during fiscal year 2003 to provide for the range of programs funded as of January 1, 2003 by item 4401-1000 of section 2 of chapter 184 of the acts of 2002, the department of transitional assistance shall revise its policies as follows for recipients who were actively enrolled in or receiving services funded from said item 4401-1000 on or prior to January 30, 2003:

(1) The department shall allow active participation in self-directed job search efforts, as defined by the department, to qualify a family for an extension of time-limited benefits pursuant to subsection (f) of section 110 of chapter 5 of the acts of 1995 and shall be deemed to meet the work requirement in subsection (j) of said section 110 of said chapter 5 to the same degree as did participation in a job search or other program funded by said item 4401-1000 as of January 1, 2003. These policies shall only apply to recipients not able to participate in such a job search program due to insufficient funding.

(2) The department shall not sanction recipients who are unable to comply with the work requirement in said subsection (f) of said section 110 of said chapter 5 or the terms of an employment development plan because of insufficient funding for programs previously funded by said item 4401-1000 including, but not limited to, transportation services.

(3) The department shall not deny benefits to, or otherwise sanction, an applicant for, or recipient of, transitional aid to families with dependent children benefits pursuant to said section 110 of said chapter 5 for failure to comply with the teen parent school attendance rules where the department is unable to provide or arrange for an appropriate school program because of insufficient funding for the young parents program previously funded by said item 4401-1000.

(4) For recipient who is participating in, is required to participate in or volunteers to participate in a program previously funded by said item 4401-1000 or a comparable program, the department shall not count toward the time limit imposed by said subsection (f) of said section 110 of said chapter 5 any time that passes until the department, in consultation and collaboration with the division of employment and training, the one-stop career centers and other workforce development agencies, has arranged a placement in a comparable education,

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training or job search program funded by the federal, state or local government to prepare the recipient for reaching the time limit.

(5) The department shall continue to operate an employment services program under which the department collects information about education, training and other work preparation programs that are available in each local area, actively seeks to maximize the number of slots in such programs that are available to serve current and former recipients of transitional aid to families with dependent children, makes referrals of current and former recipients to the programs and facilitates the delivery of child care and transportation services to such recipients who are required to or wish to participate in such programs.

SECTION 84. By the enactment of sections 10, 15, 17, 19 to 22, inclusive, and 25 to 28, inclusive, the general court clarifies its original intention that the taxpayer is required to possess for a transaction, both: (1) a valid, good-faith business purpose, other than tax avoidance; and (2) economic substance apart from the asserted tax benefit in order to claim a deduction, exemption or other tax benefit.

SECTION 85. Sections 2, 4, 5 and 6 and sections 51 to 59, inclusive, shall take effect on March 15, 2003. All documents received by the registers pursuant to section 23 of chapter 60 and sections 38 and 39 of chapter 262 of the General Laws which are postmarked prior to March 15, 2003 shall be recorded under the fee structure in effect for said sections prior to March 15, 2003.

Notwithstanding sections 38 and 39 of chapter 262 of the General Laws, as amended by sections 51 to 59, inclusive, of this act, to the contrary, the fees and surcharges applicable to any discharge, release or partial release of mortgage that is presented for recording or filing within 120 days of the effective date of this section, shall be governed by the provisions of said sections 38 and 39 that were in effect prior to March 15, 2003.

SECTION 86. Sections 7 to 9, inclusive, 13, 24, and 29 shall be effective for tax years beginning on or after January 1, 2003.

SECTION 87. Sections 10, 15, 17, 19 to 22, inclusive, and 25 to 28, inclusive, shall be in effect for tax years beginning on or after January 1, 2002. Nothing in this act shall be construed to restrict any authority the commissioner had prior to this act to adjust taxpayer transactions for want of an adequate business purpose or on other grounds.

SECTION 88. Sections 12 and 14 shall be effective for tax years ending on or after December 31, 1999.

SECTION 89. Section 18 shall apply to tax years beginning on or after March 1, 2003.

SECTION 90. Section 23 shall take effect July 1, 2003.

SECTION 91. Section 83A shall cease to be effective on the effective date of the general appropriation act for fiscal year 2004.

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This bill was returned on March 5, 2003, 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: 83A, 89 and 91.

The remainder of the bill was approved by the Governor on March 5, 2003 at two o'clock and fifteen minutes, P.M.

Chapter 5. AN ACT RELATIVE TO THE MAILING OF PROPERTY TAX BILLS IN THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 57C of chapter 59 of the General Laws or any other general or special law or rule to the contrary, for fiscal year 2003, an actual property tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for any preliminary tax payments previously made, shall in the city of Lawrence be due and payable in 2 installments, the first installment being due 30 days after the actual property tax bills are mailed and the second installment being due and payable on May 1, 2003, after which dates, if unpaid, they shall become delinquent.

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

Approved March 6, 2003.

Chapter 6. AN ACT MAKING APPROPRIATIONS FOR FISCAL YEAR 2003 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS.

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 2003, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2003. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

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SECTION 2.

1599-1971	\$57,400,000
2444-9001	\$2,337,640
6010-0001	\$2,600,000

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

Approved March 20, 2003.

Chapter 7. AN ACT VALIDATING CERTAIN VOTES TAKEN AT THE ANNUAL TOWN MEETING HELD BY THE TOWN OF DRACUT.

Be it enacted, etc., as follows:

SECTION 1. The votes taken by the town of Dracut at the October 7, 2002 annual town meeting to appropriate and authorize a borrowing of \$7,300,000 to finance an addition to the Moses Greeley Parker Library and to appropriate and authorize a borrowing of \$6,300,000 to finance a new police station, and any action taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the town meeting warrant with respect to these votes.

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

Approved March 20, 2003.

Chapter 8. AN ACT DELAYING THE EFFECTIVE DATE OF CERTAIN CHANGES IN LAW RELATIVE TO THE EXPIRATION DATES OF GIFT CERTIFICATES AND CERTAIN OTHER MEDIUMS OF EXCHANGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to delay the effective date of certain changes in laws relative to the expiration dates of gift certificates and certain other mediums of exchange, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 510 of the acts of 2002 is hereby amended by adding the following section:-
Section 9. This act shall take effect on June 1, 2003.

Approved March 31, 2003.

Chapter 9. AN ACT RELATIVE TO THE ADMINISTRATION OF THE TAX LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make certain changes forthwith to the administration of certain tax 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. Subsection (b) of section 21 of chapter 62C of General Laws, as amended by section 15 of chapter 186 of the acts of 2002, is hereby further amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) the disclosure to the commissioner of transitional assistance or the commissioner of medical assistance, upon his written request, of the fact that a specific bank or other entity paying interest income, doing business in the commonwealth, has filed for any year a report under section 8 with respect to interest paid by it to a designated recipient of public assistance under any program administered by the department of transitional assistance or the division of medical assistance and of the amount of the interest so reported, together with the identification of the account with respect to which the interest was paid.

SECTION 2. Section 1 of chapter 62D of the General Laws, as most recently amended by section 66 of chapter 184 of the acts of 2002, is hereby further amended by striking out the definition of "Claimant agency" and inserting in place thereof the following definition:-

"Claimant agency", the IV-D agency as set forth in chapter 119A, the division of medical assistance, the division of employment and training, the department of transitional assistance, the board of higher education in the exercise of its duty to aid and foster programs supporting higher education pursuant to chapter 15A, the office of the state comptroller, or the division of health care finance and policy in the exercise of its duty to administer the uncompensated care pool pursuant to chapter 118G.

SECTION 3. Said section 1 of said chapter 62D, as most recently amended by section 67 of said chapter 184, is hereby further amended by striking out the definition of "Debt" and inserting in place thereof the following definition:-

"Debt", an unpaid spousal or child support obligation which is being enforced by the claimant agency, or which is collected or ordered to be collected by a court, whether or not there is an outstanding judgment for the sum; an amount owed the division of medical assistance by a debtor; an amount owed the department of employment and training; an amount owed the department of transitional assistance by a recipient, or former recipient, of public assistance; any liquidated sum due and owing to the corporation on an education loan made under a program administered by the corporation in behalf of the commonwealth whether or not there is an outstanding judgment for that sum; any liquidated sum, certified by the comptroller as due and owing to any state agency, as defined in section 1 of chapter 29; any overdue debt certified by the comptroller as due and owing to a city or town of the

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commonwealth or any agency of the city or town or any state authority as defined in said section 1; or, an amount owed the division of health care finance and policy on behalf of the uncompensated care pool by a person or a guarantor of a person who received free care services paid for in whole or in part by uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 4. Said section 1 of said chapter 62D, as most recently amended by said section 67 of said chapter 184, is hereby further amended by striking out the definition of "Debtor" and inserting in place thereof the following definition:-

"Debtor", any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the division of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; any individual owing money as certified by the comptroller to any state agency, as defined in section 1 of chapter 29, or to a city or town of the commonwealth or any agency of a city or town, or to any state authority as defined in said section 1; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 5. Section 10 of said chapter 62D, as appearing in the 2000 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Notwithstanding section 21 of chapter 62C or any other law prohibiting disclosure by the department of the contents of taxpayer's records of information and notwithstanding any confidentiality statute applicable to the claimant agency, all information exchanged among the department, the claimant agency, including the IV-D agency and the board of regents of higher education or education agency similar to the corporation of another jurisdiction, the department of transitional assistance, the division of medical assistance, the corporation, the office of the state comptroller, and the division of health care finance and policy, the debtor, and the non-debtor spouse necessary to accomplish and effectuate the intent of this chapter is lawful.

SECTION 6. Said chapter 62D is hereby further amended by striking out section 13, as amended by section 68 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:-

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Section 13. In the event that a debtor owes liabilities to several claimant agencies, priority of set-off against any refund shall be as follows: (i) unpaid state tax liabilities; (ii) unpaid spousal or child support obligations certified by the IV-D agency as set forth in chapter 119A; (iii) unreimbursed costs of health services to a child eligible for medical assistance under Title XIX of the Social Security Act; (iv) unpaid division of employment and training liabilities; (v) the board of higher education; (vi) other debts as defined in section 1 in the order certified by the comptroller; (vii) the department of transitional assistance; (viii) the division of health care finance and policy for obligations to the Uncompensated Care Trust Fund for the unreimbursed costs of health care services from the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G; and (ix) any overdue debt certified by the comptroller as due and owing to a city or town or to an agency of a city or town or to a state authority as defined in section 1 of chapter 29.

SECTION 7. Section 3 of chapter 62E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner shall design, develop, implement and operate a wage reporting and financial institution match system: (1) for the purpose of verifying financial eligibility of a participant in an entitlement program of the commonwealth or any political subdivision thereof or their respective agencies, including the director of housing and community development, a local administering agency and a local housing authority, and including, the division of health care finance and policy with respect to payments for free care services made from the uncompensated care pool pursuant to section 18 of chapter 118G; (2) for purposes of verifying the eligibility of an employee of the commonwealth or any political subdivision thereof or their respective agencies for workers' compensation benefits; and (3) for purposes of administering the tax laws and the child support enforcement program of the commonwealth. The commissioner may, with the approval of the secretary of the executive office of administration and finance, adopt regulations which shall include other programs in said system; but the commissioner shall submit proposed regulations to the house and senate committees on ways and means not less than 60 days before filing the final regulations with the state secretary.

SECTION 8. The definition of "Sale at retail" or "retail sale" in section 1 of chapter 64H of the General Laws, as most recently amended by section 1 of chapter 469 of the acts of 2002, is hereby further amended by adding the following sentence:- For purposes of reporting the sale or recharge of prepaid calling arrangements, the sale or recharge of the arrangements shall be considered a taxable sale of tangible personal property unless the vendor is otherwise required to report sales of telecommunications services.

SECTION 9. Section 5A of chapter 119A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 37, the words "or to the obligor".

SECTION 10. Said section 5A of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 89 to 92, the words "the social security number of a child

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receiving IV-D services for purposes directly connected to obtaining health care coverage for such child to an employer or provider of health care coverage" and inserting in place thereof the following words:- personal data for purposes directly connected to obtaining health care coverage for a parent or child receiving IV-D services to an employer or provider of health care coverage and to the division of medical assistance.

SECTION 11. Subsection (a) of section 12 of said chapter 119A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Each judgment or order for support issued pursuant to section 28 of chapter 119, section 40 of chapter 201 and chapters 207, 208, 209, 209A and 209C, or received, entered or registered pursuant to chapter 209D shall conform to and shall be enforced according to this section.

SECTION 12. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 8, the word "paragraph (7)" and inserting in place thereof the following word:- paragraph (6).

SECTION 13. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 12 and 43, the word "paragraph (6)" and inserting in place thereof, in each instance, the following word:- paragraph (5).

SECTION 14. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 22, the words "services until" and inserting in place thereof the following words:- services. Until.

SECTION 15. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "obligee", in line 34, the following words:- ; but any judgment or order of support which is solely for alimony or spousal support shall be made payable to the obligee.

SECTION 16. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "withholding", in line 44, the following words:- ; but any order of support payable by withholding income of the obligor which is solely for alimony or spousal support shall be paid to the obligee.

SECTION 17. Paragraph (5) of subsection (b) of said section 12 of said chapter 119A, as so appearing, is hereby amended by inserting after the fourth sentence the following 2 sentences:- If the obligor is required to provide health care coverage for a child of his through an employment-related health plan and if the IV-D agency has the name and address of the employer, the IV-D agency shall transfer the national medical support notice, as required by Title IV, Part D of the Social Security Act, to the employer notifying the employer to enroll the child in a health care plan provided by the employer for which the obligor is eligible. The notice may be transmitted to the employer by any method, including paper, facsimile, magnetic tape or other electronic means.

SECTION 18. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "amount", in line 86, the following words:- sufficient to comply with the support order.

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SECTION 19. The last paragraph of subsection (b) of said section 12 of said chapter 119A, as so appearing, is hereby amended by adding the following sentence:- If on the basis of mistake of fact, the obligor contests the income withholding or contests the withholding of the employee share of premiums for health care coverage, the employer shall initiate and continue the withholding until the employer receives notice from the IV-D agency, the court or an administrative agency of competent jurisdiction to terminate the income withholding or the withholding of the employee share of premiums for health care coverage.

SECTION 20. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 130, the word "When" and inserting in place thereof the following words:- With respect to a case receiving IV-D services, when.

SECTION 21. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "and", in line 134, the following words:- within 2 business days of receipt of the information,.

SECTION 22. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 135 and 136, and in lines 141 and 148, the words "order for health care coverage" and inserting in place thereof, in each instance, the following words:- national medical support notice.

SECTION 23. The third paragraph of subsection (c) of said section 12 of said chapter 119A, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- With respect to a case receiving IV-D services, the IV-D agency shall transfer the income withholding order, the national medical support notice, or both, to the obligor's employer or other source of periodic income within 2 business days of the entry of the obligor's employment information in the wage reporting system as set forth in chapter 62E.

SECTION 24. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 151 and 152, the words "order for health care coverage applies and" and inserting in place thereof the following words:- national medical support notice applies, notwithstanding the employee's failure to sign or submit an application for enrollment for health care coverage and without regard to any restrictions on enrollment periods. The provider shall not refuse to enroll the child for whom the national medical support notice applies on the grounds stated in subsection (m) and.

SECTION 25. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 159, the word "of", the first time it appears, and inserting in place thereof the following word:- or.

SECTION 26. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 183 and 184, the words "order for health care coverage" and inserting in place thereof the following words:- national medical support notice.

SECTION 27. Said section 12 of said chapter 119A, as so appearing, is hereby fur-

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ther amended by inserting after the word "child", in line 190, the following words:- , notwithstanding the employee's failure to sign or submit an application for enrollment for health care coverage and without regard to any restrictions on enrollment periods. The employer or provider of health care shall not refuse to enroll the child on the grounds stated in subsection (m).

SECTION 28. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 229, the words "notice of the order for health care coverage" and inserting in place thereof the following words:- the national medical support notice.

SECTION 29. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 230, the words "subsection (d)" and inserting in place thereof the following words:- this section.

SECTION 30. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 231, the words "health care order" and inserting in place thereof the following words:- the national medical support notice.

SECTION 31. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "order", in line 347, the following words:- or upon receipt of a national medical support notice, or both.

SECTION 32. Subsection (k) of said section 12 of said chapter 119A, as so appearing, is hereby amended by striking out the first, second and third sentences and inserting in place thereof the following 6 sentences:- Upon receipt of the national medical support notice or upon application of the employee pursuant to the order for health care coverage, the employer shall enroll the child in the health care plan. The national medical support notice shall have the same effect as an enrollment application signed by the employee and shall operate to enroll the child in the obligor's health care plan. Within 20 business days after the date of the national medical support notice, or sooner if reasonable, the employer shall transmit the national medical support notice to the administrator or provider of the appropriate group health plan for which the child may be eligible. Within 40 business days after the date of the national medical support notice, or sooner if reasonable, the plan administrator or the provider of health care coverage shall complete and return the response to the national medical support notice to the issuing IV-D agency. The employer or provider of health care coverage shall enroll a child, notwithstanding the employee's failure to sign an enrollment application. If there is more than 1 health care option available under the group health plan and the obligor has not chosen 1 of the health care options, the plan administrator or the provider of health care coverage shall enroll the child in the plan's default option, if any, unless the IV-D agency notifies the plan administrator or the provider of health care coverage to enroll the child in a health care option chosen by the obligee.

SECTION 33. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 394 and 395, the words "by the division of medical assistance or by the IV-D agency" and inserting in place thereof the following words:- , by

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the division of medical assistance or upon receipt of the national medical support notice from the IV-D agency.

SECTION 34. Subsection (l) of said section 12 of said chapter 119A, as so appearing, is hereby amended by adding the following sentence:- The IV-D agency shall promptly notify the employer when there is no longer an order for medical support in effect.

SECTION 35. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "coverage", in line 416, the following words:- or that such child receives benefits or is eligible to receive benefits under any plan administered by the division of medical assistance or by the department of public health.

SECTION 36. Section 110I of chapter 175 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(f) If a judgment or order for child support provides that a member of a group hospital, surgical, medical or dental insurance plan provided for in section 110 is required to provide health care coverage for his child, the insurance company administering the plan shall:

(1) comply with the terms of the national medical support notice sent pursuant to section 12 of chapter 119A;

(2) provide notice of cancellation or adjustment of coverage to the child's custodial parent or legal guardian concurrent with notice to the member; and

(3) accept the designation of the state secretary as agent for the child or the child's custodial parent or legal guardian for service of process and for receipt of first class mail, pursuant to the address confidentiality program established pursuant to chapter 9A.

SECTION 37. Chapter 47 of the acts of 1997 is hereby amended by striking out section 36 and inserting in place thereof the following section:-

Section 36. This act shall expire on the later of June 30, 2005 or the date of the termination of the MassHealth demonstration project approved by the Secretary of the United States Department of Health and Human Services pursuant to section 1115 of the Social Security Act, as extended or renewed from time to time.

SECTION 38. Sections 8 to 37, inclusive, shall take effect on April 1, 2003.

Approved April 1, 2003.

Chapter 10. AN ACT REMOVING THE TOWN OF OAK BLUFFS FROM MEMBERSHIP IN THE MARTHA'S VINEYARD COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 637 of the acts of 1974, the jurisdiction of the Martha's Vineyard Commission shall not include the town of Oak Bluffs and the town shall not be represented in the membership of the commission.

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SECTION 2. This act shall be submitted for acceptance to the voters of the town of Oak Bluffs at a special town election to be held on May 13, 2003 in the form of the following question which shall be placed on the official ballot:-

"Shall an act passed by the general court in the year 2003 entitled 'An Act removing the town of Oak Bluffs from membership in the Martha's Vineyard Commission', be accepted?" If a majority of votes cast in answer to this question is in the affirmative, this act shall take effect on July 1, 2003, but not otherwise.

SECTION 3. Section 2 shall take effect upon its passage.

The foregoing was laid before the Governor on the Twenty-fourth of March, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 11. AN ACT AUTHORIZING THE TOWN OF SUNDERLAND TO HOLD TOWN MEETINGS IN THE TOWN OF DEERFIELD.

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, in the years 2003 and 2004, the town of Sunderland may hold its annual and special town meetings, and any adjournments thereof, at the Frontier regional high school in the town of Deerfield.

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

Approved April 10, 2003.

Chapter 12. AN ACT MAKING AN APPROPRIATION FOR FISCAL YEAR 2003 TO PROVIDE FOR SUPPLEMENTING A CERTAIN EXISTING APPROPRIATION AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing a certain item in the general appropriation act and other appropriation acts for fiscal year 2003, the sum set forth in section 2 is hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts and subject to laws regulating

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the disbursement of public funds for the fiscal year ending June 30, 2003. The sum appropriated in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of that item.

SECTION 2.
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Department of Transitional Assistance.

4403-2120 \$2,000,000

SECTION 3. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall develop plans to prevent homelessness and to locate permanent housing in order to reduce the time of stay in shelters.

SECTION 4. This act shall take effect upon its passage.
Approved May 2, 2003.

Chapter 13. AN ACT RELATIVE TO THE ELECTION OF MEMBERS OF THE BOARD OF SELECTMEN IN THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 1 of chapter 41, sections 10 and 13 of chapter 43B of the General Laws or any other general or special law to the contrary, the composition, mode of election and terms of office of the board of selectmen in the town of Charlton shall be governed by the following: There shall be a board of selectmen, consisting of 5 members elected by the voters for 3 year terms, so arranged that the term of office of at least 1 member, but not more than 2 members, shall expire each year. As the terms of office of the incumbent members of the selectmen expire, candidates shall run for the office of selectman by the number assigned to a specific seat. No person may be a candidate for more than 1 numbered seat at any 1 election. The election ballots for each year in which more than 1 selectman is to be elected shall set forth each position to be filled as a separate position, designated position 1 and position 2 respectively. The candidate receiving the highest number of votes for each position shall be declared elected to such position. The selectmen who hold office as of the effective date of this act shall continue to serve until their terms of office expire.

SECTION 2. Notwithstanding any general or special law to the contrary, the acts and proceedings taken by the town of Charlton in adopting a by-law by vote under article 24 of the warrant for the special town meeting held October 8, 2002 with respect to the mode of election and composition of its board of selectmen and at the annual town election held on May 3, 2003, and all actions taken pursuant thereto, and hereby ratified, validated and confirmed, notwithstanding any defect or omission in the warrant for, or any other procedural matters or lack of legal authority with respect to, such by-law and election.

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

Approved May 2, 2003.

Chapter 14. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF TARTAN DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15PPPP, inserted by chapter 463 of the acts of 2002, the following section:-

Section 15QQQQ. The governor shall annually issue a proclamation setting apart April 6 as Tartan Day, in recognition of the significant contributions of Scottish-Americans have made to the commonwealth and the United States. The governor may include such contributions as he shall see fit in such proclamation, after consultation with Scottish-American groups, and shall recommend that this day be observed in an appropriate manner by the people.

Approved May 8, 2003.

Chapter 15. AN ACT AUTHORIZING THE TOWN OF SANDWICH TO CONVEY CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Sandwich may transfer care, custody and control of 6 parcels of conservation land consisting of 68.45 acres more or less to the board of selectmen of the town. Notwithstanding section 16 of chapter 30B of the General Laws, the board of selectmen may convey the parcels to P.A. Landers, Inc. upon such terms and conditions as said board may determine, subject to the terms and conditions set forth in section 2 to be used for industrial purposes. The parcels are shown as Assessors Map No. 27, Lots 4, 5, 7, 9 and 10 and as Assessors Map No. 32, Lot 57, as shown on a plan entitled "Landers/Town of Sandwich Land Exchange," dated April 15, 2002, prepared by Atlantic Design Engineers, L.L.C., filed with the Sandwich town clerk.

SECTION 2. No conveyance pursuant to section 1 shall be valid unless in consideration for such conveyance, the town of Sandwich acquires, for every acre of land conveyed, at least 2 acres of land now held by P.A. Landers, Inc., and made up of 6 parcels, shown as Assessors Map No. 27, Lots 2, 3, 6 and 8 and as Assessors Map No. 33, Lot 61, and as Assessors Map No. 39, Lot 146, all as shown on the plan referred to in section 2 of this act, and upon such further terms and conditions as the selectmen shall determine. The land received in consideration shall be held under the care, custody, control and management

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of the conservation commission for conservation purposes under section 8C of chapter 40 of the General Laws.

SECTION 3. The consideration to be paid by P.A. Landers, Inc. to the town of Sandwich shall be equal to or greater than the full and fair market value for the land to be conveyed by the town to P.A. Landers, Inc. based upon an independent appraisal of the land. P.A. Landers, Inc. shall be responsible for any costs for appraisals, surveys and other expenses relating to the conveyance of the land.

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

Approved May 8, 2003.

Chapter 16. AN ACT RELATIVE TO THE APPOINTMENT OF A CITY COUNCILOR IN THE CITY OF MARLBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 59A of division 1 of the city code of the city of Marlborough, the city council of the city may by majority vote appoint a person to fill the current vacancy in the office of ward 7 councilor.

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

Approved May 8, 2003.

Chapter 17. AN ACT DESIGNATING THE BAY STATE TARTAN AS THE OFFICIAL DISTRICT TARTAN OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding the following section:-

Section 52. The Bay State Tartan shall be the official District Tartan of the commonwealth.

Approved May 16, 2003.

Chapter 18. AN ACT FURTHER REGULATING THE EXPIRATION DATES OF GIFT CERTIFICATES AND CERTAIN OTHER MEDIUMS OF EXCHANGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith the expiration dates of gift certificates and certain other mediums of exchange, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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Be it enacted, etc., as follows:

SECTION 1. Chapter 510 of the acts of 2002 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. Said chapter 200A is hereby further amended by striking out section 5D and inserting in place thereof the following section:-

Section 5D. A gift certificate, as defined in section 1 of chapter 255D, sold or offered to be sold shall be valid for not less than 7 years after its date of issuance. The date of issuance and the expiration date shall be clearly identified on its face, subject to section 75C of chapter 266, or, if an electronic card with a banked dollar value, clearly printed upon a sales receipt transferred to the purchaser of the electronic card upon the completed transaction, or otherwise made available to the purchaser or holder of the electronic card through means of an Internet site or a toll free information telephone line. A gift certificate not clearly marked with an expiration date or for which the expiration date is not otherwise made available as provided in this section shall be redeemable in perpetuity. Once an expiration date has been reached, the issuer of the gift certificate shall not be subject to section 7. Notwithstanding any general or special law to the contrary, upon a gift certificate being redeemed for at least 90 per cent of its face value, a consumer shall make an election to receive the balance in cash or to continue with the gift certificate.

SECTION 2. Section 6 of said chapter 510 is hereby amended by adding the following sentence:- A gift certificate shall not include pre-paid calling arrangements, as defined in section 1 of chapter 64H of the General Laws.

SECTION 3. Said chapter 510 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. Notwithstanding any general or special law to the contrary, a gift certificate, as defined in section 1 of chapter 255D of the General Laws, that has been issued but not redeemed as of the effective date of this act shall expire 7 years after its date of issuance. If the date of issuance is not clearly identified on its face, subject to section 75C of chapter 266 of the General Laws, a gift certificate shall be redeemable in perpetuity; provided, however, that in the case of an electronic card with a banked dollar value, if the date of issuance is not clearly printed upon the sales receipt or otherwise made available to the purchaser or holder of the electronic card through means of an Internet site or a toll free information telephone line, it shall be redeemable in perpetuity.

Approved May 30, 2003.

Chapter 19. AN ACT RELATIVE TO THE DEADLINES FOR SUBMISSION OF NOMINATION PAPERS FOR MUNICIPAL OFFICERS IN THE CITY OF LYNN.

Be it enacted, etc., as follows:

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SECTION 1. Every nomination paper of a candidate in the city of Lynn shall be submitted to the board of election commissioners before 4 o'clock post meridian of the thirtieth day preceding the day on which it shall be filed with the city clerk to provide the election commissioners sufficient time to certify the validity of signatures to the city clerk.

SECTION 2. Each nomination paper shall be marked with the date and time it was submitted and the papers shall be certified in the order of submission. In each case the board of election commissioners shall check each name to be certified by them on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters in the city of Lynn, and only names so checked shall be deemed to be names of qualified voters for purposes of nomination. The board of election commissioners shall place next to each name not checked symbols designated by the secretary of state indicating the reason the name was disqualified.

SECTION 3. All certificates of nomination and nomination papers of candidates for the offices of mayor, city council and school committee shall be filed with the city clerk of the city of Lynn on or before the last Tuesday in July of the year in which the election is to be held so that the city clerk's office shall possess sufficient time to cause ballots to be printed before the preliminary city election.

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

Approved June 6, 2003.

Chapter 20. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF MISSING CHILDREN'S DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15QQQQ, inserted by chapter 14 of the acts of 2003, the following section:-

Section 15RRRR. The governor shall annually issue a proclamation setting apart May 25 as Missing Children's Day and recommending that the day be observed in an appropriate manner by the people.

Approved June 12, 2003.

Chapter 21. AN ACT ESTABLISHING A SICK LEAVE BANK FOR FRANCIE R. MINDER, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.

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 mental

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of mental retardation shall establish a sick leave bank for Francie R. Minder an employee of the department. Any employee of the department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by Francie R. Minder. When said Francie R. Minder terminates employment with said department or requests to dissolve said sick leave bank, any remaining time in said sick leave bank shall be transferred to the extended illness leave bank.

Approved June 12, 2003.

Chapter 22. AN ACT RELATIVE TO THE PUBLIC SCHOOLS OF THE CITY OF CHELSEA.

Be it enacted, etc., as follows:

Section 3 of chapter 133 of the acts of 1989 is hereby amended by striking out the last sentence, as amended by section 1 of chapter 6 of the acts of 1997, and inserting in place thereof the following sentence:- The term of any such agreement shall not exceed 20 years.

Approved June 12, 2003.

Chapter 23. AN ACT AUTHORIZING THE STONEHAM BOARD OF LIBRARY TRUSTEES TO APPOINT LIBRARY PERSONNEL.

Be it enacted, etc., as follows:

Chapter 26 of the acts of 1981 is hereby amended by striking out section 13, as most recently amended by chapter 444 of the acts of 1998, and inserting in place thereof the following section:-

Section 13. The town administrator shall appoint the town treasurer, tax collector and all other town officials whose appointment or election is not specifically provided for herein. The board of library trustees shall appoint all library personnel. The town administrator shall appoint and may remove subject to the civil service laws where applicable, all department heads, all officers and subordinates and employees for whom no other method of appointment is provided in this act. Appointments to permanent positions made by the town

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administrator shall become effective 7 working days following the date on which the notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within 7 days, by a majority of the full board, vote to reject any such appointment.

Approved June 20, 2003.

Chapter 24. AN ACT RELATIVE TO GROUP INSURANCE PREMIUMS FOR RETIRED EMPLOYEES OF THE TOWN OF WEBSTER.

Be it enacted, etc., as follows:

The town of Webster shall pay $\frac{1}{2}$ of the amount of the premium to be paid by a retired employee of the town under section 9 of chapter 32B of the General Laws.

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on June 20, 2003, and in concurrence by the Senate on June 20, 2003, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 25. AN ACT AUTHORIZING THE TOWN OF MIDDLEBOROUGH 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 Middleborough may issue a license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138 to Cirelli Foods, Inc. The license shall be subject to said chapter 138 except section 17; provided, however, that the licensing authority shall not approve the transfer of the license to any other person, organization, corporation or location. The granting of this license shall reduce by 1 any increase in licenses granted due to census reapportionment under said section 17.

Approved June 27, 2003

Chapter 26. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2004 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2003, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D and 3, for the several purposes and subject to the conditions specified in sections 2, 2B, 2D and 3, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof for the fiscal year ending June 30, 2004. All sums appropriated under this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of an agency, board, department, commission or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth. Each agency, board, department, commission or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment.

SECTION 1A. In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June 30, 2004 are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for said fiscal year as set forth and authorized in sections 2 and 2B. The comptroller shall keep a distinct account of actual receipts from each such source by each such fund to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein and to include a full statement comparing such

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actual and projected receipts in the annual report for said fiscal year pursuant to section 13 of chapter 7A of the General Laws. The quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

FY2004 Revenue By Source and Budgetary Fund
(in millions)

Source	All Funds	General	MBTA	Highway	Other
Alcoholic Beverages	65.6	65.6	-	-	-
Commercial Banks and Savings Institutions	173.0	173.0	-	-	-
Cigarette	443.8	368.5	-	-	75.3
Corporations	628.2	628.2	-	282.06	-
Deeds	143.9	143.9	-	-	-
Income	8019.2	8019.2	-	-	-
Estate/Inheritance	172.1	172.1	-	-	-
Insurance	356.0	356.0	-	-	-
Motor Fuels	702.1	102.1	-	600.1	-
Utilities	72.0	72.0	-	-	-
Racing	6.20	6.20	-	-	-
Room Occupancy	-	-	-	-	-
Sales & Use: Regular	2632.9	2065.0	563.4	-	4.6
Sales & Use: Meals	513.3	511.4	-	-	1.9
Sales & Use: Motor Vehicles	482.3	461.4	120.9	-	-
Miscellaneous	15.6	4.2	-	-	11.4
Unemployment Insurance Surcharges	24.0	-	-	-	24.0
Consensus Revenue Forecast	14,678.0	13,212.6	684.3	600.1	181.1
Loophole Closings/Administrative Changes	174.0	174.0	-	-	-
Total Taxes	14,852.0	13,386.6	684.3	600.1	181.1
Transfers off budget:					
MBTA funding	(684.3)		(684.3)		
Convention Center	(44.0)				(44.0)
Net Taxes for Budget	14,123.7	13,386.6		600.1	137.7
Federal Reimbursements	4,918.4	4,592.7	-	3.7	322.0
Departmental Revenues	1,984.19	442.3	-	427.6	2.9
Transfers & Other Receipts	405.8	442.3		(35.9)	(0.6)
Total for Budget	21,749.8	20,923.1	-	995.4	461.3

SECTION 1B. The comptroller shall keep a distinct account of actual receipts of non-tax revenues by each department, board, commission or institution to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with projected receipts set forth herein and to include a full statement comparing such receipts with projected receipts in the annual report for such fiscal year pursuant to section 13 of chapter 7A of the General Laws. The quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

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Non-Tax Revenue: Executive Office Summary

Revenue Source	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Judiciary	\$63,995,858	\$43,840,209	\$107,836,067
District Attorneys	\$21,339	\$0	\$21,339
Office of the Governor	\$11,000	\$0	\$11,000
Office of the Secretary of State	\$333,226,757	\$1,105,000	\$334,331,757
Office of the State Treasurer	\$577,927,620	\$665,031,181	\$1,242,958,801
State Auditor's Office	\$340	\$0	\$340
Office of the Attorney General	\$7,921,209	\$219,836	\$8,141,045
Ethics Commission	\$43,330	\$0	\$43,330
Office of the Inspector General	\$0	\$300,000	\$300,000
Campaign & Political Finance	\$39,382	\$0	\$39,382
Office of the State Comptroller	(\$484,762,915)	\$160,495	(\$484,602,420)
Executive Office: Administration &	\$472,904,640	\$28,390,571	\$501,295,211
Executive Office: Environmental Affairs	\$96,294,214	\$6,246,116	\$102,540,330
Executive Office: Human Services	\$4,797,288,143	\$145,895,218	\$4,943,183,361
Executive Office: Transportation	\$9,136,372	\$27,344	\$9,163,716
Board of Library Commissioners	\$1,726	\$0	\$1,726
Labor, Education and Development	\$275,801,047	\$3,059,850	\$278,860,897
Executive Office of Public Safety	\$480,930,813	\$44,279,809	\$525,210,622
Executive Office of Elder Affairs	\$12,811,525	\$0	\$12,811,525
Legislature	\$1,000	\$0	\$1,000
Taxes	\$14,167,700,000	\$0	\$14,167,700,000
Total:	\$20,811,293,400	\$938,555,629	\$21,749,849,029

Non-Tax Revenue: Executive Office by Department Summary

Revenue	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Judiciary			
Supreme Judicial Court	\$3,015,542	\$0	\$3,015,542
Committee for Public Counsel	\$76,021	\$0	\$76,021
Appeals Court	\$248,993	\$0	\$248,993
Trial Court	\$60,655,302	\$43,840,209	\$104,495,511
TOTALS:	\$63,995,858	\$43,840,209	\$107,836,067
District Attorneys			
Northern District Attorney	\$12,548	\$0	\$12,548
Northwestern District Attorney	\$2,200	\$0	\$2,200
Eastern District Attorney	\$1,233	\$0	\$1,233
Middle District Attorney	\$4,075	\$0	\$4,075
Bristol District Attorney	\$0	\$0	\$0
Hampden District Attorney	\$1,283	\$0	\$1,283
Plymouth District Attorney	\$0	\$0	\$0
TOTALS:	\$21,339	\$0	\$21,339

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Revenue	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Office of the Governor			
Office of the Governor	\$11,000	\$0	\$11,000
TOTALS:	\$11,000	\$0	\$11,000
Office of the Secretary of State			
Secretary of State	\$333,226,757	\$1,105,000	\$334,331,757
TOTALS:	\$333,226,757	\$1,105,000	\$334,331,757
Office of the State Treasurer			
Treasurer's Office	\$204,243,097	\$0	\$204,243,097
State Lottery Commission	\$366,376,271	\$665,031,181	\$1,031,407,452
Mass Cultural Council	\$7,308,252	\$0	\$7,308,252
TOTALS:	\$577,927,620	\$665,031,181	\$1,242,958,801
State Auditor's Office			
State Auditor's Office	\$340	\$0	\$340
TOTALS:	\$340	\$0	\$340
Office of the Attorney General			
Attorney General	\$7,911,709	\$219,836	\$8,131,545
Victim Witness Assistance	\$9,500	\$0	\$9,500
TOTALS:	\$7,921,209	\$219,836	\$8,141,045
Ethics Commission			
Ethics Commission	\$43,330	\$0	\$43,330
TOTALS:	\$43,330	\$0	\$43,330
Office of the Inspector General			
Inspector General	\$0	\$300,000	\$300,000
TOTALS:	\$0	\$300,000	\$300,000
Campaign & Political Finance			
Campaign & Political Finance	\$39,382	\$0	\$39,382
TOTALS:	\$39,382	\$0	\$39,382
Office of the State Comptroller			
Comptroller's Office	(\$486,758,726)	\$0	(\$486,758,726)
Comptroller's Office	\$1,244,311	\$0	\$1,244,311
Comptroller's Office	\$751,500	\$160,495	\$911,995
TOTALS:	(\$484,762,915)	\$160,495	(\$484,602,420)
Executive Office: Administration & Finance			
Veterans Affairs	\$139,949	\$150,000	\$289,949
Civil Service Commission	\$295	\$0	\$295
Secretary of Administration & Finance	\$6,699,319	\$0	\$6,699,319
Division of Fiscal Affairs -	\$72,926,493	\$0	\$72,926,493
Fringe Recovery			
Fingold Library	\$688	\$0	\$688

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Revenue	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Office of Dispute Resolution	\$0	\$436,381	\$436,381
DCAMM	\$46,942,686	\$12,254,322	\$59,197,008
Group Insurance Commission	\$171,366,910	\$0	\$171,366,910
Division of Administrative Law Appeals	\$84,613	\$0	\$84,613
M.C.A.D.	\$881,066	\$2,752,016	\$3,633,082
Dept of Revenue	\$171,408,431	\$9,187,280	\$180,595,711
Appellate Tax Board	\$1,417,865	\$300,000	\$1,717,865
Human Resources Division	\$230,000	\$1,327,500	\$1,557,500
Division of Operational Services	\$685,326	\$1,482,538	\$2,167,864
BSOB	\$121,000	\$0	\$121,000
Division of Information Technology	\$0	\$500,534	\$500,534
TOTALS:	\$472,904,640	\$28,390,571	\$501,295,211
Executive Office: Environmental Affairs			
Secretary of Environmental Affairs	\$6,600	\$125,000	\$131,600
Secretary of Environmental Affairs	\$0	\$0	\$0
Dept of Environmental Management	\$6,294,741	\$2,703,218	\$8,997,959
Dept of Environmental Protection	\$42,850,977	\$0	\$42,850,977
Fish/Wildlife Environmental Law Enforcement	\$21,332,254	\$417,898	\$21,750,152
Metropolitan District Commission	\$21,731,299	\$3,000,000	\$24,731,299
Dept of Food & Agriculture	\$4,078,343	\$0	\$4,078,343
TOTALS:	\$96,294,214	\$6,246,116	\$102,540,330
Executive Office: Human Services			
Secretary of Human Services	\$220	\$0	\$220
Chelsea Soldiers' Home	\$1,000,000	\$0	\$1,000,000
Division of Medical Assistance	\$3,242,365,000	\$70,000,000	\$3,312,365,000
Division of Health Care Finance and Policy	\$11,170,419	\$0	\$11,170,419
Mass Commission for the Blind	\$2,567,332	\$114,000	\$2,681,332
Mass Rehabilitation Commission	\$4,616,000	\$2,000,000	\$6,616,000
Mass Commission for the Deaf	\$5,300	\$175,000	\$180,300
Office of Child Care Services	\$203,884,570	\$0	\$203,884,570
Chelsea Soldiers' Home	\$9,974,900	\$207,000	\$10,181,900
Holyoke Soldiers' Home	\$8,473,152	\$967,000	\$9,440,152
Dept of Youth Services	\$4,666,614	\$0	\$4,666,614
Dept of Transitional Assistance	\$425,109,640	\$0	\$425,109,640
Dept of Public Health	\$96,682,572	\$60,957,218	\$157,639,790
Dept of Social Services	\$261,944,450	\$6,750,000	\$268,694,450
Dept of Mental Health	\$102,982,409	\$4,625,000	\$107,607,409
Dept of Mental Retardation	\$421,845,565	\$100,000	\$421,945,565
TOTALS:	\$4,797,288,143	\$145,895,218	\$4,943,183,361

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Revenue	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Executive Office: Transportation			
Secretary of Transportation	\$818,294	\$27,344	\$845,638
Mass Aeronautics Commission	\$275,000	\$0	\$275,000
Mass Highway	\$8,043,078	\$0	\$8,043,078
TOTALS:	\$9,136,372	\$27,344	\$9,163,716
Board of Library Commissioners			
Board of Library Commissioners	\$1,726	\$0	\$1,726
TOTALS:	\$1,726	\$0	\$1,726
Labor, Education and Development			
Office of Director of Labor	\$0	\$0	\$0
Office of Director of Labor	\$1,561,547	\$152,850	\$1,714,397
Dept of Industrial Accidents	\$18,706,658	\$0	\$18,706,658
Labor Relations Commission	\$20,000	\$0	\$20,000
Board of Conciliation & Arbitration	\$75,000	\$0	\$75,000
Office of Communities and Development	\$9,545,740	\$1,500,000	\$11,045,740
Director of Consumer Affairs and Business Reg.	\$891	\$0	\$891
Secretary of Economic Affairs	\$3,000	\$0	\$3,000
Division of Banks	\$26,287,712	\$0	\$26,287,712
Division of Insurance	\$55,098,933	\$0	\$55,098,933
Division of Registration	\$15,802,703	\$0	\$15,802,703
Division of Standards	\$1,263,977	\$808,900	\$2,072,877
Dept of Public Utilities	\$13,703,470	\$75,000	\$13,778,470
Alcohol Beverages Control Commission	\$4,660,636	\$0	\$4,660,636
State Racing Commission	\$5,222,243	\$0	\$5,222,243
Board of Medicine	\$0	\$0	\$0
Division of Energy Resources	\$444,081	\$0	\$444,081
Department of Education	\$19,198,050	\$0	\$19,198,050
Higher Education	\$38,476,158	\$523,100	\$38,999,258
University of Massachusetts	\$65,730,249	\$0	\$65,730,249
TOTALS:	\$275,801,047	\$3,059,850	\$278,860,897
Executive Office of Public Safety			
Secretary of Public Safety	\$289,071	\$228,980	\$518,051
Chief Medical Examiner	\$1,000	\$810,000	\$811,000
Criminal History Systems Board	\$8,345,525	\$0	\$8,345,525
Board of Building Regulations	\$0	\$0	\$0
Architectural Access Board	\$0	\$0	\$0
Dept of State Police	\$519,000	\$17,750,329	\$18,269,329
Criminal Justice Training Council	\$3,000	\$1,161,500	\$1,164,500
Dept of Public Safety	\$17,013,200	\$80,000	\$17,093,200
Dept of Fire Services	\$7,778,826	\$0	\$7,778,826

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Revenue	Unrestricted Non-Tax	Restricted Non-Tax	Total Non-Tax
Registry of Motor Vehicles	\$427,093,740	\$9,017,000	\$436,110,740
Merit Rating Board	\$24,000	\$0	\$24,000
Sex Offender Registry Board	\$17	\$750,000	\$750,017
Military Division	\$2,000	\$500,000	\$502,000
Emergency Management Agency	\$627,601	\$0	\$627,601
Gov's Highway Safety Bureau	\$0	\$0	\$0
Dept of Corrections	\$17,342,970	\$9,224,000	\$26,566,970
Sheriff's Department Franklin	\$98,500	\$1,200,000	\$1,298,500
Sheriff's Department Berkshire	\$26,900	\$150,000	\$176,900
Sheriff's Department Essex	\$119,763	\$1,000,000	\$1,119,763
Sheriffs Department Hampden	\$0	\$0	\$0
Sheriff's Department Hampden	\$521,000	\$920,000	\$1,441,000
Sheriff's Department Middlesex	\$187,400	\$925,000	\$1,112,400
Sheriff's Department Hampshire	\$39,000	\$163,000	\$202,000
Sheriff's Department Worcester	\$204,700	\$0	\$204,700
Parole Board	\$693,600	\$400,000	\$1,093,600
TOTALS:	\$480,930,813	\$44,279,809	\$525,210,622
Executive Office of Elder Affairs			
Secretary of Elder Affairs	\$12,811,525	\$0	\$12,811,525
TOTALS:	\$12,811,525	\$0	\$12,811,525
Legislature			
House of Representatives	\$0	\$0	\$0
Joint Legislative	\$0	\$0	\$0
Senate	\$1,000	\$0	\$1,000
TOTALS:	\$1,000	\$0	\$1,000
Taxes			
Taxation	\$14,167,700,000	\$0	\$14,167,700,000
TOTALS:	\$14,167,700,000	\$0	\$14,167,700,000
Total Tax and Non-Tax Revenue:	\$20,811,293,400	\$938,555,629	\$21,749,849,029

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0320-0003 For the operation of the supreme judicial court, including salaries of the chief justice and the 6 associate justices, and the cost of upgrading and purchasing computer equipment for the supreme judicial court and appeals court of the commonwealth \$5,830,726

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0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk County	\$986,819
0321-0001	For the operation of the commission on judicial conduct	\$384,748
0321-0100	For the services of the board of bar examiners	\$1,007,727
0321-1500	For the operation of the committee for public counsel services as authorized by chapter 211D of the General Laws; provided, that the committee shall submit a report to the clerks of the house of representatives and senate, the speaker and minority leader of the house of representatives, the president and minority leader of the senate and the house and senate committee on ways and means not later than January 31, 2004 that shall include, but not be limited to the following: (a) the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; (c) the total number of persons who received legal services by said committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and geographic location; (e) the amount paid, if any, to the committee by clients for services rendered by type of case and geographic location; (f) the average cost for services rendered by said committee by type of case; (g) the average number of hours spent per attorney or staff per type of case; (h) the feasibility of the implementation of a flat rate compensation system based on the type of case	\$15,225,009
0321-1510	For compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2004; and provided further, that the rates of compensation paid for private counsel services from this item shall be the same as the rates paid in fiscal year 2003	\$72,381,494
0321-1518	The chief counsel for the committee for public services may expend an amount not to exceed \$250,000 from revenues collected from fees charged for attorney representation of indigent clients; provided however, that said revenues credited to this account shall only be those revenues in excess in excess of the amounts for said fees collected in fiscal year	

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	2003 as calculated on a monthly basis; provided further, that the comptroller shall certify to the chief counsel at the end of each month the amount available for expenditure from this line item	\$250,000
0321-1520	For fees and costs as defined in section 27A of chapter 261 of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in said section 27A of said chapter 261; provided, that not more than \$500,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2004	\$8,014,020

Committee for Public Counsel Services.

0321-1600	For the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth; provided, that notwithstanding provisions of section 9 of chapter 221A of the General Laws that \$1,190,129 shall be expended for the disability benefits project, \$544,286 shall be expended for the Medicare advocacy project, and \$2,490,993 shall be expended for the battered women's legal assistance project; provided further, that said corporation shall submit a report to the house and senate committees on ways and means not later than January 30, 2004 that shall include, but not be limited to the following: (a) the number of persons said programs assisted in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; (c) the total number of indigent or otherwise disadvantaged residents of the commonwealth who received services by said corporation, by type of case and geographic location; and provided further, that said corporation may contract with any organization for the purpose of providing such representation	\$7,564,142
0321-2000	For the operation of the mental health legal advisors committee and for certain programs for the indigent mentally ill, as provided in section 34E of chapter 221 of the General Laws . . .	\$501,085
0321-2100	For the Massachusetts correctional legal services committee	\$500,000
0321-2205	For the expenses of the social law library located in Suffolk county	\$1,704,671

Appeals Court.

0322-0100 For the appeals court, including the salaries, traveling allowances and expenses of the chief justice, recall judges and the associate justices, and the expenses of the conference program \$9,236,289

Trial Court.

- 0330-0101 For the salaries of the justices of the superior court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$9,290,337
- 0330-0102 For the salaries of the justices of the district court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$18,001,737
- 0330-0103 For the salaries of the justices of the probate and family court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$5,777,640
- 0330-0104 For the salaries of the justices of the land court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$710,961
- 0330-0105 For the salaries of the justices of the Boston municipal court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$3,390,891
- 0330-0106 For the salaries of the justices of the housing court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any trans-

	fers of funds from this item to any other item of appropriation within 30 days of such transfer	\$1,085,172
0330-0107	For the salaries of the justices of the juvenile court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer	\$4,628,850
0330-0300	For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, and insurance and chargeback costs; provided, that funds may be expended for the judicial training institute; provided further, that notwithstanding the provisions of section 9A of chapter 30, or any general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any veteran, as so defined, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who (1) has held such office or position for not less than one year and (2) has 30 years of total creditable service to the commonwealth, as such service is defined in chapter 32; provided further, that the Chief Justice for Administration and Management of the Trial Court shall make a report to the General Court relative to the annual cost of maintaining the court system's electronic equipment and systems and identify means to reduce such costs; provided further that said report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further that in preparing said report the Chief Justice for Administration and Management may utilize the services of appropriate third parties knowledgeable in equipment service	

	contracts; provided further that the Chief Justice for Administration and Management shall file said report with the House and Senate Committees on Ways and Means within 90 days of the effective date of this act; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magistrate within said courts; and provided further, that said report shall be submitted to the victim and witness assistance board on or before January 15, 2004	\$94,898,560
0330-0317	For the operation and expenses of the Massachusetts sentencing commission, pursuant to chapter 211E of the General Laws	\$232,756
0330-0410	For alternative dispute resolution services for the trial court; provided, that such services shall be made available to the extent possible in connection with child care, protection and custody proceedings in juvenile and probate courts; provided further that not less than \$44,337 shall be expended for North Central Court Services, Inc.; provided further, that not less than \$40,000 shall be expended for the North Shore Community Mediation Program in Salem; provided further, that not less than \$48,032 shall be expended for Metropolitan Mediation Services; provided further, that not less than \$36,947 shall be expended for Community Mediation of Worcester; provided further, that not less than \$62,811 shall be expended for Mediation Works, Inc; provided further, that not less than \$36,947 shall be expended for Quabbin Mediation in Athol; provided further, that not less than \$25,863 shall be expended for the Mediation and Training Collaborative of Franklin County in Greenfield; provided further, that not less than \$36,947 shall be expended for Framingham Court Mediation Services; provided further, that not less than \$42,737 shall be expended for Dispute Resolution Services, Inc., in Springfield district court; provided further, that not less than \$25,863 shall be expended for the Housing Services and Mediation Program operated by the Berkshire County Regional Housing Authority in Pittsfield; provided further, that not less than \$36,947 shall be	

	expended for the Cape Cod Resolution Center; provided further, that not less than \$36,947 shall be expended for the Community Dispute Settlement Center, Inc., of Cambridge; provided further, that not less than \$36,947 shall be expended for the Somerville Mediation Program; provided further, that not less than \$29,558 shall be expended for Berkshire Mediation Services inc.; provided further, that not less than \$11,084 shall be expended for the Winchester Mediation Program; provided further, that not less than \$48,032 shall be expended for the Middlesex Multi-door Court House Program; and provided further, that all remaining funds from this item shall be expended for approved mediation programs in fiscal year 2003	\$600,999
0330-0441	For permanency mediation services in the probate and juvenile courts	\$476,598
0330-2200	For the rental of county court facilities, in accordance with section 4 of chapter 29 A of the General Laws; provided, that all county facilities shall be reimbursed from this item in fiscal year 2004	\$8,606,082
0330-3200	For the court security program, including personnel and expenses; provided, that security guards and court officers may be available for assignment in accordance with juvenile court expansion funded pursuant to item 0337-0003; provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements; and provided further, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than January 30, 2004, detailing the number of court officers and security personnel located in each trial court of the commonwealth	\$47,393,774
0330-3333	The chief justice for administration and management may expend an amount not to exceed \$22,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218 and sections 2, 4A, 4C and 40 of chapter 262 of the General Laws, as said chapters and sections are amended by this act; provided, that said chief justice shall only expend or allocate funds from this item to the seven departments of the trial court for the operation of said departments; provided further, that any expenditures or	

allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means 60 days prior to said expenditures or allocations; provided further, that the only revenue available for expenditure in this item for fiscal year 2004 shall be revenue collected from the increase in said fees in excess of the amount collected and deposited into the general fund in fiscal year 2003 from said fees; and provided further, that no such allocation shall occur until said schedules have been approved by said committees; provided further, that said fees shall continue to be transmitted to the treasurer for deposit into the general fund prior to the expenditure authorized by this item; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, said chief justice may incur expenses and the comptroller shall certify for payments amounts not to exceed the lower of one half of this authorization or the most recent revenue estimate therefor as reported in the state accounting system \$22,000,000

0330-3334 The chief justice for administration and management may expend an amount not to exceed \$18,000,000 from fees charged and collected pursuant to section 87A of chapter 276 of the General Laws, as said section is amended by this act; provided, that said chief justice shall only expend or allocate funds from this item to the district court department of the trial court for the operation of said department; provided further, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means 60 days prior to said expenditures or allocations; provided however, that said chief justice shall allocate or expend said funds authorized herein in a manner that accounts for the individual district court's compliance with section 13 of chapter 300 of the acts of 2002; and provided further, that said fees shall continue to be transmitted to the treasurer for deposit into the general fund prior to the expenditure authorized by this item \$18,000,000

Superior Court Department.

0331-0100 For the administrative office of the superior court department . . . \$6,015,097

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0331-0300	For medical malpractice tribunals established in accordance with the provisions of section 60B of chapter 231 of the General Laws	\$59,323
0331-2100	For the Barnstable superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$491,025
0331-2200	For the Berkshire superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$194,011
0331-2300	For the Bristol superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$826,697
0331-2400	For the Dukes superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$154,522
0331-2500	For the Essex superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,393,927
0331-2600	For the Franklin superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$288,556
0331-2700	For the Hampden superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,240,186
0331-2800	For the Hampshire superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$298,680
0331-2900	For the Middlesex superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$3,111,751
0331-3000	For the Nantucket superior court; provided, that the clerk of the court shall have responsibility for the internal administration	

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	of his office, including personnel, staff services and record keeping	\$130,215
0331-3100	For the Norfolk superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,142,317
0331-3200	For the Plymouth superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,047,213
0331-3300	For the Suffolk superior civil court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$2,863,194
0331-3400	For the Suffolk superior criminal court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,868,410
0331-3404	For an education and community outreach pilot program to be administered in the Suffolk superior criminal court	\$178,902
0331-3500	For the Worcester superior court; provided, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,030,766

District Court Department.

0332-0100	For the administrative office of the district court department, including a civil conciliation program	\$754,311
0332-1100	For the first district court of Barnstable	\$518,876
0332-1200	For the second district court of Barnstable at Orleans	\$372,891
0332-1203	For the third district court of Barnstable at Falmouth	\$372,553
0332-1300	For the district court of northern Berkshire at Adams, North Adams and Williamstown	\$242,317
0332-1400	For the district court of central Berkshire at Pittsfield	\$408,035
0332-1500	For the district court of southern Berkshire at Great Barrington and Lee	\$225,680
0332-1600	For the first district court of Bristol at Taunton	\$686,816
0332-1700	For the second district court of Bristol at Fall River	\$851,953
0332-1800	For the third district court of Bristol at New Bedford	\$920,113
0332-1900	For the fourth district court of Bristol at Attleboro	\$567,610

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0332-2000 For the district court of Edgartown	\$164,337
0332-2100 For the first district court of Essex at Salem	\$679,564
0332-2300 For the third district court of Essex at Ipswich	\$192,474
0332-2400 For the central district court of northern Essex at Haverhill	\$578,348
0332-2500 For the district court of eastern Essex at Gloucester	\$290,243
0332-2600 For the district court of Lawrence	\$1,064,825
0332-2700 For the district court of southern Essex at Lynn	\$784,170
0332-2800 For the district court of Newburyport	\$477,982
0332-2900 For the district court of Peabody	\$488,182
0332-3000 For the district court of Greenfield	\$332,497
0332-3100 For the district court of Orange	\$273,267
0332-3200 For the district court of Chicopee	\$378,616
0332-3300 For the district court of Holyoke	\$426,162
0332-3400 For the district court of eastern Hampden at Palmer	\$293,203
0332-3500 For the district court of Springfield	\$1,659,121
0332-3600 For the district court of western Hampden at Westfield	\$279,891
0332-3700 For the district court of Hampshire at Northampton	\$601,866
0332-3800 For the district court of eastern Hampshire at Ware	\$161,045
0332-3900 For the district court of Lowell	\$1,172,204
0332-4000 For the district court of Somerville	\$767,648
0332-4100 For the district court of Newton	\$356,301
0332-4200 For the district court of Marlborough	\$288,668
0332-4300 For the district court of Natick	\$407,025
0332-4400 For the first district court of eastern Middlesex at Malden	\$558,598
0332-4500 For the second district court of eastern Middlesex at Waltham	\$474,443
0332-4600 For the third district court of eastern Middlesex at Cambridge	\$1,189,409
0332-4700 For the fourth district court of eastern Middlesex at Woburn	\$656,440
0332-4800 For the first district court of northern Middlesex at Ayer	\$358,348
0332-4900 For the first district court of southern Middlesex at Framing- ham	\$752,631
0332-5000 For the district court of central Middlesex at Concord	\$378,254
0332-5100 For the district court of Nantucket	\$117,003
0332-5200 For the district court of northern Norfolk at Dedham	\$539,364
0332-5300 For the district court of East Norfolk at Quincy	\$1,522,349
0332-5400 For the district court of western Norfolk at Wrentham	\$453,890
0332-5500 For the district court of southern Norfolk at Stoughton	\$587,885
0332-5600 For the municipal court of Brookline	\$335,715
0332-5700 For the district court of Brockton	\$1,083,112
0332-5800 For the second district court of Plymouth at Hingham	\$615,709
0332-5900 For the third district court of Plymouth at Plymouth	\$764,724
0332-6000 For the fourth district court of Plymouth at Wareham	\$644,612

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0332-6300	For the district court of Chelsea; provided, that notwithstanding the provisions of any general or special law to the contrary, said district court shall be the permanent location for the northern trial session to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that the clerk magistrate shall utilize whatever space within the facility at-large he deems necessary to comply with S.J.C. Rule 3:12, Canon 3(A)6	\$781,820
0332-6900	For the central district court of Worcester	\$1,491,891
0332-7000	For the district court of Fitchburg	\$488,456
0332-7100	For the district court of Leominster	\$384,268
0332-7200	For the district court of Winchendon	\$134,005
0332-7300	For the first district court of northern Worcester at Gardner	\$341,821
0332-7400	For the first district court of eastern Worcester at Westborough . . .	\$388,224
0332-7500	For the second district court of eastern Worcester at Clinton	\$250,087
0332-7600	For the district court of southern Worcester at Dudley	\$461,990
0332-7700	For the second district court of southern Worcester at Uxbridge . . .	\$307,603
0332-7800	For the third district court of southern Worcester at Milford	\$294,137
0332-7900	For the district court of western Worcester at East Brookfield	\$307,403

Probate and Family Court Department.

0333-0002	For the administrative office of the probate and family court department; provided, that the case manager shall meet monthly with the department of social services and shall report quarterly to the house and senate committees on ways and means on the backlog of cases in the probate court and the parties' progress made in such backlog each month	\$1,289,406
0333-0100	For the Barnstable probate court	\$917,517
0333-0150	For the operation of a child and parents program in the Barnstable probate court; provided, that this item shall not be subject to paragraphs (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws	\$79,495
0333-0200	For the Berkshire probate court	\$508,244
0333-0300	For the Bristol probate court	\$1,596,935
0333-0400	For the Dukes probate court	\$120,603
0333-0500	For the Essex probate court	\$1,286,932
0333-0600	For the Franklin probate court	\$512,347
0333-0700	For the Hampden probate court	\$1,911,173

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0333-0711	For the operation of the Berkshire, Franklin, Hampden and Hampshire family court clinic to be administratively located in the city of Springfield and to serve the Berkshire, Franklin, Hampden and Hampshire divisions of the probate court	\$39,748
0333-0800	For the Hampshire probate court	\$636,139
0333-0900	For the Middlesex probate court	\$3,330,136
0333-0911	For the Middlesex probate court family services clinic	\$193,762
0333-1000	For the Nantucket probate court	\$173,104
0333-1100	For the Norfolk probate court	\$1,494,054
0333-1111	For the Norfolk probate court family services clinic	\$139,772
0333-1200	For the Plymouth probate court	\$1,340,027
0333-1300	For the Suffolk probate court	\$2,208,559
0333-1313	For the Suffolk probate community access program of community outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county	\$189,041
0333-1400	For the Worcester probate court	\$1,658,651
0333-1411	For the Worcester probate court family services clinic	\$169,362

Land Court Department.

0334-0001	For the operation of the land court; provided, that funds shall be expended for additional operating and personnel expenses . . .	\$2,350,474
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Boston Municipal Court Department.

0335-0001	For the central division of the Boston municipal court department including the administrative cost of said court department . . .	\$3,185,464
0335-0100	For the Brighton division of the Boston municipal court department	\$326,154
0335-0200	For the Charlestown division of the Boston municipal court department	\$232,655
0335-0300	For the Dorchester division of the Boston municipal court department	\$1,149,514
0335-0400	For the East Boston division of the Boston municipal court department	\$582,745
0335-0500	For the Roxbury division of the Boston municipal court department	\$1,116,770
0335-0600	For the South Boston division of the Boston municipal court department	\$407,439

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0335-0700 For the West Roxbury division of the Boston municipal court department	\$733,061
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Housing Court Department.

0336-0002 For the administrative office of the housing court department	\$94,546
0336-0100 For the Boston housing court	\$855,210
0336-0200 For the western division of the housing court	\$634,164
0336-0300 For the Worcester county housing court	\$636,784
0336-0400 For the southeastern division of the housing court	\$1,113,400
0336-0500 For the northeastern division of the housing court	\$596,525

Juvenile Court Department.

0337-0002 For the administrative office of the juvenile court department	\$886,387
0337-0003 For the personnel and expenses associated with expansion of the juvenile court, including Middlesex and Norfolk counties provided that \$863,995 shall be expended for the Norfolk County juvenile court; and provided further, that \$1,096,081 shall be expended for the Middlesex juvenile courts.	\$2,133,325
0337-0100 For the Suffolk county juvenile courts	\$1,241,045
0337-0200 For the Bristol juvenile court	\$1,239,671
0337-0300 For the Hampden county juvenile courts; provided that \$145,841 shall be expended for the CASA program in the Springfield juvenile court	\$1,288,096
0337-0400 For the Worcester county juvenile courts; provided that \$72,920 shall be expended for the CASA program in the Worcester juvenile court	\$1,075,642
0337-0500 For the Barnstable county juvenile court; including the Barnstable county juvenile court located in the town of Plymouth	\$732,193
0337-0600 For the Essex county juvenile courts provided that \$91,150 shall be expended on the CASA program in the Lawrence juvenile court	\$1,047,472
0337-0700 For the Hampshire and Franklin counties juvenile courts; provided that \$77,478 shall be expended for the Franklin/Hampshire CASA program, including Northampton, Greenfield, Orange and Ware district courts	\$681,095
0337-0800 For the Plymouth county juvenile courts; provided that \$72,920 shall be expended for the CASA program in the Plymouth county juvenile court	\$784,881
0337-0900 For the Berkshire county juvenile courts; provided that \$54,690 shall be expended for a Berkshire CASA program in the Berk-	

shire county juvenile court \$495,804

Office of the Commissioner of Probation.

- 0339-1001 For the office of the commissioner of probation; provided, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, said commissioner, subject to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers; provided further, that said associate probation officers shall only perform in-court functions and shall assume the in-court duties of the currently employed probation officers who shall be reassigned within the probation service subject to collective bargaining agreements to perform intensive, community-based supervision of probationers, including the provisions of intensive supervision and community restraint services as described in item 0339-1004; and provided further, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, probation officer personnel and probation clerical support staff assigned to the courts shall be provided with suitable office space in their current location in and around the various divisions and departments of the trial court, as the case may be, or in suitable office space as appropriate, with the advice and consent of the commissioner \$105,861,116
- 0339-1003 For the operation of the trial court office of community corrections, including the costs of personnel \$3,852,505
- 0339-1004 For the cost of intensive supervision and community corrections programs; provided, that said programs shall include, but not be limited to, tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution, and community incapacitation or restraint; provided further, that the number of placements in said programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that funds from this item shall be expended to cover the costs of said programs that are undertaken and administered by court

probation offices and county sheriffs' offices; provided further, that said funds shall be expended for the purpose of providing said programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties in fiscal year 2004; provided further, that the executive director of the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with said probation offices and sheriffs' offices for the provision of said programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that said agreements and memoranda shall be entered into at the direction of said executive director; provided further, that said executive director shall submit a spending and management plan for said programs to the house and senate committees on ways and means not later than January 30, 2004; and provided further, that said plan shall include the projected number of probationers to be served by each such program and include a description of the oversight and services provided to said probationers \$10,709,511

Office of the Jury Commissioner.

0339-2100 For the office of jury commissioner in accordance with chapter 234A of the General Laws; provided, that said office shall be located at the Charlestown division of the Boston municipal court \$1,918,124

Suffolk District Attorney.

0340-0100 For the Suffolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, the domestic violence unit and the children's advocacy center; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the

district, juvenile, probate or superior court in which the cases were managed or prosecuted; ;provided further, that not more than \$125,000 shall be expended for a North Dorchester safe neighborhood initiative, in Suffolk county; and provided further, that not more than \$125,000 shall be expended for a safe neighborhood initiative, in Suffolk county; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 \$13,079,260

Middlesex District Attorney.

0340-0200 For the Middlesex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 . . \$10,499,483

Essex District Attorney.

0340-0300 For the Essex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 \$6,363,177

Worcester District Attorney.

0340-0400 For the Worcester district attorney's office, including the victim

	and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; provided further, that \$75,000 may be expended for financial criminal investigations; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000	\$6,773,463
0340-0410	For the analyses of narcotic drug synthetic substitutes, poisons, drugs, medicines and chemicals at the University of Massachusetts medical school in order to support the law enforcement efforts of the district attorneys, the state police and municipal police departments	\$300,000

Hampden District Attorney.

0340-0500	For the Hampden district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000	\$5,861,138
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Hampshire/Franklin District Attorney.

0340-0600	For the Hampshire/Franklin district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that said office shall submit a report	
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to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that not less than \$120,000 shall be expended for the salaries and expenses of a children's advocacy project, so-called \$4,120,908

Norfolk District Attorney.

0340-0700 For the Norfolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 \$6,833,969

Plymouth District Attorney.

0340-0800 For the Plymouth district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that no assistant district attorney shall be paid an annual salary of less than \$35,000; provided further, that the Plymouth county district attorney's office shall employ a special assistant district attorney to specialize in the investigation and prosecution of alleged criminal offenses committed by inmates in state correctional facilities, county and state houses of corrections, and jails; provided further, that interagency service agreements shall be established between the Plymouth county district attorney's office and the

office of the district attorneys for Bristol, and the Cape and Islands to equally share the compensation and related expenses of said special assistant; provided further, that said special assistant shall practice only in those jurisdictions participating in said interagency service agreement; and provided further, that no expenditures shall be 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 \$5,391,403

Bristol District Attorney.

0340-0900 For the Bristol district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which the cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 \$5,818,947

Cape and Islands District Attorney.

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000; and provided further, that \$20,000 shall be expended for the Cape and Islands Child Advocacy Center \$2,611,949

Berkshire District Attorney.

0340-1100 For the Berkshire district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that said office shall submit a report to the house and senate committees on ways and means not later than Feb-

ruary 1, 2004 summarizing the number and types of criminal cases managed or prosecuted by said office in calendar year 2003 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that no assistant district attorney shall be paid an annual salary of less than \$35,000 . . . \$2,426,106

District Attorneys Association.

0340-2100 For the operation of the Massachusetts District Attorneys' Association, including the implementation and related expenses of the district attorneys' office automation and case management and tracking system; provided, that expenses associated with the system may be charged directly to this item; provided further, that the 11 district attorneys of the commonwealth may contribute a portion of their fiscal year 2004 appropriation to the Massachusetts District Attorneys' Association in order to alleviate the cost of the case management and tracking system as well as the cost of data lines associated with the district attorney's computer network; provided further, that each district attorney shall submit a report to the Massachusetts District Attorneys' Association and the house and senate committees on ways and means delineating all funds expended for the purpose of implementing the case management and tracking system not later than February 15, 2004; provided further, that the report shall include, but not be limited to, an analysis of the total cost of the district attorneys' computer network, the total cost incurred by each district attorney's office, a detailed list of all hardware and software leased, owned or operated by each district attorney, a plan for any purchases to be made in the remainder of fiscal year 2004 and a detailed summary of any policies implemented to contain the costs of the network by either the Massachusetts District Attorneys Association or the individual district attorneys' offices; provided further, that no expenditures shall be 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 in this item; and provided further, that the said association shall submit a report to the house and senate committees on

	ways and means not later than January 31, 2004 detailing, by district attorney office, all sources of revenue, including, but not limited to, federal and state grants that were received in fiscal year 2003, and the amount of each source of revenue . . .	\$1,344,906
0340-2101	For the overtime costs of state police officers assigned to the district attorneys; provided, that no such costs associated with said officers shall be funded from item 8100-0007; provided further, that not less than \$261,479 shall be expended at the direction of the district attorney for the Suffolk district; provided further, that not less than \$366,410 shall be expended at the direction of the district attorney for the Middlesex district; provided further, that not less than \$348,894 shall be expended at the direction of the district attorney for the Essex district; provided further, that not less than \$281,208 shall be expended at the direction of the district attorney for the Worcester district; provided further, that not less than \$219,703 shall be expended at the direction of the district attorney for the Hampden district; provided further, that not less than \$127,953 shall be expended at the direction of the district attorney for the Franklin/Hampshire district; provided further, that not less than \$318,672 shall be expended at the direction of the district attorney for the Norfolk district; provided further, that not less than \$242,316 shall be expended at the direction of the district attorney for the Plymouth district; provided further, that not less than \$229,498 shall be expended at the direction of the district attorney for the Bristol district; provided further, that not less than \$187,750 shall be expended at the direction of the district attorney for the Cape and Islands district; provided further, that not less than \$70,603 shall be expended at the direction of the district attorney for the Berkshire district; and provided further, that no expenditures shall be made on or after the effective date of this act which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated herein	\$3,079,377
	General Fund	\$11.80%
	Highway Fund	\$88.20%
0340-8908	For the costs associated with maintaining the association's wide area network	\$1,285,000

EXECUTIVE.

0411-1000 For the offices of the governor, the lieutenant governor and the governor's council; provided, that the amount appropriated in this item may be used at the discretion of the governor for the payment of extraordinary expenses not otherwise provided for and for transfer to appropriation accounts where the amounts otherwise available may be insufficient; provided further, that not more than \$205,161 shall be spent on the governor's commission on mental retardation; and provided further, that 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, and section 80 of chapter 236 of the acts of 2000, shall continue during fiscal year 2004 \$5,432,067

SECRETARY OF THE COMMONWEALTH.

0511-0000 For the operation of the office of the secretary; provided, that said office shall submit a report detailing staffing patterns for each program operated by said office; provided further, that said report shall include, but not be limited to, actual and functional job titles by program, compensation rates and lengths of service for each employee; provided further, that said office shall submit said report not later than January 31, 2004 to the house and senate committees on ways and means; and provided further, that the secretary may transfer funds between items 0540-0900, 0540-1000, 0540-1100, 0540-1200, 0540-1300, 0540-1400, 0540-1500, 0540-1600, 0540-1700, 0540-1800, 0540-1900, 0540-2000, 0540-2100 pursuant to an allocation schedule filed with the house and senate committees on ways and means not less than 30 days prior to any such transfer \$6,628,293

0511-0001 The state secretary is hereby authorized to expend revenues not to exceed \$30,000 from the sale of merchandise at the Massachusetts state house gift shop for the purpose of replenishing and restocking gift shop inventory \$30,000

0511-0108 The state secretary acting on behalf of the commonwealth may sell, transfer or license the Division of Corporations' software and related documents pertaining to its web based searching and filing applications, including uniform commercial code

software, developed by the department of the secretary and copyrighted by it to other states, multi-state or regional associations or other sovereign governments on such terms or conditions as in his sole discretion reasonably compensates the commonwealth for its interests; provided, that the secretary may retain and expend revenues collected from such sales, licensure or user agreements in an amount not to exceed 10 per cent or \$275,000 whichever is greater for technical activities of the corporations division the remainder to be deposited in the General Fund; provided further, that the secretary may also provide web hosting, and on-going support and maintenance to other states, provinces or territories of Canada relative to their UCC and corporate applications; and provided further, that the department of the state secretary may accept credit and debit cards from individuals and corporations filing documents with the department		\$275,000
0511-0200	For the operation of the state archives division	\$530,450
0511-0230	For the operation of the records center	\$155,985
0511-0250	For the operation of the archives facility	\$416,804
0511-0260	For the operation of the commonwealth museum	\$187,390
0511-0420	For the operation of the address confidentiality program	\$108,662
0517-0000	For the printing of public documents	\$850,107
0521-0000	For the operation of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections; provided, that the secretary of state may award grants for voter registration and education in the cities of Boston, Springfield and Worcester; provided further, that such registration and education activities may be conducted by community-based voter registration and education organizations; and provided further, that said secretary shall submit a report to the house and senate committees on ways and means not later than January 31, 2004 detailing the amount appropriated for the purposes of providing reimbursements for the costs of extended polling hours from this item to each city or town	\$3,595,239
0521-0001	For the operation of the central voter registration computer system; provided, that a report detailing the status, remaining costs and further implementation requirements of the central voter registration system shall be submitted to the house and senate committees on ways and means not later than January 31, 2004; and provided further, that an annual report	

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	detailing voter registration activity shall be submitted to the house and senate committees on ways and means on or before January 31, 2004	\$4,494,023
0524-0000	For providing information to voters	\$593,025
0526-0100	For the operation of the Massachusetts historical commission; provided, that funds may be expended for the Essex National Heritage Commission archives; provided further, that the grant provided to the city of Gloucester for the restoration of city hall relative to MMARS Document ID: SCSEC48003205102, administered on July 1, 2002, be extended until December 31, 2003 for the purpose of construction completion	\$792,856
0527-0100	For the operation of the ballot law commission	\$16,286
0528-0100	For the operation of the records conservation board	\$30,740
0540-0900	For the registry of deeds located in Lawrence in the former county of Essex	\$744,292
0540-1000	For the registry of deeds located in Salem in the former county of Essex	\$2,188,103
0540-1100	For the registry of deeds in the former county of Franklin	\$495,444
0540-1200	For the registry of deeds in the former county of Hampden	\$2,016,837
0540-1300	For the registry of deeds in the former county of Hampshire	\$527,234
0540-1400	For the registry of deeds located in Lowell in the former county of Middlesex	\$1,232,274
0540-1500	For the registry of deeds located in Cambridge in the former county of Middlesex	\$3,290,986
0540-1600	For the registry of deeds located in Adams in the former county of Berkshire	\$289,748
0540-1700	For the registry of deeds located in Pittsfield in the former county of Berkshire	\$450,614
0540-1800	For the registry of deeds located in Great Barrington in the former county of Berkshire	\$204,051
0540-1900	For the registry of deeds in the former county of Suffolk	\$2,007,223
0540-2000	For the registry of deeds located in Fitchburg in the former county of Worcester	\$507,349
0540-2100	For the registry of deeds located in the city of Worcester in the former county of Worcester	\$1,947,832

TREASURER AND RECEIVER-GENERAL.
Office of the Treasurer and Receiver General.

0610-0000	For the office of the treasurer and receiver-general; provided, that	
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the treasurer shall provide computer services required by the teachers' retirement board; provided further, that to the extent that bank fees exceed the amount appropriated in item 0610-0100, the treasurer may, subject to an allocation plan filed in advance with the house and senate committees on ways and means, transfer from this item to said item 0610-0100, an amount sufficient to ensure full payment of the bank fees; provided further, that the treasurer's office shall submit a report to the victim and witness assistance board which details the amount of assessments transmitted to the treasurer during the previous calendar year on a monthly basis from the courts, the registrar of motor vehicles and the sheriff or superintendent of any correctional facility pursuant to section 8 of chapter 258B; provided further, that said report shall be submitted to said board on or before January 31, 2004; provided further, that the deputy treasurer for abandoned property shall conduct a study of the commonwealth's payment of interest on abandoned property; provided further, that this study shall investigate the feasibility of ending all or some types of these payments in an effort to reduce spending; provided further, that the deputy treasurer shall report his findings to the committees on ways and means on or before January 1, 2004; and provided further, that the treasurer's office shall pay half of the administrative costs of the emergency finance board from this item \$7,054,378

General Fund \$90.00%

Highway Fund \$10.00%

0610-0050 For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission is authorized and directed to work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; and provided further, that said commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the

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	traffic of alcoholic beverages	\$1,766,478
0610-0100	For the payment of bank fees; provided, that the treasurer may transfer funds from this item to item 0610-0000 for one-time, non-recurring expenditures upon certification to the secretary of administration and finance that the remaining balance in this account will be sufficient to make all necessary expenditures	\$4,453,880
	General Fund	\$90.00%
	Highway Fund	\$10.00%
0610-1500	For tuition payments as required by section 12B of chapter 76 of the General Laws, notwithstanding chapter 29 of the General Laws to the contrary; provided, that the state treasurer may expend in anticipation of revenue amounts necessary to meet payments; and provided further, that the state treasurer shall deduct the amount expended from this account from items 7061-0008 and 0611-5500 and from the amounts specified in section 3, in accordance with said section 12B of said chapter 76.	
0611-1000	For bonus payments to war veterans	\$17,500
0611-5500	For additional assistance to cities and towns to be distributed according to section 3 and for assistance to certain public entities of the commonwealth which have constructed water pollution abatement facilities; provided, that the distribution to the public entities shall equal \$1,249,948; and provided further, that if there is a conflict between the provisions of the distribution set forth in section 3 and any other provisions of this act, the distribution set forth in section 3 shall control ..	\$379,767,936
0611-5510	For reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws	\$8,000,000
0611-5800	For distribution to each city and town within which racing meetings are conducted pursuant to section 18D of chapter 58 of the General Laws, as amended by section 186	\$2,500,000

Pension Benefits.

0612-0105	For payment of the public safety employee killed in the line of duty benefit authorized by section 100A of chapter 32 of the General Laws	\$500,000
0612-2000	For retirement benefits authorized pursuant to chapters 712 and	

721 of the acts of 1981, chapter 154 of the acts of 1983, chapter 67 of the acts of 1988, and chapter 621 of the acts of 1989, for the compensation of veterans who may be retired by the state board of retirement, including individuals formerly in the service of the division of employment security whose compensation for such service was paid in full from a grant from the federal government and for the cost of medical examinations in connection therewith, for pensions of retired judges or their widows or widowers, for retirement allowances of certain employees formerly in the service of the administrative division of the metropolitan district commission, for retirement allowances of certain veterans and police officers formerly in the service of the metropolitan district commission, for retirement allowances of certain veterans formerly in the service of the metropolitan sewerage district, for retirement allowances of certain veterans formerly in the service of the metropolitan water system and for annuities for widows or widowers of certain former members of the uniformed branch of the state police \$16,790,766

General Fund \$82.20%

Highway Fund \$17.80%

Commission on Firefighters' Relief.

0620-0000 For financial assistance to injured firefighters \$9,808

Lottery Commission.

0640-0000 For the operation of the state lottery commission and arts lottery; provided, that no funds shall be expended from this item for any costs associated with the promotion or advertising of lottery games; provided further, that positions funded by this item shall not be subject to chapters 30 and 31 of the General Laws; provided further, that the commission shall study the impact, cost of implementation and the revenue effects of establishing online lottery games in the commonwealth, and report to the house and senate ways and means committees their findings and recommendations not later than December 31, 2003; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund \$64,522,388

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0640-0001	For the operation of the state lottery commission; provided, that the commission may seek revenue from corporate advertising for non-lottery products on scratch tickets; provided further, that payments from corporate advertising shall be deposited into the general fund; and provided further, that expenditure in this item is limited to an amount not to exceed revenues collected from corporate advertising payments or the amount appropriated herein, whichever is less	\$3,653,019
0640-0005	For the costs associated with the continued implementation of the game of keno; provided, that any sums expended on promotional activities shall be limited to point of sale promotions and agent newsletters; and provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund	\$1,233,347
0640-0010	For the promotional activities associated with the state lottery program; provided, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund	\$5,000,000
0640-0096	For the purpose of the commonwealth's fiscal year 2004 contributions to the health and welfare fund established pursuant to the collective-bargaining agreement between the lottery commission and the service employees international union, Local 254, AFL-CIO; provided, that the contributions shall be paid to the trust fund on such basis as the collective bargaining agreement provides; and provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund	\$293,374

Massachusetts Cultural Council.

0640-0300	For the services and operations of the council, including grants to or contracts with public and non-public entities; provided, that notwithstanding the provisions of any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections 52 to 58, inclusive, of chapter 10 of the General Laws in amounts and at times as the council may determine pursuant to section 54 of said chapter 10; provided	
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further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the Arts Lottery Fund to the General Fund; provided further, that any funds expended from this item for the benefit of schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and conditions; provided further, that the council shall not expend funds from this item for any grant or contract recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that not more than \$1,000,000 of the funds appropriated herein shall be used to assist cultural organizations in augmenting or initiating endowments to promote the financial stability of such organizations and the assistance shall be in the form of challenge grants to the organizations; provided further, that in order to receive a grant a cultural organization shall raise an amount at least equal to the amount of the grant for the organization's endowment; provided further, that funds provided by the grants shall, in perpetuity, be used solely to provide free or reduced rate public programs or services to citizens of the commonwealth; provided further, that no grant made under this program shall exceed \$100,000; and provided further, that a person employed under this item shall be considered employee within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining unit \$6,551,401

0640-0350 For the purposes of cultural resources pursuant to section 36 of chapter 69 of the General Laws including grants to or contracts with public and non-public entities; provided, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund \$743,520

Debt Service.

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, previously charged to the Local Aid Fund, the State Recrea-

tion Areas Fund, the Metropolitan Parks District Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, the Watershed Management Fund, the Highway Fund, and the Inter-City Bus Fund; provided, that payments of certain serial bonds maturing previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, and the Highway Fund shall be paid from this item; provided further, that notwithstanding any general or special law to the contrary, the state treasurer may make payments pursuant to section 38C of chapter 29 of the General Laws from this item and item 0699-9100; provided further, that such payments shall pertain to the bonds, notes, or other obligations authorized to be paid from each item; provided further, that notwithstanding any general or special law to the contrary, the comptroller may transfer the amounts that would otherwise be unexpended on June 30, 2004, from item 0699-0015 to item 0699-9100 or from item 0699-9100 to item 0699-0015 which would otherwise have insufficient amounts to meet debt service obligations for the fiscal year ending June 30, 2004; provided further, that each amount transferred shall be charged to the funds as specified in the item to which the amount is transferred; provided further, that payments on bonds issued pursuant to section 20 of chapter 29 of the General Laws shall be paid from this item and shall be charged to the Infrastructure sub-fund of the Highway fund; provided further, that payments of interest, discount and principal on certain bonded debt of the commonwealth associated with the Watershed Management Fund for the acquisition of development rights and other interests in land, including fee simple acquisitions of watershed lands of the Quabbin and Wachusett reservoirs and the Ware river watershed above the Ware river intake pipe shall be paid from this item; provided further, that notwithstanding any general or special law to the contrary or other provisions of this item, the comptroller may charge the payments authorized herein to the appropriate budgetary or other fund subject to a plan which the comptroller shall file 10 days in advance with the house and senate committees on ways and means; and provided further, that the comptroller shall transfer from this item to the government land bank fund an amount equal to the

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	amount by which debt service charged to said fund exceeds revenue deposited to said fund	\$1,433,350,000
	General Fund	\$68.07%
	Highway Fund	\$31.93%
0699-0017	For payment of interest on notes issued pursuant to chapter 235 of the acts of 1998 in anticipation of certain payments to be received from the Massachusetts Port Authority	\$6,299,000
	Highway Fund	\$100.00%
0699-2004	For the payment of interest, discount and principal on certain indebtedness which may be incurred for financing the central artery/third harbor tunnel funding shortfall	\$61,335,000
	Highway Fund	\$100.00%
0699-9100	For the payment of interest and issuance costs on bonds and bond and revenue anticipation notes and other notes pursuant to sections 47 and 49B of chapter 29 of the General Laws; provided, that the treasurer shall certify to the comptroller a schedule of the distribution of costs among the various funds of the commonwealth; provided further, that the comptroller shall charge costs to such funds in accordance with such schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 2004 shall be charged to the various funds or to the General Fund or highway fund debt service reserves	\$20,950,000
0699-9101	For the purpose of depositing with the trustee under the trust agreement authorized in section 10B of chapter 11 of the acts of 1997 an amount to be used to pay the interest due on notes of the commonwealth issued pursuant to section 9 of said chapter 11 and secured by the Federal Highway Grant Anticipation Note Trust Fund	\$74,698,000
0699-9200	For certain debt service contract assistance to the Massachusetts Development Finance Agency in accordance with chapter 23G of the General Laws	\$13,283,318

STATE AUDITOR.
Office of the State Auditor.

0710-0000	For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with sections 52 to 55, inclusive, of chapter 7 of the General Laws and shared oversight of the central artery/third harbor tunnel project; provided, that a report shall be submitted to the house	
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and senate committees on ways and means not later than December 1, 2003 delineating the privatization contracts reviewed and monitored during fiscal year 2003; and provided further, that the report shall further detail the number of full-time equivalent positions assigned by the office for the review of each of the privatization contracts; and provided further, that the auditor's office shall pay half of the administrative costs of the emergency finance board from this item; and provided further, that the auditor shall conduct audits of the Chelsea soldiers home, the Holyoke soldiers home, and the New England Shelter for homeless veterans, and the results of the audits shall be reported to the house and senate committees on ways and means not later than March 1, 2004 \$14,380,300

0710-0100 For the operation of the division of local mandates \$585,103

0710-0200 For the operation of the bureau of special investigations \$1,300,000

ATTORNEY GENERAL.
Office of the Attorney General.

0810-0000 For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, all regional offices, a high-tech crime unit and the victim and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with chapters 258B and 258C of the General Laws; provided further, that the attorney general shall submit to the general court and the secretary of administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0810-0004 indicating both the number and costs for each category of claim; provided further, that not more than \$250,000 shall be expended for a grants program for the safe neighborhood initiative-jobs for youth program; provided further, that not more than \$250,000 shall be expended from the funds appropriated in this item for a safe neighborhood initiative pilot program in the Bowdoin/Geneva area, of Dorchester; provided further, that the public proceedings unit shall review the water rate increases; provided further, that no more than \$240,000 shall be expended for the operation of a child protection unit, and provided further, that funds may be expended for the commission on uniform state laws \$20,851,774

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- 0810-0004 For compensation to victims of violent crimes; provided, that notwithstanding the provisions of chapter 258C of the General Laws, if a claimant is 60 years of age or older at the time of the crime and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with said chapter 258C even if the claimant has suffered no out-of-pocket loss; provided further, that compensation to such claimant shall be limited to a maximum of \$50; and provided further, that notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section 5 of chapter 258B of the General Laws \$2,156,000
- 0810-0007 For the overtime costs of state police officers assigned to the attorney general; provided, that no such costs associated with said officers shall be funded from item 8100-0007; and provided further, that no expenditures shall be 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 in this item \$486,517
- Highway Fund \$88.20%
- General Fund \$11.80%
- 0810-0014 For the operation of the department of telecommunications and energy proceedings unit, pursuant to section 11E of chapter 12 of the General Laws; provided, that notwithstanding any general or special law to the contrary, the amount assessed to said unit shall be equal to the amount expended from this item \$1,395,065
- 0810-0017 For the expenses related to judicial proceedings relevant to the fuel charge pursuant to section 94G of chapter 164 of the General Laws and such other proceedings as may be reasonably related to the section; provided, that the assessment levied for such expense shall be credited to the General Fund \$73,500
- 0810-0021 For the operation of the Medicaid fraud control unit; provided, that the federal reimbursement for any expenditure from this item shall not be less than 75 per cent of such expenditure; provided further, that not less than \$225,000 shall continue to be used specifically for the investigation and prosecution of abuse, neglect, mistreatment and misappropriation based on

	referrals from the department of public health pursuant to section 72H of chapter 111 of the General Laws; provided further, that the unit shall provide training for all investigators of the department's division of health care quality responsible for such investigations on a periodic basis pursuant to a comprehensive training program to be developed by the division and the unit; and provided further, that training shall include instruction on techniques for improving the efficiency and quality of investigations of abuse, neglect, mistreatment and misappropriation pursuant to said section 72H	\$2,566,248
0810-0045	For the labor law enforcement program pursuant to subsection (b) of section 1 of chapter 23 of the General Laws; provided, that notwithstanding the provisions of any general or special law to the contrary, any non-management position funded by this item shall be deemed a job title in a collective bargaining unit as prescribed by the labor relations commission and shall be subject to the provisions of chapter 150E of the General Laws	\$3,043,422
0810-0201	For the costs incurred in administrative or judicial proceedings on insurance as authorized by section 11F of chapter 12 of the General Laws; provided, that funds made available in this item may be used to supplement the automobile insurance fraud unit and the workers' compensation fraud unit of the office of the attorney general; and provided further, that notwithstanding any general or special law to the contrary, the amount assessed for said costs shall be equal to the amount expended from this item	\$1,375,223
0810-0338	For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be	\$280,164
0810-0399	For the investigation and prosecution of workers' compensation fraud; provided, that notwithstanding section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$280,164; provided further, that the attorney general shall investigate and prosecute, where appropriate, employers who fail to provide workers' compensation insurance in accordance with the laws of the commonwealth; and provided further, that said	

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unit shall investigate and report on all companies not in compliance with chapter 152 of the General Laws \$280,164

Victim Witness Assistance Board.

0840-0100 For the operation of the Massachusetts office for victim assistance; provided, that said office shall submit a comprehensive report compiled from the information required of and submitted to said office by the trial court, the registry of motor vehicles and the state treasurer relative to the collection of assessments for the previous calendar year under section 8 of chapter 258B of the General Laws; and provided further, that said report shall be submitted to the house and senate committees on ways and means on or before February 15, 2004 \$380,007

0840-0101 For the safeplan advocacy program; provided, that the amount allocated in this item shall be expended on the salaries and employee benefits of safeplan advocates and regional coordinators, including the advocates in the Hampshire probate and family court and the Northampton and Ware district courts; provided further, that funds may be expended by the Massachusetts office for victim assistance to administer the program; provided further, that said office shall submit to the house and senate committees on ways and means not later than February 3, 2004 a report detailing the effectiveness of contracting for said program including, but not limited to, the number and types of incidents to which such advocates responded, the types of services and service referrals provided by such domestic violence advocates, the cost of providing such services and the extent of coordination with other service providers and state agencies \$590,826

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission \$1,265,221

OFFICE OF THE INSPECTOR GENERAL.

0910-0200 For the operation of the office of the inspector general \$2,201,150
0910-0210 The office of the inspector general may expend revenues collected up to a maximum of \$300,000 from the fees charged to participants in the Massachusetts public purchasing official

certification program and the certified public manager program for the operation of such programs; provided, that for the purpose of accommodating discrepancies between the receipts of retained revenues and related expenditures, the office of the inspector general may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$300,000

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300 For the operation of the office of campaign and political finance \$998,178

OFFICE OF THE STATE COMPTROLLER.

1000-0001 For the office of the state comptroller for the purpose and cost of compliance with the Single Audit Act of 1984, Public Law 89-502, and for the federally required comprehensive, statewide single audit of state operations for the fiscal year ending June 30, 2004 in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of said audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of \$750,000 to other items of appropriation for the cost of said audit; provided further, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be retained and expended from a separate item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary of administration and finance; provided further, that the comp-

troller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within ten days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and said comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this section; provided further, that the budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance projects which are undertaken pursuant to the provisions of this section; and provided further, that the comptroller shall report on said projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws \$7,905,392

1000-0004 The office of the comptroller shall expend an amount not to exceed \$25,000 from fees collected from vendors who participate in training on statewide financial systems including, but not limited to, the Massachusetts management accounting and reporting system; provided, that said office

	shall provide such training, offer sessions to vendors who do business with the commonwealth and establish and charge a reasonable fee for such training	\$25,000
1000-0006	The office of the comptroller shall expend an amount not to exceed \$135,495 from fees collected from the expanded intercept program	\$135,495

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Office of the Secretary.

1100-1100	For the office of the secretary and the administration of the fiscal affairs division; provided, that the secretary shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report his resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on commerce and labor on or before December 1, 2003; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements	\$3,435,009
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Office of Dispute Resolution.

1100-1103	For the operation of the office of dispute resolution	\$98,789
1100-1104	The office of dispute resolution may expend an amount not to exceed \$436,381 in revenues collected from fees charged to	

cities, towns or public instrumentalities and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the office of dispute resolution may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the cost of personnel \$436,381

Division of Capital Asset Management and Maintenance.

- 1102-3205 The division may expend for the maintenance and operation of the Massachusetts information technology center an amount not to exceed \$5,500,000 in revenues collected from rentals, commissions, fees, parking fees and any and all other sources pertaining to the operations of said center; and provided further, that notwithstanding any general or special law to the contrary, and for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system \$5,500,000
- 1102-3206 For the costs associated with the maintenance and security of surplus state properties; provided, that the division shall submit quarterly reports that detail the hire date, salary, and job title of every employee at the division and the amount associated with each bond authorization; and provided further, the division shall submit a report that details every employee at the division including the hire date, salary, and job title for fiscal years 2002, 2003 and 2004 to the house and senate committees on ways and means on or before January 11, 2004 \$359,208
- 1102-3214 For the state transportation building; provided, that the division may expend revenues collected up to a maximum of \$6,100,000 from rentals, commissions, fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building for the maintenance and operation of said building; and provided further, that for the

	purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$6,100,000
1102-3231	For the Springfield state office building; provided, that the division may expend revenues collected up to a maximum of \$654,322 from rents charged to agencies occupying said building for the maintenance and operation of said building; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$654,322

Bureau of State Office Buildings.

1102-3301	For the operation of the bureau and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, that the bureau shall retain full jurisdiction over all contracts, purchases and payments for any and all materials and services required in the operation of the bureau	\$6,982,515
1102-3302	For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings	\$5,129,416

Office of Disability.

1107-2400	For the office on disability	\$574,343
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Disabled Persons Protection Commission.

1107-2501	For the disabled persons protection commission; provided, that the commission shall facilitate compliance by the department of mental health and the department of mental retardation with uniform investigative standards; provided further, that the commission shall report to the house and senate committees on ways and means not later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the depart-	
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ments of mental retardation and mental health and the Massachusetts rehabilitation commission; provided further, that the report shall include: (i) the number of claims found to be substantiated; (ii) the number of claims found to be unsubstantiated; and (iii) the number of claims found to be falsely reported as a result of intentional and malicious action; and provided further, that the commission shall ensure that all calls received by the commission's 24-hour hotline are recorded, that all persons who call said hotline shall be immediately informed that all calls are recorded, and each such person shall be provided with the opportunity to elect that the call not be recorded \$1,612,319

Civil Service Commission.

1108-1011 For the civil service commission; provided, that the General Fund shall be reimbursed for the appropriation herein through a fee charged on a per claim basis; provided further, that said commission shall develop and implement regulations to implement said reimbursement to the General Fund; and provided further, the civil service commission shall have the power to assess a fee upon the appointing authority when inappropriate action has occurred \$450,454

Group Insurance Commission.

1108-5100 For the administration of the group insurance commission; provided, that the commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 10B, 10C and 12 of chapter 32A of the General Laws \$1,984,318

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 2004; provided, that the secretary of administration and finance shall charge the division of unemployment assistance and other departments, authorities, agencies and divisions, which have federal or other funds allocated to them for this purpose, for that portion of insurance premiums and plan costs as the secretary determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar

determination, from the several state or other funds and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that prior year costs incurred by the state indemnity health insurance plan and the preferred provider organization shall be funded from this item; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways and means the amounts expended from this item for said prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; provided further, that the secretary of administration and finance may charge all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than one year; provided further, that the amounts received in payment for such charges shall be credited to the General Fund; provided further, that notwithstanding section 26 of chapter 29 of the General Laws, the commission may negotiate, purchase and execute contracts before July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding chapter 150E of the General Laws and as provided in section 8 of said chapter 32A and for the purposes of section 14 of said chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired before July 1, 1994 shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994 shall be 85 per cent; provided further, that the commonwealth's share of the group insurance premium for active employees upon retirement shall be 85 per cent; provided further, that notwithstanding section 8 of chapter 32A of the General Laws, the commonwealth's share of such premiums for active state employees and their dependents whose salary, as determined by the group insurance commission in consultation with the human resources division and the office of the state comptroller, is between \$0 and \$34,999 shall be 85 per cent of such premiums and rates; provided further, that the commonwealth's share of such premiums for

active state employees and their dependents whose salary, as determined by the group insurance commission in consultation with the human resources division and the office of the state comptroller, is \$35,000 and greater shall be 80 per cent of such premiums and rates; provided further, that the preceding provisions pursuant to employee contributions shall sunset June 30, 2005 at which time the commonwealth's share of such premiums for active state employees and their dependents shall be 85 per cent; provided further, that the commonwealth's share of such premiums for active state employees and their dependents who are hired after June 30, 2003 shall be 75 per cent of such premiums and rates; provided further, that notwithstanding any general or special law to the contrary, during fiscal year 2004, said commission shall continue to provide health insurance coverage for employees and members of the board of bar examiners, both full-time and part-time, that were employed by said board as of January 1, 2003 consistent with coverage provided to state employees pursuant to this item; and provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year \$756,569,003

1108-5350 For elderly governmental retired employee premium payments \$810,346

1108-5400 For the costs of the retired municipal teachers' premiums and the audit of such premiums \$45,871,510

1108-5500 For the costs, notwithstanding chapter 32A of the General Laws to the contrary, of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivision, who are not otherwise provided such benefits pursuant to a separate appropriation or the provisions of a contract or collective bargaining agreement; provided, that such employees shall pay 15 per cent of the monthly premium established by the commission for such benefits \$5,896,196

Division of Administrative Law Appeals.

1110-1000 For the operation of the division of administrative law appeals established by section 4H of chapter 7 of the General Laws \$663,887

George Fingold Library.

1120-4005 For the administration of the library; provided, that said library shall maintain regular hours of operation from 9:00 a.m. to 5:00 p.m. \$1,184,048

Massachusetts Commission Against Discrimination.

1150-5100 For the office of the commission, including the processing and resolution of cases pending before the commission that were filed on or before July 1, 2000; provided, that on or before November 1, 2003 the commission shall submit to the house and senate committees on ways and means a report on the total number of all currently pending cases and the total number of such cases in the investigation, conciliation, post-probable cause and pre-public hearing and post-hearing stages; provided further, that the commission shall file an update of the report with such committees on or before March 1, 2004; provided further, that the commission shall identify in such reports the number of cases in which the commission has determined there is probable cause to believe that a violation of chapter 151B of the General Laws has been committed in a case in which Massachusetts Bay Transportation Authority is named as a respondent; provided further, that the commission shall report to the house and senate committees on ways and means on or before November 1, 2003 the number of cases pending before the commission in which a state agency or state authority is named as a respondent, specifying those cases in which the Massachusetts Bay Transportation Authority is named as a respondent, and the number of such cases in which there is probable cause to believe that a violation of chapter 151B has been committed; provided further, that the commission shall include in such report the total number of new cases filed in fiscal year 2003 and the total number of cases closed by the commission in fiscal year 2003; provided further, that an amount not to exceed \$15,000 may be expended to fund Edward Brooke scholarships, whereby the recipients of such scholarships assist the commission in resolving cases filed on or before July 1, 1999; provided further, that funds made available in this item shall be in addition to funds available in item 1150-5104; provided further, that all positions, except clerical, shall

	be exempt from chapter 31 of the General Laws; and provided further, that the commission shall pursue the highest allowable rate of federal reimbursement	\$1,494,521
1150-5104	The Massachusetts commission against discrimination may expend revenues from federal reimbursements received for the purposes of the United States department of housing and urban development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 2004 and federal reimbursements received for these and other programs in prior years; provided, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that notwithstanding section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$2,467,982 shall be credited to the General Fund	\$2,467,982
1150-5116	The Massachusetts commission against discrimination may expend an amount not to exceed \$27,500 from revenues collected from fees charged for the training and certification of diversity trainers for the operation of the discrimination prevention certification program	\$27,500

Department of Revenue.

1201-0100	For the operation of the department of revenue, including tax collection administration, audits of certain foreign corporations, and the division of local services; provided, that the department may allocate an amount not to exceed \$250,000 to the office of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement unit, from this item to item 1201-0160, consistent with the costs attributable to said unit; provided further, that the department shall maintain regional offices in the cities of Hyannis, Springfield, Pittsfield, Fall River, and Worcester; provided further, that the department shall provide	
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to the general court access to the municipal data bank; and provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30, provided however, that seasonal positions funded by this account may not be filled by incumbent for more than 10 months within a 12 month period \$115,277,826

General Fund \$95.00%

Highway Fund \$5.00%

1201-0130 The department of revenue may expend an amount not to exceed \$2,640,000 from revenues collected by auditors and for the costs of administering an enhanced audit program, for discovering and identifying persons who are delinquent either in the filing of any tax return or the payment of any tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for any prior fiscal year; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of six months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability, and said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer; if the taxpayer is a business entity, the name of the business entity, provided further, that said list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of

total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during regular business hours, provided further, that the commissioner shall, at least annually, publish the list on the department's website, with a link to said list clearly situated on said website, and at the same time may also publish said list in any print media and electronic media of the commissioner's choosing; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3½ of chapter 90 of the General Laws \$2,640,000

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities, and that such agencies are hereby authorized to expend said funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of said funds; provided further, that the federal receipts associated with the child support computer network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for said network; provided further, that federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority, so-called; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance,

	year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 2004 detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of said indicators for the remainder of the fiscal year and any deviations of current performance from previous projections	\$45,779,169
1201-0164	For the child support enforcement division provided, that said division may expend revenues in an amount not to exceed \$6,547,280 from the federal reimbursements awarded for personnel and lower subsidiary related expenditures	\$6,547,280
1231-1000	For the Commonwealth Sewer Rate Relief Fund established in section 2Z of chapter 29 of the General Laws	\$5,000,000
1231-1020	For a program of loans, loan purchases or loan guarantees or interest subsidies to assist homeowners, homeowner associations or condominium associations in complying with revised state environmental code for subsurface disposal of sanitary waste, Title V, so called; provided, that said program shall be in addition to the loan program established pursuant to item 2200-9959 in section 2 of chapter 85 of the acts of 1994; provided further, that the department may contract with third parties, including, but not limited to, commonwealth-based financial institutions to manage said program; provided further, that the department and said third parties shall take all steps necessary to minimize said program's administrative costs; provided further, that such loans, loan purchases or loan guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of Title V compliance; provided further, that interest subsidies shall be means-tested and may be for zero-interest loans pursuant to income standards developed by the department; and provided further, that the department of revenue shall consult with the department of environmental protection in developing rules, regulations and guidelines for said program, prior appropriation continued.	

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1232-0100	For underground storage tank reimbursements to parties that have remediated spills of petroleum products pursuant to chapter 21J of the General Laws	\$19,200,000
1232-0200	For the Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board pursuant to chapter 21J of the General Laws and for the administration of the underground storage tank program associated with the implementation of chapter 21J of the General Laws; provided, that notwithstanding section 4 of chapter 21J or any other general or special law to the contrary, appropriations made in this item shall be sufficient to cover said administrative expenses of the underground storage tank program; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2004	\$1,097,610
1232-0300	For underground storage tank municipal grants to remove and replace such tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws	\$1,000,000
1233-2000	For reimbursing cities and towns for taxes abated pursuant to clauses Seventeenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second E and Thirty-seventh of section 5 of chapter 59 of the General Laws	\$8,400,000
1233-2010	For reimbursing cities and towns for tax abatements granted to certain homeowners over the age of 65 pursuant to clause Fifty-second of section 5 of chapter 59 of the General Laws	\$9,655
1233-2310	For reimbursing cities and towns for taxes abated pursuant to the clauses Forty-first, Forty-first B and Forty-first C of section 5 of chapter 59 of the General Laws; provided, that the commonwealth shall reimburse each city or town that accepts the provisions of said clause forty-first B or clause forty-first C for additional costs incurred in determining eligibility	

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of applicants under said clauses in an amount not to exceed
\$2 per exemption granted \$9,890,345

Appellate Tax Board.

- 1310-1000 For the operation of the appellate tax board; provided, that the board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, Worcester and southeastern Massachusetts; and provided further, that the board shall report to the house and senate committees on ways and means on the number of hearings held at each location \$1,517,359
- 1310-1001 The appellate tax board may expend revenues up to a maximum of \$300,000 from fees collected; provided, that in order to accommodate discrepancies between the receipt of retained revenues and related expenditures, the board may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$300,000

Reserves.

- 1599-0035 For certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with section 39 of chapter 190 of the acts of 1982; provided, that said assistance shall be expended notwithstanding section 35J of chapter 10 of the General Laws \$16,337,820
- 1599-0049 For contract assistance payments to the Foxborough Industrial Development Finance Authority in accordance with section 8 of chapter 16 of the acts of 1999 \$5,337,628
- 1599-0050 For Route 3 North contract assistance payments \$26,777,895
- 1599-0093 For contract assistance to the water pollution abatement trust for debt service obligations of the trust, in accordance with the provisions of sections 6 and 6A of chapter 29C of the General Laws \$51,186,845
- 1599-1970 For a reserve for the Massachusetts turnpike authority for costs incurred in fiscal year 2003 for the operation and maintenance of the central artery/ tunnel project pursuant to chapter 235 of the acts of 1998 \$16,026,390
- 1599-1971 For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice

control; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; and provided further, that no funds shall be expended from this appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation \$15,000,000

1599-3234 For the commonwealth's south Essex sewerage district debt service assessment \$95,100

1599-3384 For a reserve for the payment of certain court judgments, settlements and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in fiscal year 2003 or a prior fiscal year; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item; provided further, that no amount appropriated

	in this item shall fund attorneys' fees for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts; and provided further, that no funds shall be expended for any settlements pursuant to Superior Court Civil Action NO. 03-1913 BLS Allen's Pharmacy Cape Ann, & others vs. Christine C. Ferguson, Acting Commissioner of the Massachusetts Division of Health Care Finance and Policy	\$2,574,485
1599-3837	For the payment to the water pollution abatement trust to fund financial assistance to municipalities and other eligible borrowers to meet debt service obligations incurred by said municipalities and other eligible borrowers after January 1, 1992, to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, and which have been completed, as determined by said department, on or prior to the promulgation date of said department's regulations related to the implementation of the federal Safe Drinking Water Act	\$7,860,000
1599-3838	For a reserve for payment to the water pollution abatement trust to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, after the promulgation date of said department's regulations related to the implementation of the federal Safe Drinking Water Act	\$6,989,237
1599-3856	For rent and associated costs at the Massachusetts information technology center in Chelsea	\$7,115,000
1599-3857	For capital lease payments from the university of Massachusetts to the Massachusetts development finance agency and for annual operations of the advanced technology and manufacturing center in Fall River	\$550,442
1599-7092	For a reserve for the county correctional programs; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until	

60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter; and provided further, that it is the intent of the General Court that no funds be spent from this item nor any funds be transferred from this item to another item until all of aforementioned restrictions and conditions have been satisfied \$39,319,632

- 1599-7777 For a reserve for the cost of the Suffolk County District Attorney's Office property tax charges as well as others estimated program expenses \$350,000
- 1599-7778 For a reserve for the costs of rent in the Plymouth County District Attorney's Office \$125,132

Division of Human Resources.

- 1750-0100 For the operation of the human resources division and the costs of administration, training, and customer support related to

the commonwealth's human resources and compensation management system; provided, that the information technology division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided, that the division shall be responsible for the administration of examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, technical assistance in selection and appointment to state and municipal appointing authorities; provided further, that notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of \$50 to be collected from each applicant for a civil service examination; provided further, that no funds shall be obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to Executive Order 227 adopted on February 25, 1983; provided further, that the division shall administer a program of state employee unemployment management, including, but not limited to, agency training and assistance; provided further, that the division shall administer the statewide classification system, including, but not limited to, maintaining a classification pay plan for civil service titles within the commonwealth in accordance with generally accepted compensation standards and reviewing appeals for reclassification; provided further, that upon certification of any open competitive list for a public safety position in a city or town, the personnel administrator shall cause to be published in a newspaper of general circulation in a city or town, public notice that such eligible list has been certified along with the notice of the last date to respond to the notice of circulation; provided further, that the secretary of administration and finance shall file with the house and senate committees on ways and means the amounts of any and all economic benefits necessary to fund any incremental cost items contained in any collective bargaining agreements with the various classified public employees' unions; provided fur-

	ther, that the nature and scope of economic proposals contained in such agreements shall include all fixed percentage or dollar based salary adjustments, non-base payments or other forms of compensation and all supplemental fringe benefits resulting in any incremental costs; and provided further, that any employee of the commonwealth who chooses to participate in a bone marrow donor program or an organ donor transplant program shall be granted a leave of absence with pay to undergo the medical procedure and for associated physical recovery time, but this leave shall not exceed 5 days	\$3,156,544
1750-0102	The human resources division may expend revenues up to a maximum of \$1,327,500 from fees charged to applicants for civil service and non-civil service examinations and fees charged for the costs of goods and services rendered in administering training programs; provided, that the division shall collect from participating non-state agencies, political subdivisions, and the general public fees sufficient to cover all costs of the programs, including, but not limited, a fee to be collected from each applicant for a civil service examination or non-civil examination, notwithstanding paragraph (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system . . .	\$1,327,500
1750-0111	For the planning and implementation of a civil service continuous testing program and the operation of the bypass appeals process program; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered and the amount of revenue collected through said program	\$107,105
1750-0119	For payment of workers' compensation benefits to certain former employees of Middlesex and Worcester counties; provided, that the division shall routinely recertify said former employees pursuant to current workers' compensation procedures	\$232,656

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1750-0201	The division may expend an amount not to exceed \$165,590 for implementation of the medical and physical fitness standards program established pursuant to sections 61A and 61B of chapter 31 and chapter 32 of the General Laws; provided, that the personnel administrator shall charge a fee of not less than \$50 to be collected from each applicant who participates in the physical ability test; provided further, that the human resources division shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of standards and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means by February 1, 2004 on the projected costs of said program for fiscal year 2004	\$165,590
1750-0300	For the commonwealth's contributions in fiscal year 2004 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that such contributions shall be calculated as provided in the applicable collective bargaining agreement and shall be paid to such health and welfare trust funds on a monthly basis or on such other basis as the applicable collective bargaining agreement provides	\$21,130,000

Operational Services Division.

1775-0100	For the operation of the operational services division	\$1,616,712
1775-0110	The operational services division may expend for the costs associated with the Comm-PASS computer system an amount not to exceed \$20,000 from revenues collected from the use of Comm-PASS by government entities other than state agencies and the sale of advertising space on Comm-PASS	\$20,000
1775-0124	The operational services division may expend an amount not to exceed \$200,000 from revenue collected in the recovery of cost-reimbursement overbilling and recoupment for health and human service agencies, as determined during the division's audits and reviews of providers pursuant to section 274 of chapter 110 of the acts of 1993; provided that, the division may only retain revenue collected in excess of \$207,350.	\$200,000

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- 1775-0600 The operational services division may expend revenues collected up to a maximum of \$100,000 from the sale of state surplus personal property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel \$100,000
- 1775-0700 The operational services division may expend revenues collected up to a maximum of \$53,000 in addition to the amount authorized in item 1775-1000 of section 2B, for printing, photocopying, related graphic art or design work and other reprographic goods and services provided to the general public, including all necessary incidental expenses \$53,000
- 1775-0900 The operational services division may expend revenues in an amount not to exceed, \$55,000 collected pursuant to chapter 449 of the acts of 1984 and section 4L of chapter 7 of the General Laws, including the costs of personnel, from the sale of federal surplus property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of federal surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$55,000
- 1775-1100 The operational services division may expend revenues in an amount not to exceed \$1,054,538 collected from the disposal of surplus motor vehicles, including, but not limited to, state police vehicles from vehicle accident and damage claims and from manufacturer warranties, rebates and settlements, for the purchase of motor vehicles; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify

for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel \$1,054,538

Information Technology Division.

1790-0100 For the operation of the information technology division; provided, that the division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall develop a formula to determine the cost that will be charged to each agency for its use of the human resources and compensation management system; provided further, that the division may coordinate with any state agency or state authority which administers a grant program to develop a statewide grant information page on the commonwealth's official worldwide web site, that shall include all necessary application forms and a grant program reference in a format that is retrievable and printable; provided further, that the division shall continue conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communications lines; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May 15, 2004 with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2004; provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item; provided further, that any planned information technology development project or purchase by any agency under the authority of the governor for which the total projected cost exceeds \$200,000 including the cost of any related hardware, software, or consulting fees, and regardless of fiscal year or source of funds, shall be reviewed and approved by the chief information officer before such agency may obligate funds for such project or purchase; and provided further, that the chief information officer may establish such rules and procedures as he deems necessary to

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	implement the provisions of this paragraph	\$6,165,824
1790-0300	The information technology division may expend up to a maximum of \$500,534 in revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment	\$500,534

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
Office of the Secretary.

2000-0100	For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control chapter program, and a central data processing center for the secretariat; provided, that the secretary of environmental affairs may enter into interagency agreements with any line agency within the secretariat, whereby the line agency may render data processing services to said secretary, provided further, that the comptroller may allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided, that the parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation under the executive office of environmental affairs; provided further, that said plan shall detail the purposes of, reasons for, and amounts of said agreements; provided further, that funds may be expended for volunteer water monitoring grants; and provided further, that funds may be expended on the watershed initiative	\$6,236,022
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2000-0500	For the operations of the office of administrative appeals; provided, that said office shall maintain, to the fullest extent practicable, a complete physical and technological separation from any agency, department, board, commission or program whose decisions, determinations or actions may be appealed to it; provided further, that every decision issued by a commissioner or other head of agency, or designee, following the issuance of a recommended decision by an administrative law judge of the office of administrative appeals, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws; and provided further, that said office's administrative law judges shall be initially the persons who, on October 1, 2000, were serving as administrative law judges and chief administrative law judge in the office of administrative appeals in the department of environmental protection	\$404,226
2000-9900	For the office of geographic and environmental information established pursuant to section 4B of chapter 21A of the General Laws	\$278,791
2001-1001	The secretary of environmental affairs may expend an amount not to exceed \$125,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services; provided further, that the secretary of environmental affairs shall increase any existing digital data and map fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004	\$125,000
2010-0100	For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the op-	

eration of the Springfield materials recycling facility; provided, that the department shall be prohibited from increasing the number of full time employees paid from this item above the number assigned to this item on March 1, 2003; provided further, that funds may be expended for a recycling industry reimbursement program pursuant to section 24I of chapter 43 of the acts of 1997; provided further, that the department of environmental protection shall expend not less than \$1,375,000 for a program to preserve the continuing ability of redemption centers to maintain operations in pursuit of the commonwealth's recycling goals consistent with section 323 of chapter 94 of the General Laws; provided further, that said redemption centers shall be eligible for such funds if they were registered with the commonwealth as of April 1, 2003; provided further, that funds may be expended on municipal recycling incentives; provided further, that for the purposes of this item and said chapter 94, a redemption center shall be any business registered with the commonwealth whose primary purpose is the redemption of reusable beverage containers; and provided further, that such program shall take into consideration the volume of redeemables per redemption center, the length of time such center has been in operation, the number of returnables redeemed quarterly by such centers, the submission by such centers of documentation of their redeemed returnables to the department, and the costs of transportation, packing, storage and labor; and provided further, that the department may expend funds on municipal equipment grants \$3,513,437

2020-0100 For toxics use reduction technical assistance and technology, in accordance with chapter 21I of the General Laws \$1,299,324

2030-1000 For the operation of the office of environmental law enforcement; provided, that each county shall be assigned at least 1 full-time environmental officer; provided further, that officers shall be assigned to vacant patrol districts; provided further, that officers shall provide monitoring pursuant to the National Shellfish Sanitation Program; and provided further, that no funds from this item shall be expended for the purposes of item 2030-1004 \$9,902,003

2030-1004 For environmental police private details; provided, that the office may expend revenues of up to \$250,000 collected from fees

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charged for private details \$250,000

Department of Environmental Protection.

- 2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws; provided, that not less than \$75,000 shall be expended for drinking water protection in the town of Paxton; and provided further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section 19 of chapter 21A of the General Laws \$28,140,275
- 2210-0100 For the implementation and administration of chapter 21I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means on or before February 1, 2004 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with said chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 21I \$918,782
- 2220-2220 For the administration and implementation of the federal Clean Air Act, including the operating permit program, the emissions banking program, the auto related state implementation program, the low emission vehicle program, the non-auto related state implementation program, and the commonwealth's commitments under the New England Governor's/ Eastern Canadian Premier's Action Plans for reducing acid rain deposition and mercury emissions \$948,068
- 2220-2221 For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act \$1,975,287
- 2250-2000 For the purposes of state implementation of the federal Safe Drinking Water Act under section 18A of chapter 21A of the

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General Laws	\$1,506,194
2260-8870 For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding section 323F of chapter 94 of the General Laws and section 4 of chapter 21J of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 2003 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects	\$15,287,045
2260-8872 For the brownfields site audit program	\$1,794,710
2260-8881 For the operations of the board of registration of hazardous waste site cleanup professionals, notwithstanding section 19A of chapter 21A of the General Laws	\$334,308

Department of Fish and Game.

2300-0100 For the office of the commissioner; provided further, that the commissioners office shall assess and receive payments from the division of marine fisheries, the division of fisheries and wildlife, the public access board, the riverways programs, and all other programs under the control of the department of fish and game; provided further that the purpose of said assessments shall be to cover appropriate administrative costs of the department, including but not limited to payroll, personnel, legal and budgetary costs; and provided further, that said amount and contribution from each division or program shall be determined by the commissioner of fish and game	\$150,000
2300-0101 For a program of riverways protection, restoration and promotion of public access to rivers, including grants to public and non-public entities; provided, that the positions funded in this item shall not be subject to chapter 31 of the General Laws	\$290,293
2310-0200 For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be	

	made available to the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2003 for such research; provided further, that funds may be expended to supplement the natural heritage and endangered species program; provided further, that the department shall expend the amount necessary to restore anadromous fish in the Connecticut and Merrimack river systems; provided further, that not less than \$80,000 shall be expended to assist access for recreational opportunities for the disabled in the town of Wilmington; and provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 per cent of the amount so expended	\$6,782,731
2310-0317	For the waterfowl management program pursuant to section 11 of chapter 131 of the General Laws	\$85,000
2320-0100	For the administration of the public access board, including the maintenance, operation, and improvements of public access land and water areas as authorized by section 17A of chapter 21 of the General Laws; provided, that the public access board may expend from capital authorizations amounts necessary to cover the personnel costs of the board for fiscal year 2004; provided, that trash dumpsters shall be prohibited in all public landings situated in residential areas; provided further, that the division of fisheries and wildlife shall post signs in said areas prohibiting littering; provided further, that said signs shall require users of said public landings to carry off all personal belongings and trash; and provided further, that positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws	\$320,092
2330-0100	For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that the	

department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004; Provided further, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered by the state aquaculture coordinator and Dukes and Nantucket counties; provided further, that not less than \$90,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable County Department of Health and Environment; and provided further, that the sum expended for the School for Marine Science and Technology to help mitigate the negative economic impact to the Massachusetts ports which has resulted from the change in federal fisheries regulations in fiscal year 2004 shall not be reduced from fiscal year 2003 except in proportion to adjustments consistent with the department's budget adjustment \$3,446,500

2330-0120 For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff and the maintenance and updating of data \$618,159

2330-0121 For the division of marine fisheries to utilize reimbursable federal sportfish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that the division of marine fisheries may expend revenues up to \$167,898 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing \$167,898

2350-0101 For the hunter safety training program \$433,719

Department of Agricultural Resources.

2511-0100 For the operation of the department of agricultural resources, including the office of the commissioner, the expenses of the

board of agriculture, the division of dairy services, the division of regulatory services and animal health, including a program of laboratory services at the University of Massachusetts at Amherst, the expenses of the pesticides board, the division of agricultural development and fairs; provided further, that allotment funds for 4-H activities may be expended from this item; provided further, that funds may be expended for the Southeastern Massachusetts Agricultural Partnership; provided further, that funds may be expended for agricultural fair prizes and rehabilitation including the expenses of the agricultural lands board; and provided further, that funds may be expended for implementation of the agricultural marketing strategic plan, including, but not limited to, a "Buy Local" campaign, and funding for agricultural business training and technical assistance \$3,624,296

2511-0105 For the purchase of supplemental foods for the emergency food assistance program within the second harvest nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall be expended for food to be distributed by the greater Boston food bank as follows: 73.5 per cent to the greater Boston food bank, including a portion to be distributed to the Merrimack Valley food bank under a contractual agreement between the food bank and the greater Boston food bank, 15.2 per cent to the food bank of western Massachusetts, and 11.3 per cent to the Worcester county food bank \$6,280,000

2511-3002 For the Integrated Pest Management program \$100,000

Department of Conservation and Recreation.

2800-0100 For the operation of the department of conservation and recreation; provided, that said department shall enter into an interagency agreement with the department of state police to provide police coverage on department of conservation and recreation properties and parkways; provided further, that the department of state police shall reimburse said department of conservation and recreation for costs incurred by said department including but not limited to vehicle maintenance and repairs, the operation of department of state police buildings and other related costs; provided further, that notwithstanding the provisions of any general or special law

to the contrary, all offices and positions of the division performing construction activities for the department of conservation and recreation shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that notwithstanding the provisions of section 3B of chapter 7 of the General Laws, the department is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of said department; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 14, 2004; provided further, that notwithstanding the provisions of any general or special law or administrative bulletin to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the operational services division; and provided further, that no funds shall be expended from this item for personnel overtime costs \$4,983,543

2800-0101 For the watershed management program to operate and maintain reservoirs, watershed lands and related infrastructure of the department; provided, that expenses incurred in other division of urban parks and recreation programs and the administration of the department of conservation and recreation to assist in the recovery of watershed administrative costs from the Massachusetts Water Resources Authority in the same manner as occurred between the metropolitan district commission and the Massachusetts Water Resources Authority in fiscal year 2003 may be charged to this item; provided, that no water shall be diverted from the Connecticut river by the said department or the Massachusetts Water Resources Authority; provided further, that \$500,000 shall be paid to the town of Clinton, under section 8 of chapter 307 of the acts of 1987, to compensate for the use of certain land; provided further, that the amount of the payment shall be charged to the General Fund and not be included in the amount of the annual determination of fiscal year charges to the Massachusetts Water Resources Authority assessed to the authority under section 113 of chapter 92 of the General Laws; provided further, that not less than 13 employees shall be assigned to patrol watershed areas; and provided further,

	that said department shall submit quarterly reports to the house and senate committees on ways and means not more than 10 days after the end of the quarter detailing expenditures in the most recent quarter including the amount and a description of what was charged	\$9,289,702
2800-0200	For the operation of the Commonwealth Zoological Corporation, pursuant to 92B of the General Laws; provided, that funds appropriated herein shall chapter be expended for the purposes of promoting private fund-raising, achieving self-sufficiency and serving as a catalyst for urban economic development and job opportunities for local residents; provided further, that the corporation shall take all steps necessary to increase the amount of private funding available for the operation of the zoos; provided further, that the corporation shall report to the house and senate committees on ways and means no later than February 1, 2004 on the status of, and amounts collected from, the private fundraising and enhanced revenue efforts identified in the draft Massachusetts zoos business and operations plan dated December, 1996; and provided further, that the corporation shall continue to provide free services and supplies, including, but not limited to, routine animal check-ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the trailside museum and the Chickatawbut Hill center in the town of Milton	\$750,000
2800-9004	For certain payments for the maintenance and use of the trailside museum and the Chickatawbut Hill center	\$219,750
2810-0100	For the operations of the division of state parks and recreation; provided, that funds appropriated herein shall be used to operate all of the division's parks, heritage state parks, reservations, campgrounds, beaches, and pools, and, for the oversight of rinks to protect and manage the division's lands and natural resources including the forest and parks conservation services and the bureau of forestry development; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that not less than \$100,000 shall be obligated for educational programming at the Ernestina Commission; and provided further, that the department is authorized to issue grants to public and non-public entities from this item	\$18,264,818

- 2810-2000 For the seasonal hires of the division of state parks and recreation, including hires for the forest fire control unit; provided, that no funds from this item shall be expended for year-round seasonal employees; provided further, that seasonal employees who are hired prior to the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year 2003 shall continue to receive such benefits in fiscal year 2004 during the period of their seasonal employment; provided further, that no expenditures shall be made from the amount appropriated other than for those purposes identified herein; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than April 1 and ending no later than November 30 or beginning no earlier than September 1 and ending no later than April 30; and provider further, that notwithstanding section 1 of chapter 31 of the General Laws; seasonal positions funded by this account may not be filled by an incumbent for more than 8 months within a 12 month period \$5,418,329
- 2810-2040 The division of state parks and recreation may expend revenues collected up to a maximum of \$2,703,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation; provided, that no funds from this item shall be expended for the costs of personnel, including seasonal employees; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division of state parks and recreation 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 there for as reported in the state accounting system; provided further, that no expenditures made in advance of the receipts shall be permitted to exceed 75 per cent of the amount of revenues projected by the first quarterly statement

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	required by section 1B; 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 in each such quarter and the implications of said variance for expenditures made from; and provided further, that the division of state parks and recreation may issue grants to public and non-public entities from this item	\$2,703,218
2820-0100	For the administration, operation and maintenance of the division of urban parks and recreation, for the maintenance, operation and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody and control of the division, for the flood control activities of the division, for the purchase of all necessary supplies and related equipment, and for the civilianization of crossing guards located at division intersections where state police previously performed such duties; provided, that said parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation; provided, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that not less than \$247,000 shall be expended for the maintenance and operation of the James Michael Curley recreation center in Boston	\$21,128,262
2820-0200	For seasonal hires of the division of urban parks and recreation; provided, that no funds appropriated in this item shall be used for year-round seasonals; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than April 1 and ending no later than November 30 or beginning no earlier than September 1 and ending no later than April 30; and provided further, that notwithstanding section 1 of chapter 31 of the General Laws; seasonal positions funded by this account may not be filled by an incumbent for more than 8 months within a 12 month period	\$2,991,820

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2820-1000	The division of urban parks and recreation is hereby authorized to expend an amount not to exceed \$150,000 from revenue generated pursuant to section 34B of chapter 92 of the General Laws	\$150,000
2820-1001	The division of urban parks and recreation may expend \$50,000 for the operation and maintenance of the division's telecommunications system from revenues received from the Massachusetts Water Resources Authority, the Massachusetts Convention Center Authority, the department of highways central artery/Ted Williams tunnel project, the department of state police and quasi-public and private entities through a system of user fees and other charges established by the commissioner of conservation and recreation; provided, that this item shall not impair or diminish the rights of access and utilization of all current users of the system under agreements previously entered into; and provided further, that this item may be reimbursed by political subdivisions of the commonwealth and private entities for direct and indirect costs expended by the division to maintain the telecommunications system	\$50,000
2820-2000	For the expenses of snow and ice control on the parkways within the division of urban parks and recreation, including the costs of personnel	\$800,000
2820-3001	The division of urban parks and recreation may expend an amount not to exceed \$1,000,000 from skating rink fees and rentals for the operation and maintenance, including personnel costs, of four rinks between September 1, 2003 and April 30, 2004 for an expanded and extended rink season; provided, that when assigning time for the use of its rinks said division shall give priority to those which qualify under applicable state and federal law as non-profit organizations or as a public school	\$1,000,000
2820-4420	For the operation and maintenance of the Ponkapoag golf course; provided, that the division of urban parks and recreation may expend revenues up to \$1,100,000 collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the	

	most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than a full-time basis beginning no earlier than April 1 and ending no later than November 30	\$1,100,000
2820-4421	For the operation and maintenance of the Leo J. Martin golf course; provided, that the division of urban parks and recreation may expend revenues up to \$700,000 collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than a full-time basis beginning no earlier than April 1 and ending no later than November 30	\$700,000
2820-9005	For the operation of street lighting on the division of urban parks and recreation parkways; provided, that no expenditure shall be made other than in the GG subsidiary	\$1,984,958

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Office of the Secretary.

4000-0100 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office shall monitor the expenditures and completion time-tables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common

client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that not more than \$50,000 shall be expended for the West End Boys and Girls Club in the Allston-Brighton section of the city of Boston; provided further, that not more than \$25,000 shall be expended for the Brockton Boys and Girls Club; provided further, that not more than \$95,000 shall be expended for a matching grant to the Taunton Boys and Girls Club; provided further, that not more than \$80,000 shall be expended for the young parents programs of the Newton Community Service Centers, Inc.; provided further, that not more than \$40,000 shall be expended for the public partnership program between the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not more than \$60,000 shall be expended for the Billerica Boys and Girls Club; provided further, that not more than \$150,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs; provided further, that \$100,000 shall be undertaken for studies pursuant to section 668 of this act and other studies undertaken for the purposes of successfully implementing the reorganization of health and human services; and provided further, that the executive office of health and human services and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on the islands \$2,483,812

4000-0300 For the administrative, contracted services and non-personnel systems costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided, that such costs shall include, but not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers, interagency service agreements, the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor

contracts to upgrade and enhance the central automated vendor payment system, the medicaid management information system and the recipient eligibility verification system MA21, costs related to the information technology chargebacks, contractors responsible for system maintenance and development, personal computers and other information technology equipment; provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased shall be assumed by the providers utilizing the devices; provided further, that the executive office of health and human services shall assume the full cost of provider point of service eligibility verification devices utilized by any and all participating dental care providers; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing medicaid provider rates without taking all measures possible under Title XIX of the social security act to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for the purpose of programs authorized by chapter 118E shall be accounted for according to such purpose on the Massachusetts management accounting and reporting system not more than 10 days after such expenditures have been made by the medicaid management information system; provided further, that the no expenditures shall be made for the purpose of such programs that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds; provided further, that the executive office shall report quarterly to the house and senate commit-

tees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, to providers by item of appropriation from which said payments were made; provided further, that the executive office shall submit a report to the house and senate committees on ways and means detailing projected expenditures for fiscal years 2004 and 2005 for this item and items 4000-0320, 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0860, , 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891 and 4000-1400; provided further, that in identifying the projected expenditures, the report shall account for any and all assumptions used to project promulgated or projected changes in provider payment rates, average per-member-per-month expenditure amounts, and the methods utilized to estimate current and prospective beneficiary enrollment and benefit utilization trend; provided further, that the report shall include monthly member-month caseload, date-of-service and date-of-payment expenditure data by provider type and health benefit plan; provided further, that the report shall detail by item of appropriation any updates or budgetary revisions made subsequent to the governor's budget submission for fiscal year 2005 recommendations, including, but not limited to, any assumptions used to develop the recommendations; provided further, that the report shall be submitted not later than February 15, 2004; provided further, that by October 1, 2003 the division shall report to the house and senate committees on ways and means the results of a study into the feasibility of establishing a mechanism that will allow hospitals and community health centers the ability to electronically access the health benefit coverage database to assist with coordinating coverage of persons requesting uncompensated care under chapter 118G of the General Laws and medical assistance under chapter 118E of the General Laws; provided further, that said study shall include an analysis of any applicable provisions of the Health Insurance Portability and Accountability Act that may affect said mechanism; provided further, that the division may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws

for which the division later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that the federal financial participation received from claims filed for the costs of outreach and eligibility activities performed at certain hospitals or by community health centers which are funded in whole or in part by federally permissible in-kind services or provider donations from the hospitals or health centers, shall be credited to this item and may be expended without further appropriation in an amount specified in the agreement with each donating provider hospital or health center; provided further, that the federal financial participation received from claims filed based on in-kind administrative services related to outreach and eligibility activities performed by certain community organizations, under the so-called "covering kids initiative" and in accordance with the federal revenue criteria 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 with the organizations participating in the initiative; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that said executive office shall annually submit on or before February first to the house and senate committees on ways and means a report detailing the cost-effectiveness of the drug prior authorization program including an analysis of: (a) the direct cost of the prior authorization program; (b) the estimated amount, if any, of cost shifting to physicians in terms of additional time spent in

obtaining authorization for a selected course of therapy; (c) internal program costs shifting, if any, including but not limited to additional prescriptions, laboratory tests, physician visits, hospitalization, and skilled nursing care that are associated with implementation of the prior authorization program; provided further, that each report shall include all therapeutic classes that are currently subject to prior authorization; provided further, that any contractor retained to develop and prepare said annual report shall not be related to any contractor retained by the state to develop and implement said prior authorization program; provided further, that the division shall file a quarterly report with the house and senate committees on ways and means and the joint committee on health care detailing the estimated savings resulting from the prior authorization of medications designed to treat epilepsy, the number of instances that an appeal for a nongeneric version of such medication was denied and any instances of hospitalization of an individual denied such nongeneric medication; provided further, that expenditures for the purpose of a dispensing fee to retail pharmacies shall be paid for out of the Health Care Quality Improvement Trust Fund, established in section 2EEE of chapter 29 of the General Laws; provided further, that federal reimbursements received for administrative expenditures made pursuant to this item shall be credited proportionally to the General Fund and the Children's and Seniors' Health Care Assistance Fund, established under section 2FF of chapter 29 of the General Laws, in the same percentages as expenditures are made from this item and the funds; provided further, that no funds from items 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0860, 4000-0870, 4000-0880 or 4000-1400 shall be expended for the purpose of such dispensing fees, except that funds may be expended from any such item if amounts from the Health Care Quality Improvement Trust Fund are insufficient to pay for such fees; and provided further, that funds may be expended from this item for care management services provided in items 4000-0430, 4000-0500, 4000-0600, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-1400 pursuant to subsection (4) of section 617 of this act \$116,020,407

General Fund	\$85.84%
Children's and Seniors' Health Care Assistance Fund	\$14.16%

Department of Veterans Services.

0610-0093	For the purposes of allowing the department of veterans' services to make bonus payments to Persian Gulf war veterans; provided, that all such payments shall be consistent with the purposes of the trust instrument for "A Hero's Welcome Trust Fund"	\$23,000
	A Hero's Welcome Trust Fund	\$100.00%
1410-0010	For the operation of the office of veterans' services; provided, that said office may fund a housing specialist from this item; and provided further, that the department may expend funds for the Glory 54th Brigade	\$1,760,329
1410-0012	For services to veterans, including the maintenance and operation of outreach centers; provided, that said centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; provided further, that not less than \$228,771 shall be obligated for a contract with the Veterans Benefit Clearinghouse in the Roxbury section of Boston; provided further, that not less than \$82,757 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that not less than \$106,102 shall be obligated for a contract with the North Shore Veterans Counseling Center in the city of Beverly; provided further, that not less than \$84,879 shall be obligated for a contract with the Veterans Association of Bristol county in the city of Fall River; provided further, that not less than \$94,501 shall be obligated for a contract with Nam Vets of the Cape and Islands in the town of Hyannis; provided further, that not less than \$84,879 shall be obligated for a contract with the Outreach Center, Inc., in the city of Pittsfield; provided further, that not less than \$167,394 shall be obligated for a contract with the Montachusett Veterans Outreach Center in the city of Gardner; provided further, that not less than \$84,453 shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in the town of Framingham; and provided further, that not less than \$84,879 shall be obligated for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc., in the city of Springfield	\$1,018,615
1410-0015	For the women veterans' outreach program	\$40,281

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1410-0018	The department may expend for the maintenance and operation of Agawam veterans' cemetery an amount not to exceed \$150,000 from revenue collected from fees, grants, gifts, or other contributions to said cemetery	\$150,000
1410-0100	For the revenue maximization project of the executive office of elder affairs to identify individuals eligible for veterans' pensions who are currently receiving home health care services	\$98,000
1410-0250	For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans; provided, that not less than \$303,966 shall be obligated for a contract with the central Massachusetts shelter for homeless veterans located in the city of Worcester; provided further, that not less than \$352,395 shall be obligated for a contract with the southeastern Massachusetts veterans housing program, Inc. located in the city of New Bedford; provided further, that \$100,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$90,000 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$28,350 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$51,975 shall be expended for a contract with the Springfield bilingual veterans outreach center for the operation and maintenance of a transitional housing unit at the YMCA of Springfield; provided further, that not less than \$44,888 shall be obligated for a contract with the Mansion located in the city of Haverhill; provided further, that not less than \$28,350 shall be obligated for a contract with the Homestead located in the town of Hyannis; provided further, that not less than \$108,000 shall be obligated for contracts with the veterans hospice homestead in the city of Leominster and the veterans hospice in the town of Fitchburg; provided further, that not less than \$22,500 shall be obligated for a contract with the Turner House located in the town of Williamstown; provided further, that not less than \$73,350 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Roxbury; and provided further, that not less than \$90,000 shall be obligated for a contract with Habitat P.L.U.S. in the city of Lynn	\$1,297,124

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1410-0251	For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans at the New England Shelter for Homeless Veterans located in the city of Boston	\$2,093,735
1410-0300	For the payment of annuities to certain disabled veterans and the parents and un-remarried spouses of certain deceased veterans; provided, that such payments shall be made pursuant to section 6B of chapter 115 of the General Laws; provided further, that the department shall take reasonable steps to terminate payments upon the death of a recipient; provided further, that the department shall prorate annuity payments to ensure that the total payments in fiscal year 2004 shall not exceed the amount appropriated herein; and provided further, that the commissioner of veterans' services shall file with the house and senate committees on ways and means a report detailing the number of applications received for annuities offered under this program at the end of each fiscal quarter	\$11,002,311
1410-0400	For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that said reimbursements shall be made pursuant to section 6 of chapter 115 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns; provided further, that pursuant to section 9 of said chapter 115, the department shall reimburse cities and towns for the cost of United States flags placed on the graves of veterans on Memorial day; provided further, that notwithstanding any general or special law to the contrary, the commissioner of veterans' services may continue a training program for veterans' agents and directors of veterans' services in cities and towns of the commonwealth; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and	

other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under chapter 115 of the General Laws and alternative resources, including those which are partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income, and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the commissioner shall promulgate regulations for said training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid; provided further, that any person applying for veterans benefits to pay for services available to medical assistance under chapter 118E of the General Laws, shall also apply for medical assistance under chapter 118E to minimize cost of the commonwealth and its municipalities; provided further, that veterans' agents shall complete applications authorized by the division of medical assistance under chapter 118E for any veteran, widow and dependent applying for medical assistance under chapter 115; provided further, that the veterans' agent shall file the application for the veteran or dependent for assistance under said chapter 118E; provided further, that the division of medical assistance shall act on all chapter 118E applications and advise the applicant and the veterans' agent of the applicant's eligibility for chapter 118E healthcare; provided further, that the veterans' agent shall advise the applicant of the right to assistance for medical benefits under chapter 115 pending approval of the application for assistance under chapter 118E by the division of medical assistance; provided further, that the commissioner may supplement healthcare pursuant to said chapter 118E, with healthcare coverage under said chapter 115, if he determines that supplemental coverage is necessary to afford the veteran or dependent sufficient relief and support; provided further, that payments to or on behalf of a veteran or dependent pursuant to chapter 115 shall not be considered income for the purposes of determining eligibility

under chapter 118E; and provided further, that benefits awarded pursuant to section 6B of chapter 115 shall be considered countable income	\$8,034,959
1410-0630 For the administration of the veterans' cemeteries in the towns of Agawam and Winchendon	\$429,908

OFFICE OF DISABILITIES AND COMMUNITIY SERVICES.
Massachusetts Commission for the Blind.

4110-0001 For the office of the commissioner and the bureau of research; provided, that the commissioner may transfer funds between items 4110-0001, 4110-1000, 4110-1010, 4110-1020, 4110-2000, 4110-2001, 4110-3010, and 4110-4000; provided further, that the amount transferred from any of the items stated herein shall not exceed 10 per cent of the total amount appropriated for that item; provided further, that 30 days prior to any such transfer, the commissioner shall submit an allocation plan detailing the distribution of the funds to be transferred to the house and senate committees on ways and means; and provided further, that amounts appropriated to the commission in fiscal year 2004 that extend or expand services beyond the level of services provided in fiscal year 2003 shall not annualize above the amounts in fiscal year 2005	\$825,292
4110-0003 The Massachusetts commission for the blind may expend an amount not to exceed \$114,000 from fees collected for the issuance of photo identification cards and certificates of blindness to clients of the department; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$114,000
4110-1000 For the community services program; provided, that not less than \$350,000 shall be expended from this item for the deaf-blind community access network; provided further, that not less than \$500,000 shall be expended for the talking information center; provided further, that not less than \$10,000 shall be expended for the Audible Local Ledger of Falmouth; and provided further, that the Massachusetts commission for the	

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	blind shall work in collaboration with the Massachusetts commission for the deaf and hard of hearing to provide assistance and services to the deaf-blind community through the deaf-blind community access network	\$3,673,070
4110-1010	For aid to the adult blind; provided, that funds may be expended from this item for burial expenses incurred in the prior fiscal year	\$8,351,643
4110-1020	For eligibility determination for the medical assistance program for the blind; provided, that the commission shall work with the division of medical assistance, the department of mental retardation and other state agencies to maximize federal reimbursement for clients so determined through this item including, but not limited to, reimbursement for home and community-based waiver clients	\$323,947
4110-2000	For the turning 22 program of the commission; provided, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of turning 22 clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services	\$8,000,574
4110-2001	For services to clients of the department who turn 22 years of age during state fiscal year 2004; provided, that the amount spent from this item shall not annualize to more than \$97,000 in fiscal year 2005; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of turning 22 clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services	\$36,500
4110-3010	For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no	

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	funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees	\$2,588,521
4110-4000	For the administration of the Ferguson Industries for the Blind; provided, that retired workshop employees shall receive grants equal to three-fourths of the salaries of current workshop employees; and provided further, that any funds received for goods and services purchased by private and public sector entities at Ferguson Industries shall be remitted to the General Fund	\$1,884,200

Massachusetts Rehabilitation Commission.

4120-1000	For the operation of the commission; provided, that the commissioner may transfer funds between items 4120-1000, 4120-2000, 4120-3000, 4120-4000, 4120-4001, 4120-4010, 4120-5000, and 4120-6000; provided further, that the amount transferred from any of the items stated herein shall not exceed 10 per cent of the total amount appropriated for that item; provided further, that 30 days prior to any such transfer the commissioner shall submit an allocation plan to the house and senate committees on ways and means detailing the distribution of the funds to be transferred; provided further, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of revenue, the commission shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; provided further, that the lists shall include client names and social security numbers and payee names and other identification, if different from a client's; and provided further, that amounts appropriated in items of the department that extend or expand services beyond the level of services provided in fiscal year 2003 shall not annualize above the amounts in fiscal year 2005	\$404,864
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- 4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally reimbursed state employees; provided further, that not less than \$100,000 shall be expended on special vocational projects in Charlestown for people with disabilities; provided further, that \$155,000 shall be expended for services provided by the Life Focus Center; and provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to said residence \$7,259,207
- 4120-3000 For employment assistance services; provided, that vocational evaluation and employment services for severely disabled adults may, subject to appropriation, be provided; provided further, that not less than \$100,000 shall be expended on special projects in Charlestown for people with disabilities; and provided further, that not less than \$305,000 shall be expended for the Charlestown Navy Yard Special Project for disabled adults \$7,780,098
- 4120-4000 For independent living assistance service; provided, that not more than \$858,000 shall be expended for assistive technology devices and training for individuals with severe disabilities; provided further, that \$200,000 shall be obligated for the SHARE Foundation at the University of Massachusetts; and provided further that no less than \$20,000 will be used to assist the Living Independently for Equality, Inc. of Brockton . . \$7,471,512
- 4120-4001 For the housing registry for the disabled \$83,754
- 4120-4010 For services to clients of the department who turn 22 years of age; provided, that the amount appropriated herein shall not annualize to more than \$605,000 in state fiscal year 2005; and provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein \$565,000
- 4120-5000 For homemaking services \$4,342,733
- 4120-5050 Notwithstanding any general or special law to the contrary, the Massachusetts rehabilitation commission may expend an amount not to exceed \$2,000,000 for expanded independent living and employment services from federal reimbursements

received for services provided by the commission; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate reported in the state accounting system; and provided further, that the commission shall submit a report to the house and senate committees on ways and means not later than February 3, 2004, detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased and the annualized impact of the expenditures in the subsequent fiscal year \$2,000,000

4120-6000 For head injured services; provided, that the commission shall work with the division of medical assistance to maximize federal reimbursement for clients receiving head injured services; provided further, that the commission shall expend funds on a 24-hour basis for persons with severe head injuries in western Massachusetts; and provided further, that not less than \$50,000 shall be expended for the Cape Cod head injury program \$5,979,149

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0100 For the operation of and services provided by the Massachusetts commission for the deaf and hard of hearing \$4,929,536

4125-0101 Notwithstanding any general or special law to the contrary, the Massachusetts commission for the deaf and hard of hearing may expend revenues in an amount not to exceed \$175,000 from charges received on behalf of interpreter services and monies received from private grants, bequests, gifts or contributions; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$175,000

Soldiers' Home in Massachusetts.

- 4180-0100 For the maintenance and operation of the Soldiers' Home in Massachusetts located in the city of Chelsea, including a specialized unit for the treatment of Alzheimer's disease patients; provided, that graduates from the LPN school of nursing shall be required to work in state operated facilities for a minimum duration of one year \$22,692,947
- 4180-1100 The Soldiers' Home in Massachusetts located in the city of Chelsea may expend revenues up to a maximum of \$207,000 for facility maintenance and patient care, including personnel costs; provided, that 60 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with said license plates, shall be deposited into and for the purposes of this retained revenue account of said Soldiers' Home; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$207,000

Soldiers' Home in Holyoke.

- 4190-0100 For the maintenance and operation of the Soldiers' Home in Holyoke including the adult day care program, the Maguder House and the Chapin Mansion; provided, that in the operation of the outpatient pharmacy, said Soldiers' Home shall cover the cost of drugs prescribed at said Soldiers' Home, excluding the required co-payment, only when the veteran has no access to other drug insurance coverage, including coverage through the program authorized by section 39 of chapter 19A of the General Laws \$16,278,929
- 4190-0102 The Soldiers' Home in Holyoke may expend for the outpatient pharmacy program an amount not to exceed \$225,000 from co-payments which it is hereby authorized to charge to users of said program; provided, that the rates of said co-payments

and the procedures for the administration thereof shall annually be determined by the superintendent of said Soldiers' Home and approved by the secretary of health and human services; provided further, that no funds appropriated in this item shall be expended until said superintendent has submitted a report to said secretary and the house and senate committees on ways and means detailing projected expenditures for fiscal years 2004 and 2005 and any and all assumptions used to project outpatient pharmacy spending for the outpatient pharmacy program from this item and item 4190-0100 by September 1, 2003; provided further, that said superintendent shall submit a report to said secretary and the house and senate committees on ways and means that shall include demographic information on said outpatient pharmacy users, including age and insurance status; provided further, that said report shall include utilization information for the outpatient pharmacy including the number of generic prescriptions filled, the number of brand name prescriptions filled, the number of 30-day supplies of generic drugs dispensed, the number of 30-day supplies of brand name drugs dispensed, and a description of said Soldiers' Home's drug utilization review program for the first two quarters of fiscal year 2004; provided further, that said report shall be submitted not later than January 15, 2004; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said soldiers' home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$225,000

4190-1100 The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$163,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall be deposited into and for the purposes of this retained revenue

	account of said Soldiers' Home; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued	\$163,000
4190-1101	The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$579,000 from resident fees for long-term care beds and domiciliary beds; provided, that the only revenue available for expenditure in this item shall be amounts collected for fiscal year 2004 from said resident fees; provided further, that funds shall only be expended on items directly related to patient care; provided further, that funds shall not be expended on office furniture or any other ancillary administrative expenses; and provided further, that said Soldiers' Home shall submit a quarterly report to the house and senate committees on ways and means on any expenditures made from this account	\$579,000

Department of Mental Retardation.

5911-1000	For the administration of the department of mental retardation; provided, that the department shall not charge user fees, so-called, for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by said department or for applications of requests for transfer of guardianship, so-called; provided further, that a study commission shall be established to explore the viability of developing a training and/or apprenticeship program for direct care workers, and the impact of such programs on compensation, quality of care and staff retention; provided further, that said commission shall consist of a representative from Department of Mental Retardation, Service Employees International Union, ADDP, MARC, Department of Education, Department of Labor, the House and Senate Chairs of Ways and Means or their designee, and the House and Senate Chairs of the Joint Committee on Human Services and Elderly Affairs or their	
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	designee; and provided further, that said commission shall file a report with its findings to the House and Senate Ways and Means Committee and the Joint Committee on Human Services and Elderly Affairs not later than January 1, 2004 . .	\$12,102,349
5911-2000	For transportation costs associated with the adult services program; provided, that the department shall provide transportation on the basis of priority of need as determined by the department; and provided, further, that not less than \$109,522 shall be expended from this item for the life focus center in the Charlestown section of the city of Boston	\$13,348,889
5920-1000	For the operation of regional and area offices of the department; provided, that the department shall submit a semi-annual report to the house and senate committees on ways and means detailing the total number of service coordinators within the department, the number of consumers served by said coordinators, and the amount of time spent per month per consumer	\$52,049,675
5920-2000	For vendor-operated community-based residential adult services, including intensive individual supports; provided, that \$9,520,000 shall be expended in annualized funding for turning 22 clients who began receiving the services in fiscal year 2003 pursuant to item 5920-5000 of section 2 of chapter 184 of the acts of 2002; provided further, that \$8,250,000 shall be expended for the fiscal year 2003 annualized cost of the settlement agreement Rolland vs. Cellucci, so-called, and \$4,800,000 shall be expended for the fiscal year 2004 cost of the settlement; provided further, that the commissioner of the department of mental retardation shall transfer funds from this item to item 5920-2010, as necessary, pursuant to an allocation plan, which shall detail by subsidiary the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2004; provided further, that not less than \$99,000 shall be expended on Special Olympics Massachusetts for the purpose of "unified sports"; provided further, that an additional \$304,000 shall be expended on a contract with Work, Inc., for enhanced or expanded services to clients; and provided further, that not less	

	than \$500,000 shall be expended for Best Buddies Massachusetts	\$449,520,888
5920-2010	For state-operated community-based residential services for adults, including community-based health services for adults; provided, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item	\$110,905,005
5920-2020	For compliance with the terms of the Settlement Agreement, dated December 19, 2000, and entered into by the parties of Boulet v. Cellucci, Civil Action No. 99-CV-10617-DPW, filed in the United States District Court of Massachusetts in order to provide services to the clients of the department on the waiting list on July 14, 2000; provided, that notwithstanding paragraph 41 of the Settlement Agreement for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts, no amount appropriated herein shall fund attorneys' fees for the above-referenced action; provided further, that the department shall submit copies of the quarterly reports required by Section G of said Settlement Agreement to the house and senate committees on ways and means; and provided further, that any names and other identifying personal information contained in said quarterly reports shall be redacted from the reports prior to their submission to the committees on ways and means in order to preserve the confidentiality of said information	\$49,500,000
5920-2025	For community-based day and work programs for adults and for \$2,720,000 in annualized funding for turning 22 clients who began receiving services in fiscal year 2003 pursuant to item 5920-5000 of section 2 of chapter 184 of the acts of 2002; provided further, that not less than \$302,000 shall be expended for the life focus center in the Charlestown section of the city of Boston, including an alternative work program ..	\$106,451,278
5920-3000	For respite services and intensive family supports and for \$1,360,000 in annualized funding for turning 22 clients who began receiving services in fiscal year 2003 pursuant to item 5920-5000 of section 2 of chapter 184 of the acts of 2002; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services	\$46,800,000

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- 5920-5000 For services for clients of the department who turn 22 years of age during state fiscal year 2004; provided, that the amount appropriated herein shall not annualize to more than \$13,600,000 in fiscal year 2005; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 2004, on the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served in each region and the types of services purchased in each region; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; and provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement \$6,467,670
- 5930-1000 For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, called ICF/MRs, managed by the department and shall endeavor within available resources to discharge clients residing in the ICF/MRs to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting, 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service and, 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental

Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item \$163,661,641

5982-1000 The department of mental retardation may expend an amount not to exceed \$100,000 accrued through the sale of milk and other farm-related and forestry products at the Templeton Developmental Center for program costs of the center, including supplies, equipment and maintenance of the facility; provided, that notwithstanding any general or special law to the contrary, and for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said 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 therefore as reported in the state accounting system \$100,000

OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.
Office of Child Care Services.

- 4130-0001 For the administration of the office of child care services; provided, that the office shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots funded from items 4130-3050 and 4130-3600 by category of eligibility; provided further, that the report shall include the number of recipients subject to subsection (f) of section 110 of chapter 5 of the acts of 1995 funded under item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized child care; provided further, that the office shall administer the child care resource and referral system; provided further, that nothing contained herein shall be construed as limiting the office's authority to issue variances or grant licenses or certificates on a probationary basis as provided in 102 CMR 8.00 as in effect on May 28, 1993; provided further, that notwithstanding any general or special law to the contrary, the office shall perform post-audit reviews on a representative sample of the income eligibility determinations performed by vendors receiving funds from item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by the post audit reviews; and provided further, that no funds from this item shall be expended for the DD subsidiary costs of the Children's Trust Fund \$1,371,206
- 4130-0005 For field operations and licensing \$6,891,447
- 4130-2998 For child care quality expenditures; provided, that not less than \$1,402,109 shall be expended for activities to increase the supply of quality child care for infants and toddlers; provided further, that not less than \$248,603 shall be expended for resource and referral and school-age child care activities; provided further, that no funds from this item shall be used to fund capital assets or equipment for for-profit providers or agencies \$4,100,000

4130-3050 For child care vouchers and contracted child care programs for low-income families; provided, that the employment services child care program for recipients of transitional and supplemental transitional aid to families with dependent children and the absent parents of the recipients, former recipients of the program who are working for up to 1 year after termination of benefits, former recipients of the program participating in education or training programs authorized by department of transitional assistance regulations, and parents under the age of eighteen currently enrolled in a job training program who would qualify for benefits under provisions of chapter 118 of the General Laws but for the deeming of grandparents' income shall be funded from this item; provided further, that post-transitional child care vouchers for former recipients of transitional aid to families with dependent children who have been working for more than 1 year after termination of program benefits shall be funded from this item; provided further, that not fewer than 500 child care slots shall be reserved for children in the foster care program at the department of social services; provided further, that income-eligible child care programs shall be funded from this item; provided further, that not less than the same amount shall be spent on income eligible child care programs in fiscal year 2004 as was spent on these programs in fiscal year 2003; provided further, that child care for the children of teen parents receiving transitional aid to families with dependent children benefits, teen parents receiving supplemental security income payments and whose dependent children receive the aid, and teen parents at risk of becoming eligible for transitional aid to families with dependent children benefits shall be paid from this item; provided further, that all teens eligible for year-round full-time child care services shall be participating in school, education, work and training-related activities or a combination thereof for at least the minimum number of hours required by regulations promulgated for the program of transitional aid, whether or not such teens are recipients of benefits from the program; provided further, that informal child care benefits shall be funded from this item; provided further, that not more than \$2.00 per child per hour shall be paid for such services; provided further, that child care slots funded from this item shall be distributed geograph-

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	ically in a manner that provides fair and adequate access to child care for all eligible individuals; and provided further, that all child care providers that are part of a public school system shall be required to accept child care vouchers from recipients funded through this appropriation	\$281,923,625
4130-3100	For the regional administration of child care programs and related child care activities; provided, that the activities shall include, but not be limited to, voucher management, child care provider training, resource and referral for children with disabilities in child care programs, community-based programs that provide direct services to parents, and coordination of waiting lists for state-subsidized child care; and provided further, that no funds shall be expended from this item for AA subsidiary payroll expenses	\$10,043,732
4130-3600	For supportive child care associated with the family stabilization program; provided, that funds from this item shall only be expended for child care costs of children with active cases at the department of social services	\$48,344,206

Children's Trust Fund.

4130-0002	For the administration of the Children's Trust Fund	\$870,557
4130-1000	For statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns to be administered by the Children's Trust Fund; provided, that such services shall be made available statewide to parents under the age of 21 years; and provided further, that notwithstanding any general or special law to the contrary, priority for such services shall be given to low-income parents	\$12,238,703

Department of Youth Services.

4200-0010	For the administration of the department of youth services; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2004, detailing the caseload for all department programs funded in items 4200-0100, 4200-0200 and 4200-0300; provided further, that the commissioner of youth services, in conjunction with the department of education, shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 on the status of educational resources at the department of youth services;	
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	provided further, that said report shall review teacher retention, compare salaries within the department to statewide averages, and analyze the related impact on the quality of educational services provided to youths in the custody of the department; and provided further, that the report shall include recommendations for the improvement of educational resources and costs associated with the improvements	\$4,476,803
4200-0100	For supervision, counseling and other community-based services provided to committed youths in non-residential care programs of the department; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated herein to items 4200-0200 and 4200-0300; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$19,100,580
4200-0200	For pre-trial detention programs, including purchase-of-service and state-operated programs; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated herein to items 4200-0100 and 4200-0300; and provided further, that 30 days before any transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$18,083,924
4200-0300	For secure facilities, including purchase-of-service and state-operated programs incidental to the operations of the facilities; provided, that not less than \$250,000 be expended for non-contracted services located within the commonwealth; provided further, that the commissioner may transfer up to 5 per cent of the amount appropriated herein to items 4200-0100 and 4200-0200; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$81,253,668

Department of Transitional Assistance.

4400-1000 For the central administration of the department, including the development and maintenance of automated data processing systems and services in support of department operations, and for the administration of department programs in local transitional assistance offices, including the expenses of operating a food stamp program; provided, that during fiscal year 2004 the department shall maintain 2 transitional assistance offices in the city of Springfield; provided further, that all costs associated with verifying disability for all programs of the department shall be paid from this item; provided further, that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefits; provided further, that the report shall comprehensively track statewide use of the emergency assistance program by eligibility category including, but not limited to, caseload, average length of use or stay and monthly expenditures; provided further, that the department shall collect all out-of-court settlement restitution payments; provided further, that the restitution payments shall include, but not be limited to, installment and lump sum payments; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the office of the state auditor, the total value of settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in collections; provided further, that notwithstanding any general or special law to the contrary, unless otherwise expressly provided, federal reimbursements received for the purposes of the department, including reimbursements for administrative, fringe and overhead costs, for the current fiscal year and prior fiscal years, shall be credited to the General Fund; provided further, that under 21 U.S.C. section 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. section 862a, except that individuals incarcerated for a conviction

which would otherwise be disqualifying under 21 U.S.C. section 862a(a) shall not be eligible for cash assistance funded through item 4403-2000 during the first 12 months after release from a correctional institution unless the individual qualifies for an exemption under subsection (e) of section 110 of chapter 5 of the acts of 1995 or a domestic violence waiver; provided further, that an application for assistance under chapter 118 of the General Laws shall be deemed an application for assistance under chapter 118E; provided further, that if assistance under chapter 118 is denied, the application shall be transmitted by the department to the division of medical assistance for a determination of eligibility under chapter 118E; provided further, that the department shall continue policies to increase participation in the food stamp program; provided further, that the department shall, to the extent feasible within the appropriation provided, provide for extended office hours; provided further, that the department shall accomplish the staffing of these extended office hours to the maximum extent possible through the use of flex-time that will allow workers to modify their working hours to accommodate their specific personal and family needs; provided further, that the department shall, to the extent feasible within the appropriation provided, continue and expand the program of placing workers at community and human service organizations for the purposes of facilitating food stamp applications and re-determinations; and provided further, that the department shall report to the house and senate committees on ways and means not later than December 15, 2003 on the extended office hours and placement of workers at community and human service organizations that the department has determined is feasible within the appropriation provided and that the department will provide in the current fiscal year \$117,556,865

4400-1025 For domestic violence specialists at local area offices \$565,390

4401-1000 For a program to provide employment and training services for recipients of benefits provided under the program of transitional aid to families with dependent children; provided, that certain parents who have not yet reached the age of 18 years, including those who are ineligible for transitional aid to families with dependent children, and who would qualify for benefits under chapter 118 of the General Laws, but for

the deeming of the grandparents' income, shall be allowed to participate in the employment services program; provided further, that funds from this item may be expended on former recipients of the program for up to one year after termination of their benefits due to employment or subsection (f) of section 110 of chapter 5 of the acts of 1995; provided further, that funds from this item shall be expended for the purposes of the young parents program, transportation costs, pre-employment skills training and education programs, and structured subsidized employment services; provided further, that the department of transitional assistance may use funds from this item and shall collaborate with the department of labor and workforce development and the division of workforce training to access funding through Title I of the federal Workforce Investment Act to ensure that sufficient resources are available to provide substantive, pre-employment skills training, including training that integrates basic education and English as a second language instruction, to recipients of transitional aid to families with dependent children who are in need of such services; provided further, that funds from this item may also be expended for re-employment services, job search assistance, vocational training services, job retention services, adult basic education, graduate equivalency degree courses, English as a second language courses and training programs for persons with limited English proficiency, and emergency work-related expenses for recipients, including emergency transportation costs; provided further, that the department shall inform all recipients and applicants of the full range of programs and of skills training programs funded by Title I of the federal Workforce Investment Act accessible through the one-stop career centers, so-called, and adult education programs funded by the department of education available under this program; provided further, that funds may be allocated from this item to other agencies for the purposes of this program; provided further, that within 90 days of a recipient without a high school degree or a graduate equivalency degree or proficiency in English who is subject to subsection (f) of section 110 of chapter 5 of the acts of 1995, becoming eligible for benefits, the department may offer to the recipient

a skills assessment to identify barriers to employment; and provided further, all of this item is subject to appropriation and, in the event of a deficiency, nothing herein shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item

\$11,017,679

4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law, or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2003; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be 2¾ per cent below the otherwise applicable payment standard, in fiscal year 2004, pursuant to the provisions of the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify all teen parents receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September 2003; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September, 2003; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor

to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits, transitional benefits, so-called, and post-transitional benefits, so-called; provided further, that the department shall work with the office of child care services to ensure that both recipients currently receiving benefits and former recipients during the one year period following termination of benefits are provided written and verbal information about child care services; provided further, that the notice shall further advise recipients of the availability of food stamps benefits; provided further, that not less than \$318,074 shall be expended for the

	purposes of the operation of the Transportation Assistance Program operated by the Traveler's Aid Society of Boston; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of, benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; and provided further, that notwithstanding any general or special law to the contrary, 30 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the text of and basis for such proposed changes	\$321,374,779
4403-2119	For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995 for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program . .	\$6,063,317
4403-2120	For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers, so-called; (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters, so-called; provided, that eligibility shall be limited to families with income at or below 100 per cent of the federal poverty level; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that no funds may be expended for heat or utility arrearages; provided further, that an otherwise eligible household shall be authorized for temporary emergency shelter even if that household	

has been authorized to receive a rental arrearage payment within the past 12 months; provided further, that eligible households shall be placed in shelter as close as possible to their home community, unless the household requests otherwise; provided further, if the closest available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date, unless the household requests otherwise; provided further, that the department may add up to 150 new units of scattered site shelter over and above those contracted for in fiscal year 2003 provided that these new units shall be used to reduce the population placed in hotels and motels, and upon a determination that this action shall not entail additional costs to the family shelter program; provided further, that these new units shall be located in areas of greatest need to facilitate placement of eligible families within 20 miles of their home communities; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter, the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating

to any significant differences in the data for each type of shelter; provided further, that the report shall also provide a status report on efforts to increase the number of units of scattered site shelter above the number contracted for in fiscal year 2003, any barriers encountered to increasing the number of units of scattered site shelter, and the plan of action or recommendations for overcoming any barriers encountered; provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that no hotel or motel stay funded from this item shall establish tenancy on the part of the family; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated herein; provided further, that notwithstanding the provisions of any general or special law to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist under the regulations promulgated by the department; and provided further, that nothing in the preceding proviso shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item . . . \$75,728,399

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants recipients residing in rest homes, as provided in section 7A of chapter

	118A of the General Laws, may be paid from this item; provided further, that the department, in collaboration with the division of medical assistance, may fund an optional supplemental living arrangement category under the supplemental security income program that makes payments to persons living in assisted living residences certified under chapter 19D of the General Laws who meet the income and clinical eligibility criteria established by the department and the division; provided further, that the optional category of payments shall only be administered in conjunction with the medicaid group adult foster care benefit; and provided further, that reimbursements to providers for services rendered in prior fiscal years may be expended from this item	\$200,697,005
4406-3000	For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide food, shelter, housing search, and limited related services to the homeless and indigent; provided further, that the department may allocate funds to other agencies for the purposes of this program; and provided further, that all organizations that received funds from this item in fiscal year 2003 shall receive funds from this item in the current fiscal year	\$30,000,000
4408-1000	For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for such aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified alien or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates the	

individual's capacity to support himself and which have been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission, and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under the separate program; provided further, that no ex-offender, person over age 45 without a prior work history, or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that any person incarcerated in a correctional institution shall not be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall promulgate emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this act promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted herein at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated herein; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that the secretary of health and human services shall report monthly

to the house and senate committees on ways and means for the preceding month on the number of persons applying for benefits under this program, by category, age and disability, if any, and the number of persons receiving and denied benefits under this program by category, age and disability, if any; provided further, that reimbursements collected from the social security administration on behalf of former clients of the emergency aid to the elderly, disabled and children program, or unprocessed payments from the program that are returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available herein shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available herein; and provided further, that notwithstanding any general or special law, or of this item to the contrary, 30 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes \$63,891,268

Department of Social Services.

4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA subsidiary costs are paid from item 4800-1100 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit 8 employees; provided further, that an area office shall be maintained in the Beverly area; provided further, that the department shall not place a child or adolescent referred by or discharged from the care of the department of mental health until that latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is more appropriate for group care; provided further, that the department, in consultation with the department of mental health, shall establish guidelines to assist that latter department in making

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such assessments and recommendations; provided further, that not less than \$2,000,000 shall be used for revenue management purposes; and provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the General Fund		\$60,736,146
4800-0025 For foster care review services		\$2,576,740
4800-0036 For a sexual abuse intervention network program to be administered in conjunction with the district attorneys; provided, that each district attorney shall receive not less than the amount it received in the previous fiscal year for the sexual abuse intervention program		\$701,198
4800-0038 For stabilization, unification, reunification, permanency, adoption, guardianship, and foster care services provided by the department of social services; provided, that services funded through this item shall include shelter services, substance abuse treatment, family reunification networks, young parent programs, parent aides, education and counseling services, family preservation services, foster care, adoption and guardianship subsidies, tiered reimbursements used to promote the foster care placement of children with special medical and social needs, assessment of the appropriateness of adoption for children in the care of the department for more than 12 months, protective services provided by partnership agencies, targeted recruitment and retention of foster families, respite care services, post-adoption services, support services for foster, kinship and adoptive families and juvenile firesetter programs; provided further, that any child eligible for a clothing benefit under regulations in place on January 1, 2003 shall receive a clothing benefit in fiscal year 2004; provided further, that the department shall report monthly to the house and senate committees on ways and means on the number of clients served, the cost per unit of service and any available information on the outcome of services provided for each program funded from this item; provided further, that service providers shall provide the department with all information necessary to allow the completion of these reports; provided further, that not later than February 17 of the current fiscal year the department shall provide to the house and senate committees on ways and means a recommendation on wheth-		

er or not to discontinue any program, including earmarked programs, whose cost per unit of service or service outcomes do not fall within a reasonable standard; provided further, that not less than \$250,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$298,000 shall be expended for alternative schools for students aged 14 to 16, inclusive, who are placed before the court on child in need of services petitions in region 6; provided further, that not less than \$90,000 shall be expended for the Children's Cove Cape and Islands Child Advocacy Center; provided further, that \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional Housing Program in the city of Lynn; provided further, that the department shall expend \$348,850 for Latinas y Ninos and Casa Esperanza, to implement a family stabilization and reunification program; provided further, that not less than \$150,000 shall be expended for a contract with Julie's Family Learning Program in the South Boston section of the city of Boston; provided further, that not more than \$100,000 shall be provided for the operation of the Healthy Families program, so-called; provided further, that not less than \$35,000 shall be expended by the Framingham office of the department of social services for the Metrowest Campership program operated by the Ashland youth advisory board in partnership with the department; provided further, that not less than \$200,000 shall be expended for a statewide contract with Northeastern University for a violence prevention and conflict resolution program; provided further, that not less than \$30,000 shall be expended for a contract with Big Brothers and Sisters of Cape Cod and the Islands; provided further, that the department shall expend a sum of not more than \$48,000 in region 1 for a community-based family unification counseling program to prevent juvenile delinquency; provided further, that not more than \$140,000 shall be expended for the Comprehensive School-Age Parenting Program, Inc. for expansion of a year-round school based program in Boston high schools and middle schools for pregnant teens, young mothers and fathers and other youth at high risk for school drop out; and provided further, that not more than \$295,000 shall be expended for a contract with Massachusetts Families for Kids \$249,145,585

4800-0041	For group care services; provided, that funds may be expended from this item to provide intensive community based services to children who would otherwise be placed in residential settings; provided further, that the department shall form area review teams that shall evaluate the feasibility of maintaining the child in the community in this manner wherever possible before recommending placement in a residential setting; provided further, that the department shall provide quarterly reports detailing the number of children diverted from residential settings, the programs in which they were placed, the associated cost saving from the diversion, and any other measurements that would help assess the success of these programs in promoting the health and well-being of children; provided further, that the department shall maintain a managed care network for the commonworks program; provided further, that the department shall collaborate with the departments of education, mental health, youth services, the operational services division and any other interested agencies in the commonwealth to consider available options for increasing consistency among and imposing uniform controls upon reimbursement rates for special education programs authorized under chapter 71B of the General Laws; provided further, that the department shall report to the house and senate committees on ways and means not later than December 15, 2003 on the findings of this collaboration; and provided further, that the previously mentioned parties shall also collaborate with the Massachusetts association of chapter 766 approved private schools to consider available options for increasing program capacity to decrease department referral admission waiting lists and increasing consistency in staff compensation and retention	\$210,854,753
4800-0091	For the purposes of purchasing hardware, software, and information technology services for the improvement of Familynet, and for the purposes of developing a training institute, for professional development of social workers at the department of social services, with the University of Massachusetts Medical School and with Salem State College, the department may expend an amount not to exceed the amount appropriated in this item	\$5,000,000
4800-0151	For a program to provide alternative overnight nonsecure placements for status offenders and nonviolent delinquent youths	

	up to the age of 17 in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974; provided, that the programs which provide such alternative nonsecure placement shall collaborate with the appropriate county sheriff's office to provide referrals of those offenders and delinquent youths to any programs within the sheriff's office designed to positively influence youths or reduce, if not altogether eliminate, juvenile crime	\$766,085
4800-1100	For the AA subsidiary costs of the department's social workers; provided, that funds shall be directed toward mitigating social worker caseloads in those area offices furthest above the statewide weighted caseload standard and toward achieving a social worker caseload ratio of 18 to 1 statewide; provided further, that the department shall report monthly to the house and senate committees on ways and means on the current social worker caseloads by type of case and level of social worker assigned to cases, the caseload ratio of each social worker with a caseload ratio in excess of 18 to 1, the office in which each of the social workers works and the total number of social workers in excess of the 18 to 1 ratio by region; provided further, that only employees of bargaining unit 8 as identified in the Massachusetts personnel administrative reporting and information system shall be paid from this item; and provided further, that any other payroll or administrative expenses associated with the management or support of such employees shall be paid from item 4800-0015	\$129,177,063
4800-1400	For shelters and support services for people at risk of domestic violence; provided, that the department shall pursue the establishment of public-private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided further, that services shall include supervised visitation programs, certified batterer intervention programs for indigent batterers and their families, and scattered site transitional housing programs, including programs to assist victims of domestic violence in finding and maintaining permanent housing; provided further, that participants in battered women's programs shall be provided with information regarding local transitional housing resources; provided further, that funding shall be made available to en-	

hance counseling services for children who have witnessed domestic violence; provided further, that funding shall be made available for emergency shelters for substance abusing battered women; provided further, that funding shall be made available for a statewide domestic violence hotline; provided further, that not less than \$45,000 be expended for a domestic violence prevention program called 'Teens-At-Risk', operated by Portal of Hope for the communities of Everett, Lynn, Malden, and Medford; provided further, that not less than \$10,000 be expended for the Words not Weapons mentoring project in Saugus; provided further, that not less than \$50,000 shall be made available for domestic violence education and awareness in faith-based and community-based organizations; provided further, that not less than \$120,000 shall be made available for outreach and intervention services to homosexual male victims of domestic violence; provided further, that not less than \$60,000 shall be expended for the Planned Learning Achievement for Youth program in Amherst in collaboration with the department of education through an interagency service agreement; and provided further, that domestic violence prevention specialists shall be funded from this item \$19,196,304

OFFICE OF HEALTH SERVICES.

Division of Medical Assistance.

4000-0320 The division of medical assistance may expend an amount not to exceed \$70,000,000 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; 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 item 4000-0300; provided further, that expenditures from this item shall be limited solely to payments for the provision of medical care and assistance rendered in the current fiscal year; provided further, that the division shall file quarterly with the house and senate committees on ways and means, a report delineating the amount of current year rebates from pharmaceutical companies or other current year collections which are being used to supplement current year expenditures; and provided further, that additional categories of recoveries and collections, including the balance of any personal needs accounts collected from nursing and other medical institutions and a recipients death and held by the division for more than three years, may, notwithstanding the provisions of any general or special law to the contrary, be credited to this item after providing written notice to the house and senate committees on ways and means and the secretary of administration and finance \$70,000,000

4000-0430 For the commonwealth program to provide primary and supplemental medical care and assistance to disabled adults and children under sections 9A, 16 and 16A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that the division shall maximize federal reimbursement for state expenditures made on behalf of said adults and children; provided further, that children shall be determined eligible for the medical care and assistance if the children meet the disability standards as defined by the division of medical assistance and that the disability standards shall be no more restrictive than the standards in effect on July 1, 1996; and provided further, that the division shall adhere to the same time standards for processing of a commonwealth application as govern applications under Title XIX of the Federal Social Security Act namely within 45 days of receipt of a completed application or within 90 days if a determination of disability is required \$78,150,000

4000-0500 For health care services provided to medical assistance recipients under the division's primary care clinician/mental health and

substance abuse plan or through a health maintenance organization under contract with the division; provided, that funds may be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that the commissioners of medical assistance and mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; provided further, that such quarterly reports shall include, but not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health; provided further, that payment of any additional amounts for administration to its mental health and substance abuse benefits contractor, including any financial or performance incentives, shall be contingent on the contractor first providing to the house and senate committees on ways and means an analysis of the difference between inpatient and outpatient provider costs and the rates of payment by said contractor; provided further, that such analysis shall include a plan to address such difference, if any, between said costs and payments; and provided further, that not less than \$6,250,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units including pediatric chronic and rehabilitation long term care hospitals as allowable under federal law; provided further, that \$1,100,000 shall be available for the provision of medical interpreter services to MassHealth members in emergency rooms or acute psychiatric units within acute care or psychiatric hospitals; and provided further, that not less than twenty percent of said amount shall be expended for grants awarded through a competitive bidding process intended for innovative methods to improve interpreter services and contain costs. \$2,361,740,111

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- 4000-0700 For health care services provided to medical assistance recipients under the division's health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the division's managed care or senior care plans; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; and provided further, that expenditures from this item shall be made only for the purposes expressly stated in this item . . \$1,267,332,669
- 4000-0860 For MassHealth benefits provided to children and adults under clauses (a), (b), (c), (d) and (h) of subsection (2) of section 9A of chapter 118E of the General Laws; provided, that no funds shall be expended from this item for children and adolescents under said clause (c) of said subsection (2) whose family incomes, as determined by the division, exceed 150 per cent of the federal poverty level; provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item under the provisions of Title XIX and Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund \$369,747,220
- Children's and Seniors' Health Care Assistance Fund \$100.00%
- 4000-0870 For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of subsection (2) of section 9A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to said recipients in prior fiscal years \$89,710,000
- 4000-0875 For the provision of benefits to eligible women who require medical treatment for either breast or cervical cancer in accordance with 1902(a)(10)(A)(ii)(XVIII) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000, Public Law 106-354, and in accordance with section 10D of chapter 118E of the General Laws; provided, that the division shall seek to obtain federal approval to limit the provision of said benefits to women whose income, as determined by the division, does not exceed 250 per cent of the federal poverty

	level; provided further, that eligibility for such benefits shall be extended solely for the duration of such cancerous condition; provided further, that prior to the provision of any benefits covered by this item, said division shall require screening for either breast or cervical cancer at the comprehensive breast and cervical cancer early detection program operated by the department of public health, in accordance with item 4570-1503 of section 2D; provided further, that the division shall seek to obtain federal approval for the implementation of a cost sharing system, including co-pays and sliding scale premiums for women whose annual income is between 133 per cent and 250 per cent of the federal poverty level; provided further, that funds shall only be expended and such program implemented, subject to federal approval and the availability of federal financial participation; and provided further, that all federal reimbursements received for expenditures from this item pursuant to the provisions of Title XIX of the federal Social Security Act shall be credited to the General Fund	\$2,784,551
4000-0880	For MassHealth benefits under clause (c) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws for children and adolescents whose family incomes as determined by the division are above 150 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to the children and adolescents in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item under the provisions of Title XXI of the Federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund	\$89,740,000
	Children's and Seniors' Health Care Assistance Fund	\$100.00%
4000-0890	For the cost of health insurance premium subsidies paid to employees of small businesses participating in the insurance reimbursement program pursuant to the provisions of section 9C of chapter 118E of the General Laws; provided, that all federal reimbursements received for expenditures from this item pursuant to the provisions of Title XIX and Title XXI of the federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund; and provided further, that expenditures made for the purposes of	

this item shall not exceed the amount appropriated herein . . . \$30,846,992

Children's and Seniors' Health Care

Assistance Fund \$100.00%

4000-0891 For the cost of health insurance subsidies paid to employers participating in the insurance reimbursement program under section 9C of chapter 118E of the General Laws; provided, that the division shall directly market the program to private human service providers that deliver human and social services under contract with departments within the executive office of health and human services and the executive office of elder affairs for the purpose of mitigating health insurance costs to the employers and their employees; provided further, that the division shall report monthly to the house and senate committees on ways and means and the executive office of administration and finance monthly expenditure data for the program, including the total number of employers participating in the program, the percentage of the employers who purchased health insurance for employees prior to participating in the program and total monthly expenditures delineated by payments to small employers and self-employed persons for individual, two-person family and family subsidies; provided further, that the division shall seek federal reimbursement for the payments to employers; and provided further, that all federal reimbursements received for expenditures from this item, under Title XIX and Title XXI of the federal Social Security Act, shall be credited to the Children's and Seniors' Health Care Assistance Fund \$6,473,121

Children's and Seniors' Health Care

Assistance Fund \$100.00%

4000-0895 For the healthy start program to provide medical care and assistance to pregnant women and infants residing in the commonwealth pursuant to section 24D of chapter 111 of the General Laws; provided, that pursuant to an interagency agreement established with the division of medical assistance, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter 118E of the General Laws; provided further, that the department shall report to the house and senate committees on ways and means on the population served by the program delineated by federal poverty level, the cost of each segment of the population delineated by

	federal poverty level, as well as any long term cost savings achieved by providing the services to the populations; and provided further, that the department shall include in said report a breakdown of the costs incurred by said program from the time when eligibility was expanded to 225 per cent of the federal poverty level	\$6,213,532
4000-0990	For the children's medical security plan to provide primary and preventive health services for uninsured children from birth through age 18; provided, that the division shall pre-screen enrollees and applicants for Medicaid eligibility; provided further, that no applicant shall be enrolled in said program until said applicant has been denied eligibility for the MassHealth program; provided further, that the MassHealth benefit request shall be used as a joint application to determine the eligibility for both MassHealth and the children's medical security plan; provided further, that the division shall maximize federal reimbursements for state expenditures made on behalf of said children; provided further, that any projection of deficiency in this item shall be reported to the house and senate committees on ways and means not less than 90 days prior to the projected exhaustion of funding; provided further, that the department shall expend all necessary funds from this item to ensure the provision of the maximum benefit levels for this program, as authorized by section 10E of chapter 118E of the General Laws; provided further, that said maximum benefit levels for this program shall be made available only to those children who have been determined by the division to be ineligible for MassHealth benefits; and provided further, that the commissioner of the division shall certify quarterly in writing to the house and senate committees on ways and means that premiums established pursuant to the fourth paragraph of said section 10E of said chapter 118E have been paid by all enrollees for whom said premiums are applicable	\$11,874,000
	General Fund	76.62%
	Children's and Seniors' Health Care	
	Assistance Fund	23.38%
4000-1400	For the purposes of providing MassHealth benefits to persons with a diagnosis of human immuno-deficiency virus with incomes up to 133 per cent of the federal poverty level; pro-	

vided, that funds may be expended from this item for health care services provided to these persons in prior fiscal years . . \$14,962,424

Division of Health Care Finance and Policy.

4100-0060 For the operation of the division and the administration of the uncompensated care pool established pursuant to chapter 118G of the General Laws; provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of said chapter 118G for the estimated expenses of the division shall include in fiscal year 2004, the estimated expenses, including indirect costs, of the division and shall be equal to the amount appropriated in this item less amounts projected to be collected in fiscal year 2004 from: (1) filing fees; (2) fees and charges generated by the division's publication or dissemination of reports and information; and (3) federal financial participation received as reimbursement for the division's administrative costs; provided further, that the assessed amount shall be not less than 65 per cent of the division's expenses as specified in this item; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the uncompensated care pool to report to the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly to the house and senate committees on ways and means a summary report compiling said data; provided further, that the division, in consultation with the division of medical assistance, shall not promulgate any increase in medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that the division shall share financial data and expertise about the Massachusetts health

care industry with the Massachusetts Institute for Social and Economic Research for the purpose of enhancing, developing and marketing data products for the public; provided further, that the division and the institute shall share any revenue generated through sale, licensure, royalty and usage fees charged for said data products; provided further, that not later than October 24, 2003, the division shall submit to the comptroller and to the house and senate committees on ways and means a report describing the method by which the division shall generate revenues through said sale, licensure, royalty, and usage fees in an amount sufficient to meet 25 per cent of the projected costs of the division in any fiscal year, as required by section 612 of chapter 151 of the acts of 1996; provided further, that funds may be expended for the purposes of a survey and study of the uninsured and underinsured in the commonwealth, including the health insurance needs of the residents of the commonwealth; provided further, that said study shall examine the overall impact of programs administered by the division and the division of medical assistance on the uninsured, the underinsured, and the role of employers in assisting their employees in affording health insurance pursuant to section 23 of chapter 118G of the General Laws; provided further, that for hospital fiscal year 2004, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws shall be \$315,000,000; provided further, that the division shall publish annual reports on the financial condition of hospitals and other health care providers through the Health Benchmarks project website, in collaboration with the executive office of health and human services, the office of the attorney general, and the University of Massachusetts; provided further, that the division shall submit to the house and senate committees on ways and means not later than December 6, 2003 a report detailing utilization of the uncompensated care pool; provided further, that the report shall include: (1) the number of persons in the commonwealth whose medical expenses were billed to the pool in fiscal year 2003; (2) the total dollar amount billed to the pool in fiscal year 2003; (3) the demographics of the population using the

pool, and; (4) the types of services paid for out of the pool funds in fiscal year 2003; provided further, that the division shall include in the report an analysis on hospitals' responsiveness to enrolling eligible individuals into the MassHealth program upon the date of service rather than charging said individuals to the uncompensated care pool; provided further, that the division shall include in the report possible disincentives the state could provide to hospitals to discourage such behavior; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, the division shall not allow any exceptions to the usual and customary charge defining rule as defined in 114.3 CMR 31.02, for the purposes of drug cost reimbursement to eligible pharmacy providers for publicly aided and industrial accident patients; provided further, that the division is hereby authorized to change the pricing standard used by said division when determining the rate of payment to pharmacy providers for prescribed drugs for publicly-aided or industrial accident patients if such a change would financially benefit the commonwealth; and provided further, that notwithstanding any general or special law to the contrary said division shall set the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 beginning in fiscal year 2004 \$9,670,807

Department of Public Health.

4510-0099 The department may expend an amount not to exceed \$6,000,000 in revenues collected from licensing, inspections and records for costs associated with the administration of the department; provided, that the department shall submit a quarterly report to the house and senate committees on ways and means detailing the amount of revenue generated as a result of increasing departmental fees as well as all expenditures made from this account; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may cert-

	ify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system	\$6,000,000
4510-0100	For the operation of the department, the determination of need program, established under section 25C of chapter 111 of the General Laws, the health statistics program, including the operation of a cancer registry and occupational lung disease registry and the continuation of the cardiac surgery data collection and validation program to collect and validate data from all hospitals in the commonwealth that perform open heart surgery; provided, that all funds previously expended for the compensation of state employees in accounts 4510-0110, 4510-0150, 4510-0790, 4510-0810, 4512-0103, 4512-0200, 4512-0500, 4513-1000, 4513-1002, 4513-1020, 4513-1022, 4513-1114, 4530-9000, 4570-1500, 4580-1000 and 4590-0250 shall be paid from this line item or from line item 4510-0099 in fiscal year 2004; provided further, that the position of assistant commissioner shall not be subject to chapter 31 of the General Laws; provided further, that funds may be expended for the weapons-related injury surveillance system; provided further, that the department may consult with the ALS Therapy Development Foundation to study the current level of research for the prevention and treatment of ameotrophic lateral sclerosis in the commonwealth; and provided further, that funds may be expended for the Massachusetts Violence Prevention Task Force, formerly funded through an interagency service agreement from the department of education	\$19,094,224
4510-0106	The end of life care commission, as established by section 480 of chapter 159 of the acts of 2000, may expend revenues not to exceed \$75,000 from revenues associated with grant and development activities	\$75,000
4510-0110	For community health center services; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that the department shall submit a tentative allocation schedule of the community health center grants to the house and senate committees on ways and means not later than February 1, 2004; provided further, that not less than \$100,000 shall be expended for the Elder Health Center in Saugus; and provided further, that not	

	less than \$100,000 shall be expended for the O'Neill Health Clinic	\$4,427,109
4510-0150	For the managed care program at community health centers known as CenterCare established pursuant to section 24F of chapter 111 of the General Laws; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that not more than \$249,000 may be expended for the purpose of a provider loan repayment program at community health centers; provided further, that the department shall assist professional and nonprofit agencies dedicated to the advancement of the scope and nature of health care services delivered in communities by community health centers and to pursue available federal technical assistance funding; and provided further, that \$225,000 shall be expended on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under section 330(f)(1) of the United States Public Health Service Act, 42 U.S.C. section 254c(f)(1)	\$2,461,461
4510-0600	For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter 482 of the acts of 1993, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists and the administration of the division of environmental epidemiology and toxicology for the purposes of chapter 470 of the acts of 1983, the "Right-to-Know" law; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of 100 per cent of the amounts so expended; provided further, that no funds appropriated in this item shall be expended for the purpose of siting or locating a low-level radioactive waste facility in the commonwealth; provided further, that not less than \$50,000 shall be expended for the director of the bureau of environmental health assessment of the department of public health to conduct an environmental risk assessment of the health impacts of the Cambridge Plating Company in the town of Belmont; provided further, that the assessment may	

include, but shall not be limited to, examining incidences of cancers in Belmont and the surrounding communities; provided further, that not less than \$30,000 shall be expended for a renal disease program administered by the National Kidney Foundation of Massachusetts, Rhode Island and Vermont for nutritional supplements and early intervention services for those affected by renal disease and those at risk of renal disease; provided further, that not less than \$14,800 shall be allocated to the Franklin Regional Council of Governments for costs associated with the regional public health agent pilot project in Franklin county; provided further, that not less than \$100,000 shall be expended for the purposes of research and prevention activities associated with Lyme disease to be conducted by the Barnstable county department of health and environment; provided further, that \$300,000 shall be expended for a contract to provide environmental risk assessment of the prevalence of lupus and scleroderma in the South Boston section of the city of Boston, including the costs of performing medical and laboratory tests and examinations; and provided further, of said \$300,000, not less than \$81,000 shall be expended for the maintenance of a statewide lupus database \$2,709,962

4510-0615 The department may expend an amount not to exceed \$150,000 from assessments collected under section 5K of chapter 111 of the General Laws for services provided to monitor, survey and inspect nuclear power reactors; provided, that the department may expend revenues not to exceed \$1,174,195 from fees collected from licensing and inspecting users of radioactive material within the commonwealth under licenses presently issued by the nuclear regulatory commission; provided further, that the revenues may be used for the costs of both programs, including the compensation of employees; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further that the department shall report quarterly to the house and senate committees on ways and means the total amount of revenue collected, a ratio of revenue collected

	per employee, the total number of inspections and a ratio of inspections per employee	\$1,324,195
4510-0616	For a drug registration and monitoring program; provided, that the department may expend an amount not to exceed \$551,110 from revenues collected from a fee charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists and optometrists for controlled substance registration; provided further, that funds may be expended from this item for the costs of personnel; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$551,110
4510-0710	For the operation of the division of health care quality and the office of patient protection; provided, that the division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services; provided further, that the division shall coordinate its work with the boards of registration under the department of public health to promote quality patient care in facilities licensed by the department, and shall report specific instances of preventable medical error that involve an individualized component investigated by the board of registration and a systemic or institutional component investigated by the division, the medical, administrative, educational and disciplinary outcomes of such instances of preventable medical error, and the ways in which coordination promotes quality patient care, fairness and accuracy in disciplinary actions, and better provider and facility education; provided further, that investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation under section 51 and section 72H of said chapter 111 of the General Laws; provided further, that the division shall assign such investigators to perform their duties on staggered shifts which	

shall be established by the division in order to provide coverage adequate to ensure that all complaints of abuse, neglect, mistreatment, and misappropriation are investigated under section 51 and section 72H of chapter 111, and that the department shall investigate complaints during evening and weekend hours as needed to assess the validity of the complaint; provided further, that not less than 10 per cent of all routine surveys of the facilities are completed during evening or weekend hours; provided further, that the division shall minimize the need for payment of overtime to investigators in both emergent and non-emergent situations and shall not authorize the assignment of overtime hours for any investigator when the duties can be performed on a non-overtime basis by another investigator; provided further, that all investigators in the division of health care quality responsible for the investigations shall receive training by the medicaid fraud control unit of the office of the attorney general under a comprehensive training program to be developed by the division and the unit; provided further, that the division shall report quarterly to the house and senate committees on ways and means on the number of incident reports and, for those reports requiring investigations under said section 72H of said chapter 111, indicating for each such report, the time in which: (1) the division completed its investigation; (2) the division made an evaluation and determination of the validity of the report; (3) made a referral of such report to the appropriate agency or agencies; provided further, that if in any quarter the division maintains a backlog of cases requiring investigation that have not been investigated, evaluated and determined within the time frames established in said section 72H of said chapter 111, the division shall include in the report an explanation as to the reasons therefore; and provided further, that the division shall include in the report a list of all instances of the payment of overtime for investigators and the justification therefore and in each quarter shall compare the overtime expenditures from this item with the overtime expenditures made in the corresponding quarter of fiscal year 2003; provided further that that the division shall develop, in consultation with the nursing home industry and consumer representatives, a confidential consumer satisfaction survey for long-term care facilities; provided further, that the division shall conduct the survey ini-

tially of family members, guardians or other resident designees; provided further, that residents shall be consulted in the development of the survey tool; provided further, that the division shall insure that the survey allows for statistically significant comparisons between and among facilities; provided further, that the division shall compile the survey results and make the results available in print as well as electronically; provided further, that the division shall continue to research appropriate survey tools for residents, including methods for ensuring confidentiality and addressing cognition and communication impairments, and shall develop recommendations for the development and implementation of a resident survey; provided further, the division shall continue a comprehensive training, education and outreach program for nursing home administrators and managers and other supervisory personnel in long-term care to improve the quality of care in long-term care facilities; provided further, that the program shall promote the use of best practices, models of quality caregiving and the culture of workforce retention within the facilities and shall focus on systemic ways to reduce deficiencies; and provided further, that the department shall report to the house and senate committees on the results of the program no later than April 30, 2004 \$7,684,400

4510-0712 The department may expend an amount not to exceed \$987,427 in revenues collected from the licensure of health facilities for program costs of the division of health care quality; provided, that the department may expend an amount not to exceed \$1,700,000 from revenues collected from individuals applying for emergency medical technician licensure and recertification; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue 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 therefore as reported in the state accounting system \$2,687,427

4510-0720 For a scholarship program for certified nurses' aide and direct care worker training; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that the department shall establish ap-

propriate guidelines and application criteria for the administration of the program; provided further, that the scholarships shall cover the full cost of tuition to an approved certified nurses' aide or long-term care direct worker training program, including approved programs providing for cross-training; provided further, that funds may also be available to provide adult basic education and English as a second language training for applicants otherwise meeting criteria for the scholarships, as well as pilot training programs using enhanced curricula designed to support increased retention; provided further, that the department, shall in consultation with the nursing home industry, consumer groups, the department of labor and workforce development, Commonwealth Corporation, training providers and other appropriate state and local agencies, conduct outreach regarding the availability of such scholarships; provided further, that the department shall consult with the scholarship program advisory council and the extended care career ladder initiative to review and recommend new training requirements for certified nurses' aides, home health aides and home care workers to improve the quality of the direct care workforce and the quality of care provided in all long-term care settings by developing skill standards, supporting the transition from training to work, improving retention, promoting portability, recognizing career advancement curricula and addressing language and education barriers; and provided further, that costs for outreach activities shall not exceed 3 per cent of the amount appropriated herein and administrative costs of the program shall not exceed 3 per cent of the amount appropriated herein \$250,000

4510-0721 For the costs of personnel, administration, information technology, equipment, newsletter and other essential spending of the board of registration in nursing; provided, that employees of the board transferred from the division of professional licensure to the department of public health shall suffer no impairment of civil service status, seniority or any other employment rights; provided further, that the board shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of such cases, the approximate number of cases assigned to each investigator, and any increases or decreases in cases referred

to the board in the previous 6 months; provided further, that the board shall submit each such report to the house and senate committees on ways and means, the joint committee on health care and the commissioner of the department of public health; provided further, that the board shall prepare a compilation of cases involving preventable medical error that resulted in harm to a patient or health care provider for the purpose of assisting health care providers, hospitals and pharmacies to modify their practices and techniques to avoid error; provided further, that the board shall submit the compilation to the house and senate committees on ways and means, the joint committee on health care, the commissioner of the department of public health and shall make the compilation widely available, including by electronic means, to the public and to all hospitals, pharmacies and health care providers doing business in the commonwealth; and provided further, that the board shall be under the authority of the division of health care quality \$1,456,313

4510-0722 For the costs of personnel, administration, newsletter, dues, travel, public information advertising, and other expenses of the board of registration in pharmacy; provided, that employees of the board transferred from the division of professional licensure to the department of public health shall suffer no impairment of civil service status, seniority or any other employment rights; provided further, that the board shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of such cases, the approximate number of cases assigned to each investigator, and any increases or decreases in cases referred to the board in the previous 6 months; provided further, that the board shall submit each such report to the house and senate committees on ways and means, the joint committee on health care and the commissioner of the department of public health; provided further, that the board shall prepare a compilation of cases involving preventable medical error that resulted in harm to a patient or health care provider for the purpose of assisting health care providers, hospitals and pharmacies to modify their practices and techniques to avoid error; provided further, that the board shall submit said compilation to the house and senate committees on ways and means, the joint committee on health care, the commissioner

	of the department of public health and shall make said compilation widely available, including by electronic means, to the public and to all hospitals, pharmacies and health care providers doing business in the commonwealth; and provided further, that the board shall be under the authority of the division of health care quality	\$469,285
4510-0723	For the operation and administration of the board of medicine and the committee on acupuncture; provided, that the board of registration in medicine shall prepare an annual report addressing its activities with respect to licensing, enforcement, law and policy, patient safety, and other relevant topics, including, but not limited to, the total number of cases referred to and reviewed by the board, the resolution of the cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the board in the previous 6 months; a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals, and pharmacies to modify their practices and techniques to avoid error, and any other relevant topics; provided further, that the board shall submit the report to the general court, house and senate committee on ways and means and the joint committee on health care and shall make the compilation widely available, including by electronic means, to the public; and provided further, that the board shall promulgate rules and regulations to coordinate their patient care assessment program with the boards of nursing and pharmacy	\$1,639,554
4510-0725	For the costs of personnel, administration, public information advertising and other expenses of certain health boards of registration, including the boards of registration in dentistry, nursing home administrators, physician assistants, perfusionists, and respiratory care; provided, that the boards shall be under the authority of the division of health care quality; provided further, that the department of public health, in cooperation with the division of professional licensure, shall submit a plan for transferring the boards of allied health professionals, podiatry, optometry, chiropractors, health officers, speech language pathology and audiology, dispensing opticians, psychologists, hearing instruments specialists, and	

	dieticians and nutritionists from the division of professional licensure to the department of public health; provided further, that the plan shall consider current funding levels and shall propose no additional costs; and provided further, that employees of the boards transferred from the division of professional licensure to the department of public health shall suffer no impairment of civil service status, seniority or other employment rights	\$384,898
4510-0726	The board of registration in medicine including the physician profiles program is hereby authorized to expend revenues not to exceed \$300,000 from new revenues associated with increased license and renewal fees; provided, that this amount shall be in excess of the amount prescribed in section 1B of this act	\$300,000
4510-0790	For regional emergency medical services; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from item 4510-0100 in fiscal year 2004; provided further, that the regional emergency medical services councils, designated as such in accordance with 105 CMR 170.101 and the C-MED communications as of January 1, 1992, shall remain the designated councils and C-MEDs; provided further, that the department shall report quarterly on the number of investigations of ambulance services performed by said inspectors and by inspectors funded in items 4510-0710 and 4510-0712 as well as the number of investigations pending at the end of each quarter and the reasons therefore; provided further, that the department, in conjunction with the regional emergency services councils, notwithstanding section 27C of chapter 29 of the General Laws to the contrary, shall promulgate regulations to ensure that all basic, intermediate, and paramedic emergency medical technicians are certified to use and have available epinephrine for the emergency treatment of anaphylaxis; provided further, that the department shall report to the house and senate committees on ways and means not later than January 15, 2004 on the implementation of the certifications and availability of epinephrine; and provided further, that the department shall widely disseminate this requirement to all relevant parties	\$1,246,896
4510-0810	For a statewide sexual assault nurse examiner program and for	

the care of victims of sexual assault; provided, that state employees previously paid from this line item shall be paid from item 4510-0099 or from item 4510-0100 in fiscal year 2004; and provided further, that the program shall be established by the department to operate under specific statewide protocols and by an on-call system of nurse examiners \$733,409

4512-0103 For acquired immune deficiency syndrome services and programs; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that particular attention shall be paid to direct the funding proportionately amongst each of the demographic groups afflicted by HIV/AIDS; provided further, that funds shall be expended for rental housing subsidies for the purposes of preventing admissions to acute hospitals, chronic hospitals and nursing homes for persons with acquired immune deficiency syndrome; provided further, that the department may contract for the administration of this program; provided further, that the costs of this administrative contract shall not be expended from this item; provided further, that rents payable by tenants shall not be less than 30 per cent of total household income if heat and cooking fuel are provided by the landlord and shall not be less than 25 per cent of total household income if heat and cooking fuel are not provided; provided further, that no funds shall be expended for subsidies for housing units in excess of the number of units funded on June 30, 1991; provided further, that the department shall not enter into any new housing contracts or expend funds for such new contracts in fiscal year 2004 that would fund units in excess of the number of units funded on June 30, 2003; provided further, that \$562,876 shall be expended for a program to mitigate the effects of hepatitis C; provided further, that funds shall be expended to increase public awareness and provide health care provider information; provided further, that awareness efforts shall be presented in multiple languages and in a culturally appropriate manner where applicable; provided further, that hepatitis C prevention, counseling and testing, and case management services shall be integrated into existing substance abuse, HIV/AIDS and STD service programs; provided further, that

	funds herein shall supplement, and not supplant, funding for such purposes in item 4580-1000; provided further, that not less than \$150,000 shall be expended for the operation of a program to be administered by the Springfield department of health for a comprehensive drug treatment for the prevention of AIDS; and provided further, that no funds from this item shall be expended for disease research in fiscal year 2004 . . .	\$32,056,975
4512-0106	The department of public health may expend an amount not to exceed \$1,200,000 from revenues received from pharmaceutical manufacturers participating in the section 340B rebate program administered by the federal health resources and services administration and office of drug pricing	\$1,200,000
4512-0200	For the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that contracts shall not be awarded to those organizations providing services to non-Massachusetts residents; provided further, that funds shall be expended for Latinas y Ninos; provided further, that no funds appropriated herein shall be expended for Latinas y Ninos until said organization provides evidence that funds shall not be used to support non-Massachusetts residents; provided further, that not less than \$525,000 shall be expended for a contract with STEP Inc. for sobriety treatment, education and prevention; provided further, that not less than \$75,000 shall be expended for the Tynan Community Center's Adolescence Wellness program in the city of Boston; provided further, that not less than \$100,000 shall be expended for the South Boston Youth Collaborative for the purposes of responding to adolescent suicide cluster and drug abuse in the South Boston section of the city of Boston; provided further, that not less than \$320,000 shall be expended for an adolescent residential facility for substance abuse and rehabilitation services in the South Boston section of the city of Boston; provided further, that not less than \$50,000 shall be expended for the New Beginnings program, a wellness program for middle school students addressing student substance abuse issues; provided further, that not less than \$90,000 shall be expended for the	

Russian Teens-at-Risk program operated by the Jewish Family Children's Service in the cities of Boston and Lynn and the town of Brookline; provided further, that not less than \$100,000 shall be expended for the Link House, Inc., in the town of Salisbury for purposes of establishing transitional housing for women in recovery from substance abuse; provided further, that not more than \$45,000 shall be expended in grants for the Framingham Coalition for the Prevention of Alcohol and Drug Abuse; provided further, that not more than \$37,000 shall be expended for an intervention prevention counselor for Concord-Carlisle regional school district; provided further, that \$5,000 shall be expended for Casa Dominicana; and provided further, that the department shall report to the joint committees on health care and on human services and the house and senate committees on ways and means within 90 days of the passage of this act on its efforts to encourage or strengthen discharge and aftercare planning for its substance abuse clients and to address inefficiencies in the provision of outpatient substance abuse services, including an assessment of existing or other appropriate financial incentives for inpatient or outpatient providers to encourage or require such discharge planning, existing or other appropriate regulatory mechanisms to encourage or require such discharge planning, legal or practical impediments to such discharge planning, the efficacy of redirecting existing resources to strengthen the relationship between inpatient and outpatient providers of substance abuse services, and the potential for improved outcomes for substance abuse clients and savings to the commonwealth . . . \$33,270,349

4512-0225 The department of public health may expend for a compulsive gamblers' treatment program an amount not to exceed \$654,942 from unclaimed prize money held in the state lottery fund for more than 1 year from the date of the drawing when the unclaimed prize money was won, and from the proceeds of a multi-jurisdictional lottery game under subsection (e) of section 24A of chapter 10 of the General Laws; provided, that the state comptroller shall transfer the amount to the General Fund \$654,942

4512-0500 For dental health services; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year

	2004; provided further, that of the amount appropriated in this item, funds shall be expended to maintain a program of dental services for the developmentally disabled; provided further, that not less than \$200,000 shall be expended for the Taunton Oral Health Clinic; and provided further, that the department shall submit to the house and senate committees on ways and means a quarterly report on the number of children served by this dental health services program and the number of children waiting to be served by the program	\$1,476,753
4513-1000	For the operation of the division of family health services; provided, that not less than \$450,000 shall be directed to community health centers to provide maternal-child health services through combined primary care; provided further, that state employees previously paid from this item shall be paid from item 4510-0099 or from item 4510-0100 in fiscal year 2004; and provided further, that of the amount appropriated in this item, funds may be expended for rape prevention and victim services, including the statewide Spanish language hotline for sexual abuse, family planning services, the Northeastern University conflict resolution program, latinas y ninos, and statewide suicide and violence prevention outreach to gay and lesbian youth	\$2,840,000
4513-1002	For women, infants and children's (WIC) nutrition services in addition to funds received under the federal nutrition program; provided, that state employees previously paid from this item shall be paid from item 4510-0099 or from item 4510-0100 in fiscal year 2004; provided further, that all new WIC cases, in excess of fiscal year 1991 caseload levels, shall be served in accordance with priority categories 1 through 7, as defined by the state WIC program; provided further, that within 30 days of the effective date of this act, the department shall report to the house and senate committees on ways and means the total number of cases which can be supported with funds from this item without incurring a deficiency; and provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of clients served per month and the total food voucher expenditures per month	\$12,571,048
4513-1010	The department of public health may expend an amount not to exceed \$2,700,050 generated from revenues received from the collection of federal financial participation for early interven-	

	tion services delivered to Medicaid-eligible children by developmental educators and professionals in related disciplines; provided, that nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the services funded herein; and provided further, that the revenue may be used to pay for current and prior year claims	\$2,700,050
4513-1012	The department of public health may expend an amount not to exceed \$23,230,000 from revenues received from the federal cost-containment initiatives, including, but not limited to, infant formula rebates and Northeast Dairy Compact reimbursements; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . .	\$23,230,000
4513-1020	For the early intervention program; provided, that state employees previously paid from this item shall be paid from item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for the units of service paid by the department, the division of medical assistance, and by third party payers for early intervention services for the following services categories: home visit, center-based individual, child-focused group, parent-focused group, screening, and assessment; provided further, that the department shall make all reasonable efforts to secure third party and medicaid reimbursements for the services funded herein; provided further, that funds from this item shall be expended for a reserve to provide respite services to families of children enrolled in early intervention programs who have complex care requirements, multiple disabilities and extensive medical and health needs; provided further, that priority shall be given to low and moderate income families; provided further, that the department shall submit to the house and senate committees on ways and means a report on the number of families served by said program and the amount of funds appropriated herein granted to qualified families not later than	

	February 1, 2004; provided further, that no claim for reimbursement made on behalf of an uninsured person shall be paid from this item until the program receives notice of a denial of eligibility for the MassHealth program from the division of medical assistance; and provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the early intervention services funded in this item	\$29,188,130
4513-1023	For the costs associated with the implementation of the universal newborn hearing program; provided, that state employee salaries shall not be paid from this item in fiscal year 2004; provided further, that the funds appropriated in this item shall be expended for the notification of and follow through with affected families, primary care providers and early intervention programs upon the department's receipt of data indicative of potential hearing disorders in newborns	\$83,060
4513-1026	For the provision of statewide and community-based suicide prevention, intervention, post-vention and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that the department, in coordination with the department of mental health, shall provide grant funds for locally targeted suicide prevention, intervention and post-vention activities; provided further, that any department, group, or institution applying for these grants shall state the program's goals, feasibility, and effectiveness, such that other communities may replicate this program, document how the program replicates or builds upon relevant evidence-based strategies or tests new strategies, describe the activities to be undertaken and include an evaluation component in the program; provided further, that prevention and intervention activities shall be targeted toward identifying and assisting those at risk; provided further, that prevention and intervention activities shall include, but not be limited to, training programs about the recognition and treatment of suicidal behavior for professionals who are in regular contact with at-risk individuals, collaborative work with emergency rooms and doctors to disseminate information regarding fol-	

low-up services for known attempters, and efforts to increase public knowledge of suicide prevention; provided further, that post-vention activities shall be targeted toward family and friends of individuals who have attempted or completed suicide; provided further, that post-vention activities shall include, but not be limited to, training for first-responders about sensitive and responsible ways of interacting with the families of suicide victims, efforts to increase survivors' access to mental health services and to decrease the stigma associated with their roles as survivors, and the development of comprehensive support programs to facilitate positive coping among survivors; provided further, that surveillance activities shall be targeted toward increasing the accuracy of statistics on suicide morbidity and the availability of information on suicide attempts and ideation; provided further, that surveillance activities shall include, but not be limited to, efforts to increase both the quantity and quality of suicide data collected by first responders, hospital staff, and the department, and the development of a system for accessing and collecting data from suicide survivors; provided further, that funds from this item shall not be transferred to any other program or item; provided further, that the departments shall, in consultation with the commissioner of education, report to the house and senate committees on ways and means on the status of statewide and community-based suicide prevention, intervention, post-vention, and surveillance activities no later than June 30, 2004 \$125,000

4513-1112 For a prostate cancer screening, education and treatment program; provided, that screening, education and treatment shall have a particular focus on the high rate of prostate cancer among African American males; and provided further, that state employees previously paid from this item shall be paid from item 4510-0099 or item 4510-0100 in fiscal year 2004 . . \$1,000,000

4516-0263 The department of public health may expend an amount not to exceed \$1,486,551 in revenues from various blood lead testing fees collected from insurers and individuals, for the purpose of conducting such tests; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department

	may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$1,486,551
4516-1000	For the administration of the center for laboratory and communicable disease control, including the division of communicable venereal diseases, the division of tuberculosis control and the state laboratory institute; provided, that the department shall give priority to the analysis of samples used in prosecution of controlled substances offenses; provided further, that funds shall be expended for an eastern encephalitis testing program and for tuberculosis testing and treatment services; provided further, that no funds appropriated in this item shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that funds from this item shall be expended for the purchase of equipment for the drug laboratory at the state laboratory institute; provided further, that not less than \$200,000 shall be expended for the maintenance of the statewide rabies control program coordinated by the department of public health providing assistance to cities, towns, and the public, and for the interagency collaboration through the rabies advisory committee, the 24-hour epidemiological and clinical consultation for rabies exposures, the rapid laboratory diagnostic services and for the continuation of the raccoon rabies vaccine field trial on Cape Cod operated through a contract with Tufts University School of Veterinary Medicine in collaboration with the federal Centers for Disease Control and Prevention; and provided further, that funds from this item may be expended for the purpose of an interagency service agreement with the University of Massachusetts Medical School for the department's share of the cost of occupancy, including the cost of facility support personnel, for the state laboratory institute	\$9,701,774
4516-1022	The department may expend an amount not to exceed \$300,000 generated by fees collected from insurers for tuberculosis tests performed at the state lab; provided, that revenues collected may be used to supplement the costs of the state lab; and provided further, that for the purpose of accommodating dis-	

	crepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$300,000
4518-0200	The department may expend an amount not to exceed \$261,687 generated by fees collected from the following services provided at the registry of vital records and statistics: amendments of vital records, all requests for vital records not issued in person at the registry, and research requests performed by registry staff at the registry; provided, that revenues so collected may be used for all program costs, including the compensation of employees; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$261,687
4530-9000	For teenage pregnancy prevention services; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from item 4510-0100 in fiscal year 2004; provided further, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of the grants may be used for state agency purchases of designated services identified by said community service plans; provided further, that \$100,000 shall be expended for teen pregnancy prevention services in the town of Orange; provided further, that not less than \$150,000 shall be expended for the Berkshire Coalition to Prevent Teen Pregnancy program in Berkshire County; provided further, that \$225,000 shall be expended for the abstinence-based teen pregnancy prevention programs in the cities of North Adams and Pittsfield; and provided further, that of said \$225,000, not less than \$125,000 shall be expended for the program in the city of Pittsfield	\$975,000
4570-1500	For an early breast cancer detection program, mammographies for the uninsured, and a breast cancer detection public aware-	

	ness program; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from item 4510-0100 in fiscal year 2004	\$3,029,488
4580-1000	For the universal immunization program and for the purchase and distribution of the pneumococcal conjugate vaccine; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; and provided further, that no funds appropriated in this item shall be expended for administrative or energy expenses of the department not directly related to programs funded herein	\$19,152,068
4590-0250	For school health services and school-based health centers in public and non-public schools; provided, that state employees previously paid from this line item shall be paid from line item 4510-0099 or from line item 4510-0100 in fiscal year 2004; provided further, that services shall include but not be limited to: (1) strengthening the infrastructure of school health services in the areas of personnel and policy development, programming, and interdisciplinary collaboration; (2) developing linkages between school health services programs and community health providers, and (3) incorporating health education programs, including tobacco prevention and cessation activities in school curricula and in the provision of school based health services; provided further, that said services shall meet standards and eligibility guidelines established by the department of public health in consultation with the department of education; provided further, that not more than \$250,000 shall be expended for the governor's commission on gay and lesbian youth; provided further, that \$200,000 shall be allocated to the Berkshire County Area Health Education Center, Inc. for programs including but not limited to alcohol, drug and tobacco prevention; provided further, that not less than \$12,000,000 shall be expended for school nurses and school-based health centers; and provided further, that not more than \$99,000 shall be expended for the HELP program for black males' health	\$12,622,966
4590-0300	For smoking prevention and cessation programs; provided, that state employees previously paid from this line item shall be paid from item 4510-0099 or from line item 4510-0100 in fiscal year 2004	\$2,535,000

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- 4590-0301 The department of public health may expend an amount not to exceed \$6,000,000 generated from revenues received from the collection of federal financial participation for the school health services program; provided, that the revenue shall be directed toward additional resources for the school health services program \$6,000,000
- 4590-0912 The department may expend an amount not to exceed \$13,686,256 from reimbursements collected for western Massachusetts hospital services, subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital related costs, including personnel, capital expenditures, DD subsidiary chargebacks and motor vehicle replacement; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full reimbursement from the medical assistance program of the division of medical assistance; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall reimburse the General Fund for a portion of employee benefit expenses, according to a schedule submitted by the commissioner of public health and approved by the secretary of administration and finance; provided further, that such reimbursement shall not exceed 10 per cent of total personnel costs for the hospital; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein \$13,686,256
- 4590-0913 For the department of public health Lemuel Shattuck hospital, for the purposes of funding expenses for services provided to inmates of county correctional facilities which have privatized medical care; provided, that said department may expend an

amount not to exceed \$500,000 in revenues collected from private medical vendors; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$500,000

4590-0915 For the maintenance and operation of Tewksbury state hospital, Massachusetts hospital school, Lemuel Shattuck hospital, and for the hospital bureau, including the consolidated pharmacy unit; provided, that all revenue generated by the hospitals shall be credited to the General Fund; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded in this item; provided further, that Tewksbury state hospital shall not be used to house county, state, or other prisoners; provided further, that \$30,000 shall be expended for chaplain services at Tewksbury Hospital; provided further, that the department shall take no action to reduce or realign the client population and services at Tewksbury hospital unless such action results in alternative service delivery in an appropriate and cost-effective method of care; provided further, that staffing configurations at Tewksbury hospital shall be consistent with the client population and service realignment; and provided further, that reimbursements received for medical services provided at the Lemuel Shattuck hospital to inmates of county correctional facilities not managed by private health care vendors shall be credited to item 4590-0903 of section 2B . . \$108,024,776

Department of Mental Health.

5011-0100 For the operation of the department; provided, that the department shall not refer or discharge a child or adolescent to the custody or care of the department of social services until the department of mental health forwards its assessment and recommendation as to whether the child or adolescent is appropriate for foster care or, if due to severe emotional disturbance, is more appropriate for group care \$34,918,663

- 5042-5000 For child and adolescent services, including the costs of psychiatric and related services provided to children and adolescents, determined to be medically ready for discharge from acute hospital units or mental health facilities and who are experiencing unnecessary delays in being discharged due to the lack of more appropriate settings; provided, that for the purpose of funding those services, the commissioner of mental health may allocate funds from the amount appropriated herein to other departments within the executive office of health and human services; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than January 15, 2004 on the results of the collaboration between the department and the other departments within the executive office of health and human services; provided further, that the report shall detail the current status of the implementation of clinically appropriate service models for that population of children and adolescents, remaining disparities in the service system which require children and adolescents to be served in unnecessarily restrictive or otherwise clinically inappropriate settings and changes during fiscal years 2002 and 2003 in the clinical acuity of children and adolescents; and provided further, that not less than \$1,800,000 shall be expended from this item in fiscal year 2004 to ensure that a licensed practitioner or a licensed nurse administers medication to children and adolescents whose mental health services are delivered by public or private providers of such services \$65,740,797
- 5046-0000 For adult mental health and support services; provided, that the department shall allocate funds in an amount not to exceed \$5,000,000 from item 5095-0015, to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planning population and the types of services received in each region for fiscal year 2004 not later than February 1, 2004 \$271,620,060
- 5046-2000 For homelessness services; provided, that not less than \$90,000 shall be expended for the provision of health services to the

	homeless and uninsured by primary care and mental health, inc. located in the city of Lynn	\$20,682,363
5046-4000	The department of mental health may expend revenues collected up to a maximum of \$125,000 from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program authorized by chapter 167 of the acts of 1987; provided, that all such fees collected shall be expended for the routine maintenance and repair of facilities in the CHOICE program including the costs of personnel	\$125,000
5047-0001	For emergency service programs and acute inpatient mental health care services; provided, that the department shall continue an interagency service agreement with the division of medical assistance for the purchase of said services and for such other services as said agreement may provide, including, but not limited to, acute inpatient care and diversionary services; provided further, that the most recent savings projection from the implementation of said agreement may be expended for community services in the MM subsidiary, so-called, of this item; provided further, that said emergency service programs shall take all reasonable steps to identify and invoice the third party insurer of all persons serviced by said programs; provided further, that the department shall report to the house and senate committees on ways and means not later than January 30, 2004, on the utilization of said emergency programs and acute inpatient beds by clients of the department during each month of fiscal year 2003; provided further, that said report shall detail the number of clients of the department determined to be eligible for the medicaid program during fiscal year 2003; and provided further, that said report shall detail expenditures made by the division of medical assistance on behalf of clients of the department and those uninsured persons not deemed to be clients of said department from the amounts appropriated in item 5047-0001 of chapter 184 of the acts of 2002 during fiscal year 2003 for said acute inpatient care and emergency services	\$31,016,761
5047-0002	Notwithstanding any general or special law to the contrary, the department may expend revenues on continuing care services in the community in an amount not to exceed \$4,500,000 from increased federal reimbursements collected for services	

rendered in emergency programs and acute inpatient and diversionary settings; provided, that not less than an additional \$2,500,000 from the reimbursements shall be deposited in the General Fund by the close of fiscal year 2004; provided further, that upon such deposit, the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that the amount has been deposited into the General Fund; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 3, 2004 detailing the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served, the types of services purchased by region and the annualized impact of the expenditures in the subsequent fiscal year \$4,500,000

5055-0000 For forensic services provided by the department \$5,968,876

5095-0015 For the operation of adult inpatient facilities, including the community mental health centers; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close psychiatric hospitals managed by the department and shall endeavor within available resources to discharge clients residing in the inpatient facilities to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that the

department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include an examination of the costs, benefits, and effect on quality of services provided by continuing the operation of Worcester State Hospital and shall identify alternative methods of providing the services currently provided by this institution; provided further, that the report shall include: the number of clients transferred from inpatient care into the community, the community supports provided to clients discharged from inpatient care into the community and the current inpatient bed capacity relative to the number of clients in psychiatric hospitals managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at inpatient facilities resulting from the transfer of clients from one facility to another; provided further, that the department shall submit the report not later than December 1, 2003; provided further, that no action to reduce the client population of Worcester State Hospital for the sole purpose of closing the hospital shall be undertaken, and no steps shall be taken to close the institution through attrition, layoffs or any other means until a study of this reduction or closing is completed and the general court shall have approved the closure of Worcester State Hospital by law; and provided further, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities \$156,753,632

OFFICE OF ELDER SERVICES.
Department of Elder Affairs.

9110-0100 For the operation of the executive office; provided, that the secretary shall continue to support community care ombudsman services \$1,612,483

9110-0102	For the regulation of assisted living facilities; provided, that the executive office of elder affairs shall report annually to the house and senate committees on ways and means the number of assisted living units certified and the total revenues generated from application and certification fees for such units	\$243,463
9110-1455	For the costs of the drug insurance program authorized by section 39 of chapter 19A of the General Laws; provided, that amounts received by the executive office of elder affairs' vendor as premium revenue for this program may be retained and expended by the vendor for the purposes of the program; provided further, that not less than \$250,000 shall be made available for the operation of the pharmacy outreach program established by section 4C of chapter 19A; provided further, that not more than \$25,000 shall be made available for the purpose of conducting a cost-benefit analysis and evaluation of the services associated with the pharmacy outreach program established pursuant to section 4C of chapter 19A of the general laws; provided further, that notwithstanding any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs, and the entities with which it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to said section 39 of said chapter 19A shall be the payor of last resort for such program for eligible persons with regard to any other third party prescription coverage or benefits available to such eligible persons; provided further, that the department of elder affairs, through the coordinated prescription drug procurement plan developed by the secretary of health and human services, shall contract with a non-profit pharmacy benefit manager for the management of this program; provided further, that the executive office shall notify the house and senate committees on ways and means not less than 90 days in advance of any action to limit or cap the number of enrollees in the program; provided further, that said program is subject to appropriation and expenditures shall not exceed in fiscal year 2004 the amount authorized herein; provided further, that no action shall be taken to expand the benefits of the program, extend benefits to additional populations or reduce cost sharing in the program	

	without approval of the general court; and provided further, that the department shall file any and all legislation required to implement such actions for review and analysis by the general court	\$96,372,765
4000-0600	For health care services provided to medical assistance recipients under the division's senior care plan; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$9,240,000 shall be expended for the purposes of a demonstration project known as the "community choices" initiative, so-called; provided further, that under the demonstration, eligible MassHealth enrollees in the section 2176 elder care waiver, so-called, shall be covered for any needed community services, including case management, from among those services available under the waiver or under the Commonwealth's Title XIX state plan, for the purpose of delaying or preventing an imminent nursing home admission; provided further, that elders enrolled in the waiver at risk of imminent nursing home admission shall be provided information about the availability of such services; provided further, that for elders who, pursuant to the aforementioned interagency agreement, have been determined to be at such imminent risk, have chosen to remain in the community, and for whom community care is medically appropriate, the division shall establish a funding level that, on a monthly average basis, is equal to fifty percent of the median monthly per capita expenditure made by the division for nursing facility services provided to elders; provided further, that such funding level may include the costs of needed waiver services or other needed community services available to the elders under the state plan, provided further, that the interagency agreement shall be amended to implement the demonstration project and shall describe how the funding level will be made available to meet the costs of needed waiver services or other needed community services available to the elders under the state plan; provided further, that the division shall enter into an agreement with each aging service access point participating in the demonstration, which	

shall describe a system to be followed by each aging service access point, in accordance with state law and requirements under Title XIX of the Social Security Act, for coordination of both waiver and non-waiver community services needed by such eligible elders; provided further, that each aging services access point receiving funds under the demonstration project shall submit monthly reports to the division of medical assistance and to the executive office of elder affairs on the care provided and the service expenditures made under the 2176 elder care waiver and such other information as specified by the division and the executive office; provided further, that executive office of health and human services shall prepare a report on all relevant costs and savings associated with the demonstration project; and provided further, that the report shall be submitted to the house and senate committees on ways and means by April 1, 2004; provided further, that the division shall expend funds for the purpose of funding base hourly wage increases and related payroll taxes for certified nurses' aides at nursing facilities, in accordance with 114.2 CMR 6.00 et seq.; provided further, that effective January 1, 2002, such wage increases shall be over and above any previously collectively bargained for wage increases; provided further, that the division shall report to the house and senate committees on ways and means on the increases given at each facility by February, 1, 2004; provided further, that the division shall in correlation with the senior care options program explore options for enrolling the senior care population into managed care programs through federal waivers or other necessary means; provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003; provided further, that within the amount to be expended in fiscal year 2004 on title XIX home health services, the division shall establish and implement a demonstration project to allow for the use of technology in the provision of home health services; provided further, that said demonstration project shall establish a tiered rate system of reimbursement under the Medicaid program; provided further, that technology shall include the following: information services and devices that make documentation, charting, and

staff time more efficient or that encourages and allows for care through alternative settings including but not limited to touch screens, monitors, hand-helds, wipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions; provided further, that said division shall not expend funds related to the demonstration project for services that are not eligible for federal reimbursement under Title XIX of the federal Social Security Act of any related 1115 waiver; and provided further, that the division shall report to the house and senate committees on ways and means not later than December 1, 2003 any cost savings achieved by said project, outcomes measures and patient satisfaction information \$1,522,530,000

9110-1500 For the provision of enhanced home care services, including case management to elders who meet the eligibility requirements of the home care program and who need services above the level customarily provided under the program to remain safely at home, including elders previously enrolled in the managed care in housing, enhanced community options, and chronic care enhanced services programs; provided further, that the secretary shall actively seek to obtain federal financial participation for any and all services provided to seniors who qualify for Medicaid benefits pursuant to the section 2176 waiver \$37,488,337

9110-1604 For the operation of the supportive senior housing program \$1,940,000

9110-1630 For contracts with aging service access points or other qualified entities for the home care program, including home care, health aides, home health and respite services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of sliding fees in cases of extreme financial hardship; provided further, that not more than \$7,500,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues

	accrued from the sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2004 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who provide state-funded homemaker and home health aid services, which would cause a reduction in client services; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1633 for case management services and the administration of the home care program	\$94,158,158
9110-1633	For contracts with aging service access points, so-called, or other qualified entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1500; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and other costs deemed appropriate by the executive office of elder affairs; provided further that no funds appropriated in this item shall be expended for the enhancement of management information systems; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1630	\$34,941,978
9110-1636	For the elder protective services program, including protective services case management, the statewide elder abuse hotline, money management services and the elder-at-risk program; provided, that not more than \$480,000 may be expended for guardianship services	\$9,604,137
9110-1660	For congregate and shared housing services for the elderly; provided, that not less than \$50,000 shall be expended for congregate housing services at the Tuttle House facility in Dorchester; provided further, that not less than \$100,000 shall be allocated to the Committee to End Elder Homelessness, Inc; and provided further, that not less than \$40,100 shall be allocated to North Shore Elder Services	\$1,309,680

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9110-1900	For the elder lunch program; provided, that not less than \$30,000 shall be expended for a youth/elder outreach position at the Roche Family Community Center in West Roxbury	\$3,984,441
9110-9002	For the local services program for grants to the councils on aging and for grants to or contracts with non-public entities which are consortia or associations of councils on aging; provided, that notwithstanding the foregoing, all monies appropriated in this item shall be expended in accordance with the distribution schedules for formula and incentive grants established by the secretary; and provided further, that such distribution schedules shall be submitted to the house and senate committees on ways and means	\$5,900,000

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

6000-0100 For the office of the secretary of transportation and construction; provided, that the office shall collaborate with the department of transitional assistance in its efforts to develop a program of transportation services for current and former recipients of the transitional aid to families with dependent children program pursuant to item 4401-1000; provided further, that the office shall submit to the joint committee on transportation and the house and senate committees on ways and means monthly reports detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing 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 for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of

the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of the executive office of transportation and construction in collaboration with the commissioner of highways shall file a report each year with the joint committee on transportation and the house and senate committees on ways and means by June 30, 2004 and the last day of each subsequent fiscal year; provided, that the report shall include spending in the commonwealth through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects within the commonwealth; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that the office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0001 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; and provided further, that the reports shall delineate the information for full time employees, part-time employees and contracted personnel; provided, that notwithstanding any general or special law to the contrary, the secretary is hereby

	authorized and directed to proceed forthwith on the Route 128 add-a-lane project, so-called, in a manner consistent with the design-build provisions pursuant to section six of chapter 53 of the Acts of 1999 in order to expedite said project and to effectuate the immediate preservation of the public convenience; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements	\$207,956
	Highway Fund	\$100.00%
6000-0110	The executive office of transportation and construction may expend, for the purpose of property management and maintenance of railroad properties owned by said executive office on behalf of the commonwealth, including the cost of personnel, an amount not to exceed \$27,344 from the rents and fees received pursuant to section 4 of chapter 161C of the General Laws	\$27,344
6005-0015	For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program, and the inter-city bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 2003 and ending June 30, 2004, may enter into contracts with the authorities; provided further, that notwithstanding section 152A of chapter 161, and section 23 of chapter 161B of the General Laws, the amount shall be at least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in fiscal year 2003 shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon the cities and towns shall be at least 25 per cent of the net cost of service; provided further, that in the event that 25 per cent of the net cost of service of each authority exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service, for which the cities and towns have not previously been assessed, as allowed by chapter 580 of the acts of 1980,	

the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 2004 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2003; provided further, that for the purposes of this item operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with Disabilities Act, or new services implemented after July 1, 1999 in an amount not to exceed a total of \$3,613,905 for the 15 regional transit authorities; provided further, that the new services must have first received approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of the new services shall be assessed to the cities and towns of the appropriate transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides the new services must file a report with the house and senate committees on ways and means and the joint committee on transportation, detailing the total costs and revenues associated with the new service; provided further, that the cost of the new services shall not annualize to more than \$3,613,905; provided further, that not later than January 1, 2004, each of the 15 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing any and all revenues collected as a result of services provided pursuant to item 4401-1000; provided further, that the executive office of transportation and construction will work cooperatively with the authorities and other public and private funding sources to maximize new revenues sources to expand transit services; provided further, that the authorities and the executive office of transportation and construction will develop processes and procedures for contracts for services with other state agencies; provided further, that the executive office of transportation and construction and the authorities shall develop a five-year transit plan for operational and capital objectives that the parties can measure against and plan toward and shall file the plan with the house and senate committees on way and means

no later than April 1, 2004; provided further, that the executive office of transportation and construction and the authorities will work cooperatively to implement multi-year contracting for regional transit authority capital projects, particularly for construction projects and other multi-year commitments of the authorities; provided further, that the regional transit authorities shall implement structural, managerial and administrative reforms in order to achieve cost savings in services provided by the authorities; provided further, that the reforms shall include, but not be limited to, improved financing procedures for capital needs, approved plans for short- and long-term service, a coordinated program of mass transportation for the regional transit authorities that provides standards of service for the authorities for types of service, passenger miles, hours of service, cost of service by route and mile and passenger, non-transportation revenue and system revenue generating options included, but not limited to, fare revenue and advertising revenue, assessments on member cities and towns, net operating investment per passenger-mile ratio and service quality standards; provided further, that the program shall involve an approach to service coordinated with the Massachusetts Bay Transportation Authority and other transit providers in order to achieve maximum efficiency of regional transit authority service routes; provided further, that all regional transit authorities shall achieve the fair recovery ratio of 40 per cent within 48 months from the effective date of this act; and provided further, that the Massachusetts Association of Regional Transit Authorities shall on or before November 15, 2003, report to the joint committee on transportation and the house and senate committees on ways and means on the operations of the authorities in the first half of fiscal year 2004, and focus the report on the reforms and improvements \$47,782,640

General Fund \$80.00%

Highway Fund \$20.00%

6005-0105 For the commission to study and report on the administration of highways in the commonwealth, pursuant to section 596 of this act \$100,000

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Massachusetts Aeronautics Commission.

6006-0003 For the administration of the commission, including the expenses of the commissioners \$533,256

Department of Highways.

6010-0001 For personnel costs of the department of highways, for certain administrative and engineering expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges; provided, that funds appropriated in this item shall be the only source of funding for overtime expenses associated with the department's snow and ice control efforts; provided further, that notwithstanding any general or special law to the contrary the department may expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall develop a plan to phase into the budgetary appropriation all personnel costs expended from capital authorizations after June 30, 2002; provided further, that the phase in of these costs shall be complete by June 30, 2005; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of the department, and for all administrative and personnel expenses of the department charged to such bonds; provided further, that such reports shall be filed not later than 30 days after the end of each quarter; provided further, that notwithstanding any administrative bulletin or general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided further, that the department shall not be subject to section 36A of chapter 30 of the General Laws

and section 22 of chapter 7 of the General Laws, but shall submit to the secretary of transportation and construction for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7; provided further, that the department shall provide the house and senate committees on ways and means a quarterly report of repairs requiring said secretary's approval; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C and for costs associated with police services and overtime within the areas shall be paid from this item; provided further, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair; provided further, that notwithstanding any general or special law to the contrary, the department of highways, in furthering cost effective management of the commonwealth's infrastructure, may implement a statewide corrosion mitigation program utilizing electrochemical corrosion passivation or chloride extraction treatment of steel reinforced concrete structures, as a means of stopping existing corrosion and monitoring and preventing the initiation of new corrosion; provided further, that the electrochemical corrosion passivation or chloride extraction treatment method that may be utilized, which 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 on the surface potentials on the steel reinforcement; provided further, that the department of highways may amend its contractor prequalification program to include a new class of work for this specialty infrastructure repair process; provided further, that the department shall report to the joint committee on transportation and the chairmen 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; and provided further, that said report shall be due no later than February 1, 2004 \$35,785,842
Highway Fund \$100.00%

Board of Library Commissioners.

- 7000-9101 For the operation of the board of library commissioners \$891,182
- 7000-9401 For state aid to regional public libraries; provided, that the board of library commissioners may provide quarterly advances of funds for purposes authorized by clauses (1) and (2) of section 19C of chapter 78 of the General Laws, as it deems proper, to regional public library systems throughout each fiscal year, in compliance with the office of the comptroller's regulations on state grants, 815 CMR 2.00; provided further, that notwithstanding said section 19C of said chapter 78 or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to \$1.06 per resident in the commonwealth; provided further, that notwithstanding any general or special law to the contrary, the board of library commissioners may grant waivers, in excess of the waiver limit set forth in the second paragraph of section 19A of said chapter 78, to any library for a period of not more than 1 year; and provided further, that notwithstanding any general or special law to the contrary, in calculating the fiscal year 2004 distribution of funds appropriated herein, the board of library commissioners shall employ population figures used to calculate the fiscal year 2003 distribution \$14,980,361
- 7000-9402 For the talking book library at the Worcester public library \$318,777
- 7000-9406 For the braille and talking book library at Watertown, including the operation of the machine lending agency \$1,628,550
- 7000-9501 For state aid to public libraries; provided, that notwithstanding any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of the city or town for free public library services is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the three years immediately preceding; provided further,

that, notwithstanding any general or special law to the contrary, the board of library commissioners may grant waivers in excess of the waiver limit set forth in the second paragraph of section 19A of chapter 78 of the General Laws in fiscal year 2004 for a period of not more than one year; provided further, that notwithstanding any general or special law to the contrary, of the amount by which this item exceeds the amount appropriated in chapter 194 of the acts of 1998, funds shall be distributed under the guidelines of the municipal equalization grant program and under the guidelines for the library incentive grant program; and provided further, that any payment made under this item shall be deposited with the treasurer of the city or town and held as a separate account and shall be expended by the public library of such city or town without appropriation, notwithstanding any general or special law to the contrary \$7,339,844

7000-9506 For the technology and automated resource sharing networks \$341,811

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT.

Office of the Secretary.

7002-0010 For the office of the Secretary of the Executive Office of Economic Development, provided, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements \$250,000

Department of Labor.

7002-0200 For the operation of the division of occupational safety; provided, that the division may employ staff not subject to chapter 31 of the General Laws for a program to evaluate asbestos levels in public schools and other public buildings; and provided further provided, that funds shall be expended from this item for the GG subsidiary costs of the board of conciliation and arbitration, the division of apprentice training, the labor relations commission and the division of occupational safety \$2,371,669

7002-0201 The division of occupational safety may expend an amount not to exceed \$152,850 received from fees authorized pursuant to this act \$152,850

7002-0500 For the operation and administrative expenses of the division of

industrial accidents; provided, that not less than \$800,000 shall be expended for occupational safety training grants; provided further, that said division shall submit a report not later than February 1, 2004 to the house and senate committees on ways and means detailing the scope, objective and results of such grant recipients' safety training program; provided further, that funds appropriated in this item in excess of the fiscal year 2003 spending level for such grants shall be a one-time fiscal year 2004 expense; provided further, that the General Fund shall be reimbursed the amount appropriated in this item and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws; provided further, that the division shall assign a judge to hear cases in the county of Berkshire not less than once a month; provided further, that not more than \$150,000 shall be expended for the division to offer online conciliation and conference dispute resolution services through electronic arbitration; provided further, that on February 1, 2004 the division shall submit to the house and senate committees on ways and means a report projecting the annual savings to the Massachusetts workers' compensation system under full implementation of an electronic arbitration program; and provided further, that the treasurer may release to the division, subject to adequate and appropriate documentation of the need, to the workers' compensation advisory council and the affirmative vote of at least 7 members of the workers' compensation advisory council, sufficient funds from the special reserve account established in clause (c) of subsection (4) of said section 65 of said chapter 152 to pay for expenses to continue expansion of the conversion of the agency's computer system from unify to oracle \$18,698,357

7002-0600 For the operation of the labor relations commission \$833,316

7002-0700 For the operation of the joint labor management committee for
municipal police and fire \$447,959

7002-0800 For the operation of the board of conciliation and arbitration \$514,978

Division of Workforce Development.

7002-0100 For the administration of the department of workforce develop-
ment, including the divisions under the control of the depart-

ment; provided, that, on January 4, 2004 and April 1, 2004, the director of the department of workforce development shall submit to the house and senate committees on ways and means a comprehensive report describing in detail the job training services, including laborexchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year in the commonwealth, describing the systems for delivery of such services, describing the costs of such services and the sources of revenue for such services \$150,000

7002-0101 For the operation of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter 31 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, the deputy director shall require each apprentice entering into a written agreement to submit an application to the division for an apprentice identification card; provided further, that the application shall be accompanied by a fee of \$35 and paid by the apprentice or the program sponsor, together with photographic prints as required by the deputy director; provided further, that the first \$125,000 of the fees collected by the division for this identification card program shall be deposited into the General Fund; provided further, that the second \$125,000 of said fees shall be deposited into the special trust account created to fund and maintain the identification card program pursuant to chapter 357 of the acts of 2002 and the remainder of all fees collected shall be deposited into the General Fund; provided further that, an apprentice identification card shall contain the photograph of the apprentice, the apprentice registration number or such other number as the deputy director requires, the name and business address of the appropriate apprenticeship committee or single employee sponsor, the steps of progression and related dates applicable to the apprentice, and the projected date on which the apprentice is projected to complete the apprenticeship; provided further, that as a condition of his apprenticeship the apprentice shall keep the apprentice identification card on his person during his hours of employment during the apprenticeship; provided further, that any apprentice performing work on a project or projects subject to

this item shall maintain in his possession an apprentice identification card; provided further, that any apprentice who is determined by the deputy director to be un-enrolled in related classroom instruction classes shall be paid at the journey level rate for the duration of the public works project or projects; and provided further, that for every week in which an apprentice is employed by a contractor, subcontractor, or public body subject to this section, a photocopy of said apprentice's apprentice identification card, shall be attached to the records submitted under this item \$420,000

7003-0701 For grants and technical assistance administered by the department of workforce development, pursuant to section 2RR of chapter 29 of the General Laws and for the cost of collecting the assessment established in section 14L of chapter 151A of the General Laws; provided that said department shall reimburse the division of unemployment assistance for the agreed costs of collecting said assessment; provided further that the department of workforce development shall provide a report on the grants and technical assistance programs authorized herein detailing the firms receiving grants, by number of employees, revenues, and industry, to the house and senate ways & means committee by January 15, 2004; provided further, that said report shall include specific measures of how grant recipients were able to increase job growth, retention rates, and productivity as a result of the grants; provided further, that said report shall include measures of whether training participants received promotions and increased incomes as a result of training; provided further, that not more than \$3,000,000 shall be expended for direct technical assistance pursuant to clause (2) of subsection (b) of said section 2RR of said chapter 29; provided further, that of said \$3,000,000, not less than \$75,000 shall be provided to the Workforce Investment Board Association to support the activities of business, labor, education, youth councils, and community members in leading regional workforce development systems; provided further, that of said \$3,000,000 that each of the 16 workforce investment boards shall receive \$75,000 in fiscal year 2004; provided further, that of said \$3,000,000 that each of said boards shall receive \$20,000 for youth councils, so-called; and provided further, that the director shall demonstrate that

	each dollar expended generates not less than \$5 in private investment in job training	\$10,112,000
	Workforce Training Fund	\$100.00%
7003-0702	For grants to be administered by the Department of Workforce Development; provided that not less than \$900,000 shall be expended on the Massachusetts Service Alliance; provided further, that not less than \$850,000 be expended for the Massachusetts Manufacturing Extension Partnership; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the Southeastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; provided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$150,000 shall be expended for the center for women and enterprise; provided further, that not less than \$139,500 shall be expended for the Just-A-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from the transitional aid to families with dependent children program; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further, that not less than \$100,000 be expended for the Aberjona River plan; provided further, that not less than \$100,000 be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$100,000 shall be expended for minority training in Hampden County; provided further, that not less than \$100,000 shall be expended on the Jackson-Appleton-Middle-	

sex plan, so called, in the city of Lowell; provided further, that not less than \$90,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$75,000 shall be provided to the Workforce Investment Association of MA, Inc. for the purpose of assisting administrators, career center directors, and fiscal agents; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative operated by the Metro South/West Regional Employment Board for the development of Technology Centers of Excellence serving the region's youth and businesses, and said grant shall require a 200 percent match from the private sector; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; and provided further, that not less than \$7,500 shall be provided for the Bonnie Brae Camp in the city of Gardner; \$3,974,000
Workforce Training Fund 100.00%

Office Of Consumer Affairs and Business Regulation.

7006-0000 For the office of the director of consumer affairs and business regulation, including expenses of an administrative services unit \$1,439,583

Division of Banks.

7006-0010 For the operation of the division of banks; provided, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon financial institutions which the division currently regulates pursuant to powers granted to the division by the General Laws, a special law or state regulations; provided further, that this assessment will be in addition to any and all assessments that the division currently assesses upon financial institutions and will be made at a rate sufficient to produce \$11,069,851 in additional revenue that will pay for this item \$11,069,851

Division of Insurance.

7006-0020 For the operation of the division of insurance, including the expenses of the board of appeal on motor vehicle policies and bonds, and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to the provisions of chapter 31 of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by section 1 of chapter 5 of the General Laws; provided further, that the division shall maintain a phone system in its western Massachusetts office that will immediately transfer calls made to that office to the consumer assistance office in Boston during any business hours when the western Massachusetts office is closed; provided further, that the division shall have an employee or other such person answering all initial incoming telephone calls, excluding all direct in-dial calls, between the hours of 9:00 a.m. and 5:00 p.m.; provided further, that the division shall designate an employee to handle all incoming calls relative to chapter 218 of the acts of 1995 or regulations promulgated under section 2 of said chapter 218; and provided further, that notwithstanding any general special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon the institutions which the division currently regulates except for licensed business entity producers pursuant to powers granted to said division by the General Laws, a special law or state regulations; and provided further, that this assessment will be in addition to any and all assessments that the division currently assesses upon said institutions and will be made at a rate sufficient to produce \$9,539,795 in additional revenue that will pay for this item . . . \$9,539,795

Division of Professional Licensure.

7006-0040 For the operation and administration of the division of professional licensure; provided, that of the funds appropriated in this item, sufficient monies shall be expended for the reduction of case backlog at the boards of registration; provided further, that the division shall at all times employ not

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less than 2 hearing officers to facilitate the processing of cases pending before the various boards; provided further, that the position of investigator of radio and television technicians shall not be subject to chapter 31 of the General Laws; and provided further, that the division shall maintain and staff an office in the city of Springfield \$3,427,072

Division of Standards.

- 7006-0060 For the operation of the division of standards \$657,765
- 7006-0066 For the support of the division of standard's municipal inspection efforts; provided, that up to 15 per cent of the amount appropriated herein may be expended for administrative costs of the division \$300,000
- 7006-0067 The division of standards may expend for enforcement of weights and measures laws an amount not to exceed \$358,900 from revenues received from item pricing violations collected through municipal inspection efforts, and from weights and measure fees and fines collected from cities and towns \$358,900
- 7006-0068 The division of standards may expend an amount not to exceed \$450,000 from revenue received from license fees assessed to owners of motor vehicle repair shops \$450,000

Department of Telecommunications and Energy.

- 7006-0070 For the operation and administration of the department of telecommunications and energy including the community antenna television division; provided, that notwithstanding the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied pursuant to said first paragraph of said section 18 of said chapter 25 for fiscal year 2004 shall be made at a rate sufficient to produce \$6,910,413; provided further, that the department shall maintain a toll free consumer access telephone number to facilitate statewide citizen access on customer service issues in the delivery of cable television services \$6,910,413
- 7006-0080 For the operation of the transportation division \$532,951
- 7006-0090 The department of telecommunications and energy may expend revenues collected up to \$75,000 for the operation of the energy facilities siting commission \$75,000

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State Racing Commission.

7006-0110 For the operation of the state racing commission \$2,096,243

Division of Energy Resources.

7006-1001 For the residential conservation service program pursuant to chapter 465 of the acts of 1980, and the commercial and apartment conservation service program pursuant to section 11A of chapter 25A of the General Laws \$197,715

Department of Business and Technology.

7007-0100 For the office of the director of the department of business and technology \$389,123

7007-0300 For the operation of the Massachusetts office of business development and for marketing and promoting the commonwealth in order to attract and retain targeted businesses and industries; provided, that the office shall maintain business development assistance services at an office to be located at the University of Massachusetts at Dartmouth for the purposes of responding to inquiries and providing assistance to businesses seeking to expand or relocate to southeastern Massachusetts; provided further, that not more than 10 per cent of the funds appropriated in this item for each regional planning commission shall be used for administrative costs \$1,381,277

7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth \$200,000

7007-0515 For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less that \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998 \$550,000

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7007-0800	For a grant for the state match for a small business development center; provided, that no funds shall be expended from this item until such time as the United States small business administration has made a payment or has executed a contract to pay the University of Massachusetts at Amherst for the operation of the center; provided further, that the funds expended from this item shall not exceed 25 per cent of the gross operating cost of said center; provided further, that not more than \$300,000 of the amount appropriated herein shall be expended for the purpose of operating federal procurement technical assistance services within said center; provided further, that the services, shall include, but not be limited to, assisting businesses in securing federal contracts, obtaining contract financing, generating responses to requests-for-proposals, interpreting bid documents, providing educational workshops and seminars, and the electronic identification and tracking of federal bid opportunities; provided further, that the expenditure of said \$300,000 shall be subject to the receipt of matching funds from federal or private sources including the department of defense; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means	\$1,146,448
7007-0900	For the operation and administration of the office of travel and tourism; provided, that performance-based standards shall be incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided further, that not more than \$2,000,000 of the amount appropriated herein shall be expended for international marketing and tourism promotion and administration; provided further, that expenditures on international and domestic promotion and administration shall be separately accounted for in the Massachusetts Management Accounting and Reporting System; provided further, that said office shall be required to make travel arrangements for all international travel not less than 7 days before departure; provided further, that the office shall dedicate 1 full-time equivalent employee to the advisory commission on travel and tourism; and provided further that the office shall make every effort to develop tourism in under-visited regions of the commonwealth	\$6,045,000
	Tourism Fund	\$100.00%

7007-0950 For grants to public and private nonprofit local and regional organizations to be awarded by the Massachusetts office of travel and tourism for tourism promotion; provided, that the organizations shall be required, as a condition of receiving a grant, to submit a total operating budget which identify each source and use of operating and capital funds; provided further, that the grant shall not replace or supplant funding otherwise available to said centers from local chambers of commerce, regional tourist councils, and other public or private funding sources; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2004 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston; provided further, that notwithstanding any general or special law to the contrary, a grant of not less than \$250,000 shall be transferred from this item to the Massachusetts office of business development for regional tourism and economic development in Southeastern Massachusetts including the Southcoast Development Project; provided further, that not less than \$250,000 shall be granted to the Southcoast Development Partnership for the purposes of regional tourism and economic development in Southeastern Massachusetts; provided further, that not less than \$250,000 be expended for the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$200,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that not less than \$155,977 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$100,000 shall be allocated for the I-495 Technology Corridor Initiative; provided further, that not less than \$95,000 be expended for a grant to the Russian Community Association; provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided

further, that \$75,000 shall be expended for the Cape Cod Economic Development Council, Inc.; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$75,000 be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for the 25th anniversary of the Caribbean Council; provided further, that not less than \$45,000 shall be expended to perform a cost assessment of an economic development project at South Harbor in the city of Lynn; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$40,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$37,813 shall be expended for the New Bedford Art Museum; and provided further, that not less than \$25,000 shall be expended for the economic development project at the Salisbury Chamber of Commerce \$2,533,321

Tourism Fund 100.00%

7007-1000 For assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; provided, that notwithstanding any general or special law, regulation or rule to the contrary, each of said councils may expend an amount not to exceed 15 per cent of the grant it receives herein for the cost of administrative services \$6,929,211

Tourism Fund \$100.00%

7007-1200 For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that such clusters may be characterized by technological or market focus, geographic proximity or other shared interests; provided further, that cluster activities shall be deemed to be the exercise of an essential governmental function intended to: (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the

	commonwealth through 1 or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that amounts appropriated in this item shall be expended to the Massachusetts Technology Park Corporation to be held, applied and administered through its Massachusetts Technology Collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated in this item; and provided further, that the executive director shall file a report with the house and senate committees on science and technology and the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 15,2004	\$547,000
7007-1300	For the operation of the Massachusetts international trade council	\$169,390
	Tourism Fund	100.00%
7007-1500	For the operation and administration of the state office of minority and women business assistance; provided, that said office shall administer an electronic business certification application which shall be accessible to business applicants through use of the Internet; provided further, that said office shall ensure the integrity and security of personal and financial information transmitted by said electronic application; provided further, that said office shall, using all existing available resources, provide certification services within each of the one-stop regional assistance centers of the Massachusetts office of business development; and provided further, that the office shall develop and implement measures and procedures to continue to improve the efficiency and the timeliness of the certification process	\$584,000

Department of Housing and Community Development.

7004-0000	For the commonwealth development coordinating council	\$250,000
7004-0001	For the Indian affairs commission	\$92,976
7004-0099	For the operation of the department of housing and community development; provided, that notwithstanding any general or special law to the contrary, the department may make expend-	

itures for the purposes of the department against federal grants for certain direct and indirect costs pursuant to a cost overhead allocation plan approved by the comptroller; provided further, that the comptroller shall establish and designate an account on the Massachusetts management accounting and reporting system for the purpose of making such expenditures; provided further, that expenditures made against the account shall not be subject to appropriation and may include the cost of personnel; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means on object code expenditures made against the account; provided further, that notwithstanding any general or special law, rule, or regulation to the contrary, the department of housing and community development may conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9011, 7004-9014, 7004-9019, 7004-9020, 7004-9024 and 7004-9030; provided further, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of the social security number of an applicant or tenant and members of such applicant's or tenant's household for use in verification of income eligibility; provided further, that said department may deny or terminate participation in subsidy programs for failure by an applicant or a tenant to provide a social security number for use in verification of income eligibility; provided further, that said department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it deems necessary to conduct such income verification; provided further, that notwithstanding the provisions of any general or special law to the contrary, such state agencies shall consult and cooperate with said department and furnish any information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that for the purposes of conducting such income verification, the director of said department may enter into an interdepartmental service agreement with the commissioner

of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in such federally assisted housing programs and that of members of the participants' households; provided further, that for the purposes of clarification only, notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, said department may authorize neighborhood housing services corporations to retain, re-assign, and reloan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program; provided further; that not more than \$100,000 shall be expended for the Hungry Hill Community Development Corporation; provided further, that not less than \$20,000 shall be expended for Methuen-Arlington Neighborhood, Inc.; provided further, that not more than \$50,000 shall be expended for the Jackson Mann Community Center and the Commonwealth Housing Development in Allston-Brighton for the continued operation of community technology centers; and provided further, that the department shall report to the house and senate committees on ways and means not later than March 1, 2004 on possible savings and efficiencies through consolidation of services and counseling \$5,272,586

7004-3036 For housing services and counseling; provided, that not less than \$200,000 shall be expended as grants for the operation of 9 regional housing consumer education centers operated by the regional nonprofit housing authorities; provided further, that the grants shall be through a competitive application process pursuant to criteria created by the department; provided further, that the department shall report to the house and senate committees on ways and means not later than February 1, 2004 on possible savings and efficiencies through consolidation of said services and counseling; provided further, that not less than \$141,000 shall be expended for the Just-A-Start Corporation to administer a housing stabilization conflict management services program to prevent homelessness; provided further, that \$80,925 shall be expended for the Central Massachusetts Housing Alliance; and provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees \$421,925

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7004-4314	For the expenses of a service coordinators program established by the department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in said housing	\$490,401
7004-8878	For the private rental housing development action loan program; provided, that notwithstanding any general or special law to the contrary, no new commitments, contracts or renegotiations of existing contracts shall be entered into during fiscal year 2004 or any subsequent fiscal year	\$1,704,919
7004-9005	For subsidies to housing authorities and nonprofit organizations for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to sections 32 and 40 of chapter 121B of the General Laws; provided, that notwithstanding any general or special law to the contrary, all housing authorities operating elderly public housing shall offer first preference for elderly public housing units which are vacant as of the effective date of this act, and thereafter, to those persons 60 years of age or older on June 30, 1995, receiving rental assistance from the Massachusetts rental voucher program; provided further, that said department may expend funds appropriated in this item for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve included in the budgets of housing authorities; provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees; provided further, that the amount appropriated herein shall be deemed to meet any and all obligations pursuant to said sections 32 and 40 of said chapter 121B; provided further, that any new reduced rental units developed in fiscal year 2004 eligible for subsidies pursuant to this item, shall not cause any annualization that results in an amount exceeding the amount appropriated in this item; and provided further, that all funds in excess of normal utilities, operations, and maintenance costs may be expended for capital repairs	\$25,421,292
7004-9024	For a program of rental assistance for low-income families and elderly persons through mobile and project-based vouchers;	

provided, that rental assistance shall only be paid pursuant to a program to be known as the Massachusetts rental voucher program; provided further, that the income of the households shall not exceed 200 per cent of the federal poverty level; provided further, that the department may award mobile vouchers to eligible households currently occupying project-based units, that shall expire due to the nonrenewal of project-based rental assistance contracts; provided further, that the department, as a condition of continued eligibility for vouchers and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices; provided further, that any household in which a participant or member of a participant's household shall fail to provide a social security number for use in verifying the household's income and eligibility shall no longer be eligible for a voucher or to receive benefits from the voucher program; provided further, that the vouchers shall be in varying dollar amounts and shall be set by said department based on considerations, including, but not limited to, family size, composition, income level and geographic location; provided further, that notwithstanding any general or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of the mobile vouchers or the project-based units; provided further, that any household which is proven to have caused intentional damage to their rental unit in an amount exceeding 2 month's rent during any 1-year lease period shall be terminated from the program; provided further, that notwithstanding any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall be re-assigned within 90 days; provided further, that said department shall pay agencies \$25 per voucher per month for the costs of administering the program; provided further, that the costs of administration shall not exceed 6 per cent of the appropriation provided in this item; provided further, that the 6 per cent shall include, but not be limited to, all expenditures which may be made by the department to conduct or otherwise contract for rental voucher program inspections; provided further, that subsidies shall not be reduced for the

cost of accommodating the cost of the inspections; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, or project-based voucher, but each household shall pay at least 30 per cent of its income as rent; provided further, that the department shall establish the amounts of the mobile vouchers and the project-based vouchers, so that the appropriation in this item is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that ceiling rents shall not be enforced by the department; provided further, that the households holding mobile vouchers shall have priority for occupancy of the project-based dwelling units in the event of a vacancy; provided further, that the department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12-month contract which shall be executed by the participant and the department; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting and education, as defined in regulations promulgated by the department and to the extent such programs are available; provided further, that each participant shall be required to undertake and meet any such contractually established obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such 12-month contract on or before September 1, 2003 if his annual eligibility recertification date occurs between June 30, 2003 and September 1, 2003 and otherwise on or before his annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under particular circumstances; provided further, that the department shall submit an annual report to the secretary of administration and finance and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers by income level and the number and types of units leased that are funded from

this item; provided further, that no funds shall be expended from this item in the AA subsidiary for the compensation of state employees; provided further, that the department may assist housing authorities, at their written request, in the immediate implementation of a homeless prevention program utilizing alternative housing resources available to them for low income families and the elderly by designating participants in the Massachusetts rental voucher program as at risk of displacement by public action through no fault of their own; provided further, that participating local housing authorities may take all steps necessary to enable them to transfer mobile voucher program participants from the Massachusetts rental voucher program into another housing subsidy program; and provided further, that the department of housing and community development shall strive to avoid a reduction in the value of the Massachusetts rental voucher from its value as of June 30, 2003 \$22,688,557

7004-9030 For the transitional rental assistance program established pursuant to chapter 179 of the acts of 1995; provided, that notwithstanding any general or special law to the contrary, said transitional rental assistance shall be in the form of mobile vouchers, so-called; provided further, that said vouchers shall be in varying dollar amounts set by the department on considerations including, but not limited to, household size, composition, household income and geographic location; provided further, that any household which is proven to have caused intentional damages to their rental unit in an amount exceeding 2 month's rent during any 1 year shall be terminated from the program; provided further, that said department shall pay agencies that administer said program an allowance not to exceed \$25 per voucher per month for the costs of administration; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, so-called, but each household shall be required to pay not less than 25 per cent of their net income, as defined in regulations promulgated by said department, for units if utilities are not provided by the unit owner, or not less than 30 per cent of their income for units if utilities are provided by the unit owner; provided further, that payments

for said transitional rental assistance may be provided in advance; provided further, that said department shall establish the amounts of the mobile vouchers, so that the appropriation herein is not exceeded by payments for rental assistance and administration; provided further, that said department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent" as used in this item shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that said department shall submit an annual report to the budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; provided further, that nothing stated herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to any form of housing; provided further, that consistent with chapter 179 of the acts of 1995 the amount appropriated herein shall not annualize to more than \$2,700,000 in fiscal year 2005; and provided further, that said program shall provide funding for not more than 800 mobile vouchers \$2,700,000

7004-9033 For rental subsidies to eligible clients of the department of mental health; provided, that the department shall establish the amounts of said subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein \$2,000,000

7004-9201 For interest subsidies for the private development of affordable housing; provided, that notwithstanding any general or special law to the contrary, no new commitments shall be entered into during fiscal year 2004 for said fiscal year or any subsequent fiscal years \$6,472,904

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7004-9315 For the low income housing tax credit program; provided, that the department may expend an amount not to exceed \$1,500,000 accrued from fees collected for the regulation of TELLER projects undertaken pursuant to clause (m) of section 26 of chapter 121B of the General Laws from fees collected pursuant to Executive Order No. 291, pertaining to low-income housing tax credits, for the costs of administering and monitoring the programs, including the costs of personnel, subject to the approval of the director of said department; and provided further, that notwithstanding any general or special law to the contrary and 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, prior appropriation continued \$1,500,000

Department of Education.

7010-0005 For the operation of the department of education; provided, that not less than \$150,000 shall be expended for the office of school readiness; provided further, that the department of education, in collaboration with the Governor's Commission on Gay and Lesbian Youth, implement the board of education's recommendations on the support and safety of gay and lesbian students \$9,336,084

7010-0012 For grants to cities, towns and regional school districts for payments of certain costs incurred under the program for the elimination of racial imbalance; provided, that grants to cities, towns and regional school districts shall be limited to actual and specifically incurred documented incremental costs including those costs pursuant to chapter 71B of the General Laws as a direct consequence of participation in the program whenever the reimbursements requested by such city, town or regional school district exceed the level of reimbursement received in fiscal year 1977; provided further, that the division of elementary, secondary and occupational education shall, through a competitive procurement process, contract with qualified school transportation business enterprises; and provided further, that funds shall be made available for pay-

	ment for services rendered by METCO, Inc. and Springfield public schools	\$13,615,313
7010-0017	For grants to charter schools; provided, that the board of education may award grants to charter schools established under section 89 of chapter 71 of the General Laws; provided further, that said grants shall be awarded to support costs associated with planning and development of the schools and for the leasing or construction of school facilities; provided further, that charter schools shall submit requests for the grants to the board of education; and provided further, that grants shall be awarded pursuant to guidelines developed by the board	\$2,301,790
7027-0016	For matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for such programs in consultation with the department of labor and workforce development; provided further, that any funds distributed from this item to cities, towns or regional school districts shall be deposited with the treasurer of the city, town, or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding any general or special laws to the contrary; provided further, that each grant awarded herein shall be matched by the recipient from local, federal, or private funds; provided further, that the board of education may determine the percentage match required on an individual grant basis; provided further, that the department of education shall make available a payment of \$596,883 for the state's matching grant for the CS-squared program at the Corporation for Business, Work and Learning; provided further, that the department of education shall make available a payment of \$942,191 to Jobs for Bay State Graduates, Inc., for the purpose of school-to-work activities; and provided further, that the department of education shall make available a payment of \$42,975 to the Blue Hills regional vocation school for the School to Careers Partnership to fund a teacher externship program and a student internship program	\$1,582,049
7027-0019	For school-to-career connecting activities; provided, that notwithstanding any general or special law to the contrary, the board of education, in cooperation with the department of labor and workforce development and the state workforce investment	

board, may establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program; provided further, that such program may include the award of matching grants to workforce investment boards or other local public-private partnerships involving local community job commitments and work site learning opportunities for students; provided further, that the grants shall require at least a 200 per cent match in wages for the students from private sector participants; provided further, that the program shall include, but not be limited to, a provision that business leaders commit resources to pay salaries, to provide mentoring and instruction on the job and to work closely with teachers; and provided further, that public funds shall assume the costs of connecting schools and businesses to ensure that students serve productively on the job \$4,129,687

7028-0031 For the expenses of school age children in institutional schools pursuant to section 12 of chapter 71B of the General Laws; provided, that the department may provide special education services to eligible inmates in county houses of correction \$7,552,051

7030-1000 For grants to cities, towns, regional school districts, educational collaboratives, head start programs, and licensed day care providers for early care and education programs, pursuant to section 54 of chapter 15 of the General Laws; provided, that any payment made under any such grant with a school district shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without municipal appropriation, notwithstanding any general or special law to the contrary; provided further, that in any city or town in which there was only one lead agency in fiscal year 1995, such lead agency shall serve as lead agency to submit proposals pursuant to said section 54 of said chapter 15; provided further, that the amount by which the funds appropriated in this item exceed the amount appropriated in item 7030-1000 of chapter 60 of the acts of 1994 shall be used to provided services to the children of working parents; provided further, that in allocating the funds and evaluating grant applications, the board of education shall give priority consideration to three and four

year old children in cities and towns where high concentrations of low income working families reside; provided further, that not less than one-third of the total slots funded by the amount by which the funds appropriated in this item exceed the amounts appropriated in said item 7030-1000 of chapter 60 of the acts of 1994 shall be for full-day, full-year care that meets the needs of working parents; provided further, that notwithstanding the provisions set forth herein or any general or special law to the contrary, funds may be allocated for services which shall be provided to three and four year old children formerly on the wait list maintained by the office for child care services; provided further, that said children shall retain priority status for future services available through said office upon attaining the age of five, notwithstanding the receipt of services funded through this item provided further, that the department of education shall ensure that community partnership lead agencies collaborate with the department of education and the office for child care services to provide services for said children; provided further, that funds shall be expended for Mass Family Networks; provided further, that funds may be expended for administrative costs; and provided further, that recipients of grants distributed from this item shall not expend more than 8 per cent of said grants for administrative costs \$74,604,130

7030-1002 For kindergarten development grants to provide ongoing grant awards to continue quality enhancement of existing full day kindergarten classrooms and to encourage the transition of half day classrooms into full day kindergarten classrooms; provided, that the office of school readiness shall administer a grant program to encourage the voluntary expansion of high quality, full day kindergarten education throughout the commonwealth; provided further, that grants of not more than \$18,000 per classroom shall be made available to public schools for the enhancement of existing full day kindergarten classrooms and for the transition of existing half day kindergarten classrooms into full day kindergarten classrooms; provided further, that said grants shall be awarded pursuant to guidelines established by the department relative to the application and award process which shall include eligibility criteria, allowable grant expenditures and grant recipient

obligations; provided further, that guidelines for transition grants shall require applicants for such grants to identify obstacles that impede the transition to full day kindergarten; provided further, that the guidelines shall require grant recipients to identify the anticipated date by which the implementation of quality enhancement or transition projects shall commence; provided further, that the guidelines shall detail the range of permissible grant expenditures which shall include, but not be limited to, the expenditure of funds for facility improvements or other expenses necessary to provide adequate space for the transition from half day kindergarten classrooms into full day kindergarten classrooms; provided further, that grants funded through this appropriation shall not annualize to more than \$18,000 per classroom in subsequent fiscal years; provided further, that preference shall be given to grant applicants with high percentages of students scoring in levels 1 or 2 on the Massachusetts comprehensive assessment system exam, so-called, as determined by the department based on available data; provided further, that any grant funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that such program shall supplement and shall not supplant currently funded local, state and federal programs at the school or district; provided further, that not later than January 15, 2004 the department shall report to the house and senate committees on ways and means on the total number of enhancement and transition grants requested and awarded; provided further, that the report shall detail common factors associated with both successful and unsuccessful applications and shall include the total number of full day and half day kindergarten classrooms projected to be in operation in Massachusetts public schools in fiscal year 2005; provided further, that funds appropriated in this item for transition grant awards may be expended through August 31, 2004 for the purposes of transition projects scheduled for the school year beginning in September, 2004; and provided further, that

	the department may expend not more than \$200,000 to administer the grants program established herein	\$23,000,000
7030-1003	For the John Silber early literacy program and teacher training to promote research based school-wide literacy education and to promote literacy among children in grades K through three in the commonwealth; provided, that the office of school readiness shall administer said early literacy grant programs to improve the quality and effectiveness of literacy education in the commonwealth to the greatest extent possible, which shall include maintaining support for existing BayState readers schools and providing additional funds for new schools to participate in said program; provided further, that such early literacy education programs shall be based on a scientifically-based reading research program consistent with the federal Reading First Initiative, so-called, may be correlated to the National Reading Panel's Report on Teaching Children to Read, may be integrated easily into the classroom by managing automatic student rotation, and may provide for authentic assessments including recorded portfolios of student's oral reading; provided further, that such school-wide literacy education programs shall provide for the evaluation and tracking of all students' reading and writing skills annually for at least three years, shall include measurable goals and benchmarks, shall be lead by a school-based planning team which includes teaching faculty and the school principal, shall provide for the training of teachers in effective strategies for reading instruction and shall include a school-wide literacy coordinator who shall be responsible for the coordination and training of other school staff; provided further, that \$225,000 shall be expended for JFY.net, so-called, a Jobs for Youth initiative for high technology, literacy and job skill instruction to youth and adults through advanced software and existing infrastructure capacity in schools and community agencies; provided further, that the department shall establish guidelines for said grant programs consistent with the federal Reading First Initiative, so-called; provided further, that any grant funds distributed from this item 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 dis-	

trict, without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that funds shall be expended for the BayState Readers Initiative, so-called, modeled on the research-based best practices of the Alabama Reading Initiative; provided further, that said initiative shall provide for the training of teachers in effective strategies for reading instruction and shall otherwise be consistent with the overall purpose of this item and with the Reading First Initiative, so-called; provided further, that in its evaluation of applications for said initiative, said office may take into consideration schools' cumulative grade four MCAS scores; provided further, that funds appropriated herein for said initiative may be expended through August 31, 2004; provided further, that not more than \$500,000 shall be made available for matching grants to fund the Reach Out and Read program, so-called, to provide books to at-risk children in the commonwealth through book distribution programs established in community health centers, medical practices and hospitals for at-risk children; provided further, that the funds distributed through the Reach Out and Read program shall be contingent upon a match of not less than \$1 in private or corporate contributions for every dollar in state funding distributed through said grant program; and provided further, that such program shall supplement currently funded local, state and federal programs at the school or district \$3,892,994

7030-1004 For grants for home-based parenting and family literacy program known as the Parent-Child Home Program; provided, that the department of education shall distribute the funds to expand capacity at existing Parent-Child Home Program sites and to establish replication sites in cities and towns where high concentrations of low income families reside; provided further, that for grants awarded to establish the replication sites, the department shall consider applications from school districts or social service agencies that demonstrate the capacity to replicate said home visiting program to serve area low income families; and provided further, that the preference for the grants shall be given to applicants who demonstrate a commitment to maximize federal and local funding for the operation of the replication site 900,000

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7030-1005	For early intervention individual tutorial literacy programs designed as a pre-special education referral and short term intervention for children who are at risk of failing to read in the first grade; provided, that such programs shall be research-based with proven long term results, including identifying students in need of additional help not later than mid-first grade, providing ongoing training and support to program teachers, and including ongoing documentation and evaluation of results	\$1,910,788
7030-1500	For grants to head start programs	\$6,146,143
7035-0002	For grants to provide and strengthen adult basic education services, including reading, writing and mathematics, to a diverse network of organizations which have demonstrated commitment and effectiveness in the provision of such services, and that are selected competitively by the department of education; provided, that such grants shall support the successful transition of students from other adult basic education programs to community college certificate and degree granting programs; provided further, that such grants shall be contingent upon satisfactory levels of performance as defined and determined by said department; provided further, that in no case shall grants be considered an entitlement to a grant recipient; provided further, that said department shall consult with the community colleges and other service providers in establishing and implementing content, performance and professional standards for adult basic education programs and services; and provided further, that not more than 7.5 percent of the funds appropriated herein may be expended for non-grant purposes	\$27,813,209
7035-0006	For reimbursements to regional school districts for the transportation of pupils; provided, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated in this item; provided further, that the amount appropriated in this item shall constitute the full funding of this item, as determined by the department of education; provided further, that upon receipt by the department of education of required transportation cost reports from regional school districts, said department shall reimburse 50 per cent of the amount such districts received from this item in fiscal year 2003; and provided further, that the reports shall meet criteria established	

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	by the department of education	\$26,395,683
7051-0015	For the administration of the emergency food assistance program	\$747,000
7052-0003	For school building assistance grants and reimbursements for projects to eliminate racial imbalance under chapter 645 of the acts of 1948, chapter 70B of the General Laws, and section 329 of chapter 159 of the acts of 2000 for first annual payments on school projects	\$7,043,760
7052-0004	For school building assistance grants and reimbursements for cities and towns not subject to court-ordered or board of education racial imbalance plans under chapter 645 of the acts of 1948, chapter 70B of the General Laws, and section 329 of chapter 159 of the acts of 2000 for first annual payments on school projects	\$14,935,325
7052-0005	For grants and reimbursements to cities, towns, regional school districts and counties under chapter 645 of the acts of 1948 and chapter 70B of the General Laws, for annual payments on the accounts of school projects for which first annual payments have been made; provided, that the department of education shall reduce all payments proportionately as needed such that expenditures are not greater than the amount appropriated herein	\$379,358,606
7052-0006	For grants and reimbursements to cities, towns, regional school districts and counties under chapter 645 of the acts of 1948 and chapter 70B of the General Laws, for (a) educational, engineering, and architectural services for school districts, (b) surveys made of school building needs and conditions, (c) matching stabilization fund payments, (d) costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs, and (e) payments associated with admission to a regional school district	\$19,076
7053-1909	For reimbursements to cities and towns for partial assistance in the furnishing of lunches to school children, including partial assistance in the furnishing of lunches to school children as authorized by chapter 538 of the acts of 1951, and for supplementing funds allocated for the special milk program; provided, that notwithstanding any general or special law to the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school child-	

	ren shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act and in the regulations implementing the act	\$5,426,986
7053-1925	For the school breakfast program for public and nonpublic schools and for grants to improve summer food programs during the summer school vacation period; provided, that of the sum appropriated in this item, not less than \$300,000 shall be expended for the summer food service outreach program and not less than \$200,000 shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses, provided, that within the summer food program, priority shall be given to extending such programs for the full summer vacation period and promoting increased participation in such programs; provided further, that the department of education shall solicit proposals from returning sponsors and school food authorities in time for implementation of such grant program during the summer of 2004; provided further, that such grants shall only be awarded to sponsors who can demonstrate their intent to offer full summer programs or increase participation; provided further, that the department shall require sufficient reporting from each grantee to measure the success of such grant program; provided further, that said department shall select grantees for the program authorized by this item not later than March 30, 2004 and shall report to the house and senate committees on ways and means on the projected impact of these grants not later than April 30, 2004; prior appropriation continued	\$2,266,575
7053-1927	For a supplement to the federally funded school breakfast program, whereby all children in schools receiving funds under the program shall be provided free, nutritious breakfasts at no cost to them; provided, that subject to regulations of the board that specify time and learning standards, breakfasts shall be served during regular school hours; provided, further, that participation shall be limited to those elementary schools mandated to serve breakfast pursuant to section 1C of chapter 69 of the General Laws where 60 per cent or more of the students are eligible for free or reduced-price meals under the federally funded school meals program; provided further, that said department shall select school sites for programs authorized by this item no later than November 15, 2003 and	

	shall report to the house and senate committees on ways and means on the preliminary results of such grants no later than January 9, 2004; provided further, that nothing in this item shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that nothing stated in this item shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services	\$2,011,060
7061-0008 For	school aid to cities, towns, regional school districts, counties maintaining agricultural schools, independent vocational schools and independent agricultural and technical schools to be distributed pursuant to chapters 70 and 76 of the General Laws and section 3; provided further, that \$175,000 of the funds allocated from this item to the city of Lawrence by section 3 shall be transferred to the University of Massachusetts at Lowell for its college preparation program; provided further, that each school district shall report annually to the department of education on its professional development expenditures, in a manner and form prescribed by the commissioner and consistent with the accountability requirements of the federal No Child Left Behind Act, so-called; and provided further, that the department of education shall report annually to the house and senate committees on ways and means on school districts' professional development spending	\$3,108,140,588
7061-0011 For	a reserve to (1) meet unanticipated or extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of section three of this act; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to the provisions of section 3 of this act; provided further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education regarding the merits of such application; (2) meet expenses associated with extraordinary increases in enrollment calculated on a percentage basis for such municipalities; (3) to address the effects of reductions in required net school spending in districts; provided further, that preference in the awarding of such funds shall be given to districts which receive twenty percent reductions in fiscal year 2004 Chapter 70 school aid,	

as defined in section 3, compared to fiscal year 2003 chapter 70 aid, and which, as a result of said reduction, will see a reduction in fiscal year 2004 net school spending; provided further, that the department shall also give preference to districts in which state aid per pupil is low compared to similar municipalities or districts; (4) to assist regional school districts in offsetting unanticipated funding losses resulting from a member municipality's extraordinary increase or decrease in its minimum required local contribution; provided further, that priority shall be granted to member municipalities of regional, and vocation regional school districts; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one time non-recurring basis; and provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2005 \$7,000,000

7061-0012 For the reimbursement of extraordinary special education costs pursuant to section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be pro-rated such that expenses of this line item do not exceed the amount appropriated herein; provided further, that not more than \$8,750,000 shall be used to continue and expand voluntary residential placement prevention programs between the department of education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that of this \$8,750,000, not less than \$7,500,000 shall be made available to the department of mental retardation for the voluntary residential placement prevention program administered by that department; provided further, that the amount spent for a particular student shall not exceed the amount of tuition funds allocated for the student at the time of transition into such community-based support services; provided further, that funding provided herein may reimburse private schools for prior fiscal year's tuition; provided further, that not less than \$400,000 shall be expended for the costs of borrowing audiotaped textbooks by special needs students whose disabilities include, but shall not be limited to: blindness, visual impairments, learning disabili-

	ties such as dyslexia, or physical disabilities such as cerebral palsy that limit the use of standard print, and for the cost of an outreach program geared toward special education teachers, students and parents regarding the services of such program; provided further, that of that amount, funds may be expended for the purposes of training teachers and students; and provided further, that not more than \$500,000 shall be expended to administrator the reimbursements funded herein	\$121,600,262
7061-0029	For the office of educational quality and accountability established pursuant to section 55A of chapter 15 of the General Laws; provided, that not less than \$200,000 shall be expended for the Donahue Institute at the University of Massachusetts for analysis of special education approaches that increase knowledge of the operational dynamics and educational needs of urban schools and their students	\$2,601,971
7061-9010	For fiscal year 2004 reimbursements to certain cities, towns and regional school districts pursuant to section 89 of chapter 71 of the General Laws	\$13,000,000
7061-9200	For the education technology program, so-called; provided, that the department of education shall file a spending plan for the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by January 2, 2004	\$770,712
7061-9400	For student and school assessment and for grants to school districts to develop portfolio assessments for use in individual classrooms as an enhancement to student assessment; provided, that as much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration or work samples and projects, and shall facilitate authentic and direct gauges of student performance; provided further, that such portfolio assessments shall not replace the statewide standardized assessment based on the curriculum frameworks; provided further, that all school assessments shall center on the academic standards embodied in the curriculum frameworks and shall involve gauges which shall be relevant and meaningful to students, parents, teachers, administrators and taxpayers pursuant to the first paragraph of section 1L of chapter 69 of the General Laws; and provided further, that notwithstanding any general or special law to the contrary, assessment of proficiency in En-	

7061-9404 For assistance and grants to cities, towns and regional school districts to provide targeted remediation programs in English and math to high school students in the classes of 2003, 2004 and 2005 scoring in level one on the Massachusetts Comprehensive Assessment System (MCAS) exam established by the board of education pursuant to the provisions of sections 1D and 1I of chapter 69 of the General Laws; provided, that the department and districts shall ensure that services are available to students with disabilities; provided, that the department may give priority for such assistance and grants to schools and districts at risk of or determined to be underperforming in accordance with section 1J and 1K of chapter 69 of the General Laws; provided further, that the purpose of this program shall be to increase students' academic achievement and to improve students' performance on the MCAS exam through replication of services and educational strategies with proven results as determined by the department of education that may include but shall not be limited to: integrated tutoring and mentoring programs, supplemental web-based tutorial programs that are diagnostic and prescriptive, weekend and school vacation programs focused on English and math remediation, the English and math components of comprehensive after school programs, and the remediation component of summer programs; provided further, that such programs shall supplement currently funded local, state, and federal programs at the school or district; provided further, that such grants and assistance shall be used solely for the academic portions of such programs, and shall focus on the acquisition of skills in English and math needed to pass the MCAS; provided further, that funds shall be expended for a competitive grant program to fund developmental programs to be implemented in fiscal year 2004, and operated by public institutions of higher learning or by public-private partnerships in the commonwealth, for students in the graduating class of 2003 who have completed high school but have not yet obtained a competency determination as defined in section 1D of chapter 69 of the General Laws as measured by the MCAS assessment instrument authorized by section 1I of said chapter 69, but who are working to pass the English and math MCAS tests, obtain a competency determination,

English shall be administered in English \$18,888,000

and earn a high school diploma; provided further, that for the purpose of said programs, appropriated funds may be expended through August 31, 2004 to allow for summer remediation programs; provided further, that funds be expended for a competitive grant program to fund so-called Pathways programs targeting eleventh and twelfth graders instituted by local school districts, public institutions of higher education and qualified public and private educational services organization, including but not limited to school-to-work connecting activities creating worksite learning experiences for students as an extension of the classroom, outreach programs for students who will need post-twelfth grade remediation to attain the skills necessary to pass MCAS, counseling programs to educate parents and high school students on post-twelfth grade remediation options; provided further, that the department, in collaboration with the board of higher education, shall issue a report not later than February 1, 2004 on remedial programs for students in the class of 2003 who did not achieve a competency determination by June 30, 2003 which shall include, but not be limited to: (1) the number of members of the graduating class of 2003 who are participating in said programs; (2) a detailed list, by provider, of the number of students participating in said programs, including students attending classes at institutions of public higher education offering said programs; and (3) the number of students who have passed the MCAS assessment and obtained a competency determination after having received services from these programs; provided further, that said report shall be provided to the house and senate ways and means committees and to the joint committee on education, arts, and humanities; provided further, that up to funds shall be expended for a competitive grant program, guidelines for which shall be developed by the department of education, for intensive remediation programs and for career center programs with a proven record of success in MCAS remediation, in communities with students in the graduating classes of 2003, 2004, and 2005 who have not obtained a competency determination on either the tenth grade English or math MCAS exams; provided further, that said program shall be in place not later than October 1, 2003; provided further, that the

department of education may give preference for such assistance to those districts with a high percentage of high school students scoring in level one on the MCAS exam in English and math; provided further, that eligible applicants shall include individual high schools, and those institutions which shall have partnered with a high school or group of high schools, including but not limited to, institutions of public and private higher education, providers of adult basic education services, career centers, other public and private educational services organizations, including, but not limited to, JFY. Net, and after-school programs with a structured academic component and focused on MCAS remediation operated by public and non-public entities including, but not limited to, members of the national alliance of boys and girls clubs; provided further, that no district shall receive a grant from this appropriation until said district submits to the department of education a comprehensive district plan to improve performance of all student populations included, but not limited to, students with disabilities which shall include accountability measures for assessing performance and results, and a coordinated budget that demonstrates how all available local, state, federal, private and other funds shall be used to achieve the goals and activities in the plan and any other requirements determined by the department; and provided further, that any grant funds distributed from this item to a city, town or regional school district 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 any general or special law to the contrary; and provided further, that the department may expend up to \$250,000 to administer programs funded herein \$10,000,000

7061-9604 For teacher preparations	\$1,331,271
7061-9612 For the school of excellence program at the Worcester Polytechnic Institute; provided, that every effort shall be made to recruit and serve equal numbers of male and female students; provided further, that sending districts of students attending the academy shall not be required to expend any funds for the cost of these students while in attendance at the academy; provided further, that the Massachusetts Academy	

of Mathematics and Science shall be obligated to provide professional development activities at the school located at Worcester Polytechnic Institute, including salary and benefits for master teachers and visiting scholars; provided further, that the department of education shall provide a subsidy to the Worcester Polytechnic Institute to operate a school of excellence in mathematics and science; and provided further, that the academy shall file a report with the joint committee on education and the house and senate committees on ways and means by February 1, 2004 detailing said professional development activities; provided further, that the department of education shall study and report on the potential replication in other regions of the commonwealth of learning strategies modeled by the academy; provided further, that said study shall identify potential public-private partnerships between public schools and public and private institutions of higher learning in the commonwealth that could establish such academies in other regions of the commonwealth to foster excellence in mathematics and science education by developing replicable teaching models, and providing professional development services, and math and science MCAS remediation to the public schools of said regions; provided further, that the department shall submit a report with recommendations, along with proposed legislation, if any, to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate committees on ways and means; and provided further, that the report shall be filed not later than January 1, 2004 \$1,199,231

7061-9619 For the purpose of funding the Benjamin Franklin Institute of Technology; provided, that the Benjamin Franklin Institute of Technology shall be granted access to the Massachusetts education computer system; and provided further, that the Benjamin Franklin Institute of Technology shall be permitted to join the state buying consortium \$1

7061-9626 For grants and contracts with youth-build programs for the purposes of providing comprehensive youth-build services \$500,000

7061-9634 For matching grants to be administered by the department of education through the Massachusetts Service Alliance for public and private agencies with mentoring programs for the recruitment and training of mentors and for other supporting

services including, but not limited to, academic support services; provided, that the department of education shall transfer the amount appropriated in this item to the Massachusetts Service Alliance for this purpose of such grants; provided further, that in order to be eligible to receive funds from this item, such public or private agency shall provide a matching amount equal to 1 dollar for every dollar disbursed from this item; provided further, that funds may be expended to support the mentoring activities of the planned learned achievement for youth program; provided further, that said Massachusetts Service Alliance shall submit a report detailing the expenditure of such funds and the amount and source of matching funds raised to the secretary of administration and finance and the house and senate committees on ways and means not later than December 29, 2003 \$287,000

Board of Higher Education.

7066-0000 For the operation of the board of higher education; provided, that the board shall recommend savings proposals that permit institutions of public higher education to achieve administrative and program cost reductions, resource re-allocation and program re-assessment and utilize resources otherwise available to such institutions; provided further, that the board shall make a report to the general court relative to the annual cost of maintaining the electronic equipment and systems of institutions of public higher education and identify means to reduce such costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further, in preparing said report the board may utilize the services of appropriate third parties knowledgeable in equipment maintenance service contracts; provided further, that the board shall file the report with the house and senate committees on ways and means within 90 days of the effective date of this act; provided further, that in order to meet the estimated costs of employee fringe benefits

	provided by the commonwealth on account of employees of the Massachusetts State College Building Authority and the University of Massachusetts Building Authority, and in order to meet the estimated cost of heat, light, power and other services, if any, to be furnished by the commonwealth to projects of these authorities, the boards of trustees of the state colleges and the University of Massachusetts shall transfer to the General Fund from the funds received from the operations of the projects such costs, if any, as shall be incurred by the commonwealth for these purposes in the current fiscal year, as determined by the appropriate building authority, verified by the chancellor of higher education and approved by the secretary of administration and finance	\$1,950,914
7066-0005	For the commonwealth's share of the cost of the compact for education	\$61,978
7066-0009	For the New England Board of Higher Education	\$367,402
7066-0015	For the community college workforce training incentive grant program established in section 15F of chapter 15A of the General Laws	\$900,000
7066-0016	For a program of financial aid to support the matriculation of certain persons at public and private institutions of higher learning; provided, that only persons in the custody of the department of social services pursuant to a care and protection petition upon reaching the age of 18, or persons in the custody of the department matriculating at such an institution at an earlier age, shall qualify for such aid; provided further that no such person shall be required to remain in the custody of the department beyond age 18 to qualify for such aid; provided further, that this aid shall not exceed \$6,000 per recipient per year; provided further, that this aid shall be granted after exhausting all other sources of financial support	\$850,000
7070-0031	For the McNair component of the financial assistance program to increase access to public and independent institutions of higher education for students who meet certain income eligibility standards developed by the chancellor of higher education and for students with serious physical impairments, known as the Ronald E. McNair education opportunity program	\$1,965,638
7070-0065	For a scholarship program to provide financial assistance to Massachusetts students enrolled in and pursuing a program of	

higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education; provided, that the Massachusetts state scholarship office shall expend not less than \$13,495,295 for community college access grants to ensure that no Massachusetts resident enrolled in and pursuing an associate's degree in any of the community colleges pays more than \$500 in tuition and fees net of any federal or state scholarship or tax credit; provided further, that any resident whose expected family contribution level, as determined according to the federal methodology established pursuant to Part F of Title IV of the Higher Education Act of 1965, as amended, is not more than \$2,250, shall incur no net tuition and fee costs after deducting any federal or state scholarship or tax credit from financial need as calculated by the state scholarship office; provided further, that said residents who are not fully eligible for the federal HOPE tax credit based on their exceeding maximum income eligibility limits, shall not be eligible for the grants; provided further, that not less than \$9,896,550 shall be expended for state college access grants; provided further, that any Massachusetts resident enrolled in and pursuing a bachelor's degree in any of the state colleges whose expected family contribution level, as determined according to the federal methodology established pursuant to Part F of Title IV of the Higher Education Act of 1965, as amended, is not more than \$2,000, shall incur no net tuition and fee costs after deducting any federal or state scholarship or tax credit from financial need as calculated by the state scholarship office; provided further, that not less than \$8,697,220 shall be expended for a program of needs-based financial assistance for Massachusetts residents enrolled in and pursuing a program of higher education in the University of Massachusetts; provided further, that \$3,148,902 shall be expended for the part-time student grant program; provided further, that of the sum appropriated herein, not less than \$427,351 shall be obligated for the purposes of the Massachusetts plan, pursuant to section 5C of chapter 15C of the General Laws; provided further, that the Massachusetts state scholarship office shall expend not less than \$18,623,508 to provide for matching scholarship grants to needy Massachusetts students at partic-

ipating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; provided further, that not less than \$170,940 shall be made available to provide financial assistance for Massachusetts residents enrolled at public higher education institutions to participate in the Washington Center-Massachusetts Initiative Academic Internship program; provided further, that except as otherwise provided in this act all said aforementioned financial assistance shall be distributed to students demonstrating the greatest need as determined by an eligibility index used by the state scholarship office; provided further, that students awarded full or partial scholarships under the Christian A. Herter Memorial Scholarship Program, as established in section 16 of chapter 15A of the General Laws, who have matriculated in a program of higher education outside the commonwealth may continue to receive the scholarship aid guaranteed by said program; provided further, that the state scholarship office is authorized to expend monies for the public service awards as established in said section 16 of said chapter 15A; provided further, that the chancellor of higher education, in coordination with the Massachusetts state scholarship office, shall establish such regulations governing the eligibility and the awarding of financial assistance as the chancellor shall deem necessary; provided further, that not more than \$1,589,945 shall be expended on the administration of the scholarship program; provided further, that not less than \$2,249,216 shall be provided for grants to residents of the commonwealth who are working as paraprofessionals in public schools of the commonwealth while pursuing a bachelor's degree at a public college or university in the commonwealth in order to become a certified teacher in Massachusetts; and provided further, that eligibility shall be limited to persons who have worked as a paraprofessional in the public schools of the commonwealth for a minimum of two years prior to receipt of such grant, or who are enrolled in and pursuing courses of study that will lead to certification as a teacher in bilingual education, special education, math, science, or foreign languages, and who commit to teach and actually teach for such period as the board of higher education may determine in the public schools of the commonwealth upon graduation and certification pursuant to section 38G of

chapter 71	\$82,414,415
7077-0023 For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated in this item shall be expended, in accordance with the Massachusetts resident veterinary tuition remission plan submitted January 8, 1998, for supportive veterinary services provided to the commonwealth; provided further, that prior year costs may be paid from this item; provided further, that funds appropriated herein shall support bioterrorism prevention research related to diseases that can be transmitted from animals to humans, in consultation with Massachusetts emergency authorities; and provided further, that said school shall work in consultation with the Norfolk County Agricultural School on veterinary programs	\$3,004,000

University of Massachusetts.

7100-0200 For the operation of the University of Massachusetts; provided, that notwithstanding any general or special law to the contrary, the university may establish and organize auxiliary organizations, subject to policies, rules and regulations adopted by the board, to provide essential functions which are integral to the educational mission of the university; provided further, that notwithstanding any general or special law to the contrary, the university may enter into leases of real property without prior approval of the division of capital asset management and maintenance; provided further, that funds appropriated herein shall be expended for the University of Massachusetts at Amherst Cranberry Station at Wareham in fiscal year 2004; provided further, that such funds shall be expended in accordance with plan reviewed and recommended by the University of Massachusetts at Amherst Cranberry Experiment Station Board of Oversight; provided further, that not less than \$100,000 shall be expended for the facilities costs associated with the college of visual and performing arts at the University of Massachusetts at Dartmouth, so-called Star Store; provided further, that of the amount allocated for Star Store funds may be expended for Bristol Community College; and provided further, that the Center for Portuguese Studies shall operate at the University of Massachusetts at Dartmouth; provided further, that not less

than \$500,000 shall be expended for matching funds for a National Science Foundation grant for the establishment of a nanomanufacturing facility as part of a joint venture with the University of New Hampshire, Northeastern University and the University of Massachusetts at Lowell; provided further, that not less than \$50,000 shall be expended for a grant to the McCormack Institute; and provided further, that no funds appropriated herein may be used for the issuance and/or renewal of identification cards to plan participants or covered individuals which display the participants' or individuals' social security number \$327,764,464

7100-0300 For the operation of the toxics use reduction institute program at the University of Massachusetts at Lowell, in accordance with section 6 of chapter 21I of the General Laws \$1,139,853

7100-0500 For the operation of the board of higher education's Commonwealth College honors program at the University of Massachusetts at Amherst \$1,715,000

State Colleges.

7109-0100 For Bridgewater State College; provided, that not less than \$245,814 shall be expended for the operation of the John Joseph Moakley Center for Technological Applications at Bridgewater State College; and provided further, that the initiative shall be conducted on the site of the college for the purposes of technological applications to classroom teaching and initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts \$29,536,751

7110-0100 For Fitchburg State College \$22,251,457

7112-0100 For Framingham State College; provided, that not less than \$160,000 shall be expended for the regional economic research center; provided further, that funds may be expended for the operation of the commonwealths' global education centers \$18,314,192

7113-0100 For the Massachusetts College of Liberal Arts \$11,021,585

7114-0100 For Salem State College \$29,375,729

7114-0101 For a reserve for operation and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem \$708,468

7115-0100 For Westfield State College \$18,439,563

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7116-0100 For Worcester State College	\$18,628,557
7116-0101 For the Latino Education Institute at Worcester State College	\$200,000
7117-0100 For the Massachusetts College of Art	\$9,071,228
7118-0100 For the Massachusetts Maritime Academy	\$9,408,263

Community Colleges.

7502-0100 For Berkshire Community College	\$7,725,620
7503-0100 For Bristol Community College	\$12,425,614
7504-0100 For Cape Cod Community College	\$9,098,600
7504-0101 For the operation of an environmental technology, education, and job training partnership through the Cape Cod Community College; provided, that the college shall coordinate said part- nership with the Massachusetts Maritime Academy and the University of Massachusetts at Dartmouth; provided further, that the initiative shall be conducted at the Massachusetts military reservation, or at any site on Cape Cod determined by the college to be suitable for the purposes of on-site education and training in the use of alternative technologies to clean up designated superfund sites; provided further, that preference shall be given to local applicants; and provided further, that the executive office of environmental affairs and the University of Massachusetts at Dartmouth shall participate in the testing and evaluation of innovative technologies	\$94,395
7505-0100 For Greenfield Community College	\$7,453,556
7506-0100 For Holyoke Community College; provided, that funds may be expended for the operation of the Holyoke Home Information Center	\$14,674,492
7507-0100 For Massachusetts Bay Community College	\$11,443,374
7508-0100 For Massasoit Community College	\$15,950,502
7509-0100 For Mount Wachusett Community College	\$9,191,583
7510-0100 For Northern Essex Community College	\$15,163,084
7511-0100 For North Shore Community College, including the post second- ary programs of the Essex Agricultural and Technical Institute operated by North Shore Community College	\$16,541,568
7512-0100 For Quinsigamond Community College; provided, that funds shall be expended for library facilities in fiscal year 2004 ...	\$11,956,456
7514-0100 For Springfield Technical Community College	\$18,842,171
7514-0102 For the Massachusetts Center for Telecommunications and Infor- mation Technology through the Springfield Technical Com-	

community College Assistance Corporation, as established by section 125 chapter 273 of the acts of 1994; provided, that the amount appropriated in this item shall include, but not be limited to, operating and maintaining cable television programming, distance learning curricula, telecommunications-intensive company facilities, and a small business incubator; provided further, that funds shall be allocated for a reserve for the operation and maintenance expenses incurred by Springfield Technical Community College associated with the acquisition of the Digital property; provided further, that the college may expend revenues in an amount not to exceed \$575,000 received from rent, utility, and other charges for the operation and maintenance of the property; and provided further, that funds shall be encumbered for an emergency reserve for unanticipated operating and maintenance expenses of Springfield Technical Community College in the acquisition of the Digital property \$535,206

7515-0100 For Roxbury Community College \$8,827,356

7515-0120 For the operation of the Reggie Lewis Track and Athletic Center at Roxbury Community College \$674,278

7515-0121 For the Reggie Lewis Track and Athletic Center at Roxbury Community College; provided, that the college may expend an amount not to exceed \$523,100 received from fees, rentals, and facility expenses associated with the running and operation of national track meets, high school track meets, high school dual meets, Roxbury Community College athletic events, other special athletic events, conferences, meetings, and programs; and provided further, that only expenses for contracted services associated with these events shall be funded from this item \$523,100

7516-0100 For Middlesex Community College \$15,403,816

7518-0100 For Bunker Hill Community College; provided, that \$108,000 shall be obligated for the life focus center \$15,722,114

7520-0424 For a health and welfare reserve for eligible personnel employed at the community and state colleges \$3,182,263

EXECUTIVE OFFICE OF PUBLIC SAFETY.
Office of the Secretary.

8000-0000 For the office of the secretary, including the administration of the committee on criminal justice and the highway safety bureau

to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402; provided, that the executive director of the committee on criminal justice shall submit a report which shows the amounts of all grants awarded to municipalities by the committee in fiscal year 2003; provided further, that the report shall identify the exact amount of required state match for all federal programs; and provided further, that the report shall be submitted to the house and senate committees on ways and means not later than February 1, 2004 \$1,772,930

General Fund	\$15.00%
Highway Fund	\$85.00%

8000-0010 For community policing grants to be administered by the executive office of public safety; provided, that no such grants shall be awarded to the department of state police; provided further, that any community receiving earmarked funds in fiscal year 2003 shall receive 100 per cent of the amount so earmarked in fiscal year 2004; provided further, that any community that was approved for a competitive grant in fiscal year 2003 and did not receive any funding shall take first priority in receiving consideration for competitive grants in fiscal year 2004; provided further, that before the awarding of any grants in fiscal year 2005 the joint committee on public safety, the house and senate committees on post audit and oversight shall conduct an investigation and study into the distribution process for community policing grants; provided further, that the executive office of public safety, local police chiefs and police commissioners, and representatives from the appropriate police unions and police associations shall be consulted as part of this investigation and study; provided further, that the joint committee on public safety and the house and senate committees on post audit and oversight issue a report with recommendations on an equitable distribution process to the executive office of public safety and the house and senate committees on ways and means not later than January 1, 2004; provided further, that the process for the awarding of community policing grants in fiscal year 2005 shall take into consideration these recommendations; provided further, that grants shall only be expended on items that are related to community policing activities, programs, purchases or construction; provided further, that grant funds

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	shall not be expended on food and beverages, recruit training academy tuition, salaries and benefits for non-community policing personnel and payments for non-related overtime; and provided further, that not later than February 1, 2004 the executive office of public safety shall submit a report to the house and senate committees on ways and means detailing the amount of grants awarded to these a grant recipients and descriptions of these grants	\$20,267,596
8000-0020	For the statewide emergency telecommunications board; provided, that the board shall collect an amount equivalent to the direct and indirect costs related to the board pursuant to section 18F of chapter 6A of the General Laws	\$288,071
8000-0030	For the operation of a hate crimes awareness program to be administered by the executive office of public safety	\$100,000
8000-0040	For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers	\$45,647,419
8000-0060	For the costs associated with implementation of chapter 228 of the acts of 2000; provided, that the secretary of public safety may allocate funds appropriated in this item to agencies within the executive office of public safety	\$150,000
8000-0101	The office of the secretary may expend up to a maximum of \$17,980 in revenues collected from fees for services performed through the auto etching program	\$17,980
8000-0202	For the purchase and distribution of sexual assault evidence collection kits	\$55,861

Department of Forensic Sciences.

8000-0105	For the operation of the office of the chief medical examiner established pursuant to chapter 38 of the General Laws; provided, that \$350,000 shall be expended for toxicology testing and results	\$3,658,445
8000-0106	For the operation and related costs of the state police crime laboratory; provided, that the agency shall enter into agreements with the various district attorneys to provide forensic services for criminal cases brought forth by the commonwealth; provided further, that the agency shall contract with a public institution to conduct testing for criminal cases; and provided further, that the practices and procedures of the state police crime laboratory shall be informed by the recommendations of the Forensic Sciences Advisory Board	\$4,552,115

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8000-0122 The office of the chief medical examiner may expend for its operations an amount not to exceed \$810,000 in revenues collected from fees for services provided by the chief medical examiner; provided, that notwithstanding any general or special laws to the contrary, for the purposes of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the agency may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$810,000

Criminal History Systems Board.

8000-0110 For the operation of the criminal history systems board; provided, that the board shall fund one administrative assistant who shall be employed in the victim services unit of the board for the continued and enhanced operation of the post-conviction victim and witness certification program operated pursuant to chapter 258B and clause (c) of the first paragraph of section 172 of chapter 6 of the General Laws; provided further, that said victim services position shall be in addition to any such positions approved as of February 1, 1998; and provided further, that not more than \$75,000 shall be expended for the purpose of enabling local housing authorities access to criminal offense information when qualifying applicants for state-assisted housing \$2,560,701

Highway Fund \$50.00%

General Fund \$50.00%

8000-0180 For the implementation of the Massachusetts instant recording and check system \$400,000

8000-1122 For the telecommunications and information technology costs of the criminal history systems board; provided, that no funds provided herein shall be expended in the KK subsidiary, so-called \$2,742,661

Sex Offender Registry Board.

8000-0125 For the operation of the sex offender registry program, including, but not limited to, the costs of maintaining a computerized registry system and the classification of persons subject to the registry \$3,596,891

8000-0225 The sex offender registry board may expend an amount not to exceed \$750,000 from revenue collected from sex offender registration fees for the purpose of expediting the final classification of sex offenders and reducing the current case backlog; provided, that \$200,000 shall be expended for interagency service agreements between the sex offender registry board and the various district attorneys in order to defray the costs incurred by said district attorneys from proceedings relative to the civil commitment of sexually dangerous persons including, but not limited to, probable cause hearings and trials initiated pursuant to sections 12 through 15, inclusive, of chapter 123A of the General Laws . . . \$750,000

State Police.

8100-0000 For the administration and operation of the department of state police, including the payment of charges assessed to the department of state police for the costs of worker's compensation, unemployment insurance, medicare taxes, medical security plan, and the group insurance commission extended leave chargeback; provided, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the commission; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of environmental affairs department of fisheries, wildlife and environmental law enforcement at no cost to, or compensation

from, that division; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; and provided further, that any community that was selected to receive earmarked funds in fiscal year 2003 shall receive 100 per cent of the amount so earmarked in fiscal year 2004, of which \$100,000 of the \$365,000 previously earmarked in chapter 184 of the acts of 2002 for the Zero Tolerance Program shall be expended for patrolling the area of the Mystic River Reservation that lies between Sandy Beach in Winchester and Dugger park in West Medford commonly known as Whiskey Flats; and provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the criminal justice training council, so-called, and the criminal history systems board \$195,721,900

Highway Fund \$88.20%
General Fund \$11.80%

8100-0006 For private police details; provided, that the department may expend up to \$14,000,000 in revenues collected from fees charged for private police details and for the costs of administering such details; provided further, that notwithstanding any general or special law to the contrary, the department of state police may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 2004 to be charged to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate as re-reported in the state accounting system for the purposes stated in this item to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year 2004 \$14,000,000

8100-0007 For the overtime of State police officers including the operation of the drug enforcement task force \$11,060,782
Highway Fund \$88.20%
General Fund \$11.80%

8100-0011 The department of state police may expend an amount not to exceed \$3,600,000 for certain police activities provided pursuant to agreements authorized in this item; provided, that for fiscal year 2004, the colonel of the state police may enter into service agreements with the commanding officer or other

person in charge of a military reservation of the United States located in the Commonwealth of Massachusetts Development Finance Agency, established in chapter 23G of the General Laws; provided further, that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (1) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (2) provisions governing payment to the department for the cost of furnishings and equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that said colonel may enter into service agreements as may be necessary to enhance the protection of persons, as well as assets and infrastructure located within the commonwealth, from possible external threat or activity, provided that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (1) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (2) provisions governing payment to the department for the cost of equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that said colonel may expend from this item costs associated with joint federal and state law enforcement activities from federal reimbursements received therefore; and provided further, that notwithstanding the provisions of any general or special law to the contrary and for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not exceed

	the lower of this authorization or the most recent revenue estimate	\$3,600,000
	Highway Fund	\$100.00%
8100-0020	The department of state police may expend an amount not to exceed \$150,329 in fees charged for the use of the statewide telecommunications system for the maintenance of the system	\$150,329

Criminal Justice Training Council.

8200-0200 For the operation of veteran, reserve and in-service training programs conducted by the Massachusetts criminal justice training council; provided, that the council shall expend not less than \$250,000 in accordance with chapter 30B of the General Laws, for training and technical assistance for chiefs of police and administrative or command personnel by: a) a combination of training manuals, seminars, computer based training and distance learning; b) research, drafting and mailing of monthly articles and presentations on legal and administration topics; c) training presentations during and following monthly meetings of policy chiefs; d) e-mail, toll-free consultation to chiefs on administrative issues and follow-up on seminar topics; e) a state-wide three-day training conference on management, legal and leadership issues; provided further, that the executive director of the council shall submit a report not later than January 1, 2004 to the house and senate committees on ways and means on police chief training offered by said council that shall include, but not be limited to, the ongoing need for specialized training of chiefs of police, the identification of the estimated cost of providing such training to said chiefs of police, a detailed breakdown of all expenditures related to chief of police training by date, event, publication, amount expended and number of chiefs of police benefiting from said training, and that the breakdown shall be made for fiscal years 2001, 2002, 2003 and the first quarter of fiscal year 2004; provided further, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; provided further, that the executive director of said council shall submit a report not later than January 1, 2004 to the house and

senate committees on ways and means on cost-savings initiatives, including, but not limited to, the relocation of training sites and the feasibility of conducting officer training in armories owned by the Massachusetts military division; and provided further, that no expenditures shall be 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 in this item \$2,496,050

8200-0222 The criminal justice training council may collect and expend an amount not to exceed \$1,161,500 for the purposes of providing training to new recruits; provided, that the council shall charge \$2,300 per recruit for said training; provided further, that notwithstanding any general or special law to the contrary, the criminal justice training council shall charge a fee of \$2,300 per person for training programs operated by the council for all persons who begin training on or after July 1, 2003; provided further, that said fee shall be retained and expended by said council; provided further, that the trainee, or, if the trainee is a recruit, the municipality in which the recruit shall serve, shall provide said fee in full to the council no later than the first day of orientation for the program in which such trainee or recruit has enrolled; provided further, that no recruit or person shall begin training unless said municipality or said person has provided said fee in full to said council; provided further, that for recruits of municipalities, upon the completion of said program, the municipality shall deduct said fee from said recruit's wages in 23 equal monthly installments, unless otherwise negotiated between said recruit and the municipality in which said recruit shall serve; provided further, that if a recruit withdraws from the training program before graduation, said council shall refund the municipality in which the recruit was to have served a portion of said fee according to the following schedule: if a recruit withdraws from said program before the start of week two, 75 per cent of said payment shall be refunded; if a recruit withdraws from said program after the start of week two but before the start of week three, 50 per cent of said fee shall be refunded; if a recruit withdraws from said program after the start of week three but before the start of week four, 25 per cent of said fee shall be refunded; if a recruit withdraws after the start of week four, the fee shall not be refunded; provided

further, that a recruit who withdraws from said program shall pay the municipality in which he was to have served the difference between said fee and the amount forfeited by said municipality according to said schedule; provided further, that said schedule shall also apply to trainees other than recruits who enroll in said program; provided further, that no expenditures shall be charged to this item that are not directly related to new recruit training; provided further, that no expenditures shall be charged to this item that are related to chief, veteran, in-service, or reserve training, or any training not directly related to new recruits; provided further, that the council shall submit a report on the status of recruit training, including the number of classes, start and end dates of each class, total number of recruits enrolled and graduating in each class, cost per recruit and cost per class for fiscal years 2001, 2002, 2003 and 2004; provided further, that said report shall be submitted to the house and senate committees on ways and means no later than January 1, 2004; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the council may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$1,161,500

Department of Public Safety.

- 8311-1000 For the administration of the department of public safety, including the board of building regulations and standards and the architectural access board; provided further, that the department may charge fees for permitting the operation of amusement devices and to support the department's participation in the National Council for Amusement and Recreational Equipment Safety; provided further, that the department may charge fees amusement operator certification; and provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item \$1,088,292
- 8315-1000 For the administrative costs of the division of inspections; provided, that the expenses of the state boxing commission shall be paid from this item; provided further, that a doctor's

certificate from another state shall be accepted as evidence of an eye examination; provided further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety; provided further, that the department shall expend not less than \$300,000 for the employment of additional elevator inspectors in fiscal year 2004 in excess of any such positions approved as of February 1, 1998, including an additional engineer inspector; provided further, that such additional engineer inspector's duties shall include, but not be limited to, administering pipefitter license examinations; provided further, that such an additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA subsidiary of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; and provided further, that the division shall inspect all elevators in the state house and the McCormack office building \$4,609,912

8315-1020 The department of public safety may expend an amount not to exceed \$150,000 in revenues collected from fees for annual elevator inspections; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$150,000

8315-1025 The department of public safety may collect and expend an amount not to exceed \$80,000 for the purposes of providing state building code training and courses for instruction; provided, that the agency may charge fees for the classes and education materials associated with administering training; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$80,000

Department of Fire Services.

8324-0000 For the administration of the department of fire services, including the state fire marshal's office, the hazardous materials emergency response program and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option, so-called; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount expended on the administration of the department of fire services, the state fire marshal's office and the Massachusetts firefighting academy shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount expended for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the document filed with the commissioner of insurance and known as: "Exhibit of Premiums and Losses, Business in the State of Massachusetts during the year 2000"; provided further, that notwithstanding any general or special law to the contrary, funds scheduled in the PP subsidiary, pursuant to section 27 of chapter 29 of the General Laws for this item in fiscal year 2004 shall not be transferred to any other subsidiary in said fiscal year; provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program; provided further, that the expenses of the board of fire prevention regulations, pursuant to section 4 of chapter 22D of the General Laws, shall be paid from this item; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that not less than \$100,000 be expended for the administration

	of a statewide program to provide for critical incident stress intervention for the fire departments of the cities, towns, and fire districts of the commonwealth, including, but not limited to, consultant services, training, equipment, and supplies; and provided further, that the department shall complete a feasibility study for a new fire station for the city of Springfield Fire Department at the intersection of Bay Street and Berkshire Avenue	\$8,802,208
8324-1101	For the costs of the department for the enforcement of underground storage tank compliance standards set forth in sections 38B to 38I, inclusive, of chapter 148 of the General Laws and the rules and regulations promulgated pursuant thereto	\$106,240

Registry of Motor Vehicles.

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and including all rent and related parking and utility expenses of the registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar and the director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of the computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; provided further, that the registry may operate a full-service branch in the town of Southbridge; provided further, that the registry shall operate an office in the city of Fall River; provided further, that the registry may run a license express office in the city of Lynn; provided further, that the registry may operate a full service office in the town of Milford to be operated 5 days a week; provided further, the registry shall operate a license express office in the town of Walpole; provided further that the registry shall operate a li-

cense express office in the town of Falmouth; provided further, that said registry may operate a full-service office in the city of Lowell; provided further, that said registry may operate a license express office in the Grove Hall neighborhood in the city of Boston; provided further, that the registry shall operate an office in the city of Taunton and the town of Plymouth which shall handle license business, learner's permits, road testing and full service registration business to the general public as provided through April 24, 1998; provided further, that the registry shall establish and maintain a record of all vehicles leased within the commonwealth for a period longer than 30 days; provided further, that such record shall include, but not be limited to, the names and addresses of the lessor and the lessee; provided further, that the registry shall have an employee or other such person answering all initial incoming telephone calls at the customer phone information center between the hours of 9:00 a.m. and 5:00 p.m.; provided further, that the registry may operate within the Springfield branch a one stop international registration plan office for truck registrations to serve the counties of Hampden, Hampshire, Franklin and Berkshire; provided further, that the registry shall take all steps necessary to improve customer service within existing resources; and provided further, that said registry shall submit a report to the house and senate committees on ways and means not later than April 1, 2004 detailing the steps taken and the resultant change in customer service \$47,446,162

Highway Fund \$100.00%

8400-0016 For the operation of the motorcycle safety program; provided, that the comptroller shall certify that \$2 generated from every motorcycle registration is credited to the motorcycle safety program funded herein \$185,691

8400-0024 Notwithstanding section 2 of chapter 280 of the General Laws, the registry of motor vehicles may expend not more than \$3,000,000 of revenue collected 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; provided further, that the registry of motor vehicles shall work with the office of the state comptroller to begin participating in the state's intercept program; and provided further, that no costs payable in the AA subsidiary shall be charged to this item \$3,000,000
- 8400-0033 The registry of motor vehicles may expend revenues collected up to a maximum of \$3,500,000 from the fees charged for driver record access, operating under the influence reinstatement and registration reinstatement; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the registry may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules prepared by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; and provided further, that no costs payable in the AA subsidiary shall be charged to this item \$3,500,000
- 8400-0222 The registry of motor vehicles may expend not more than \$2,500,000 from revenues collected from registry renewal fees for the purpose of maintaining registry services \$2,500,000

Merit Rating Board.

- 8400-0100 For the operation of the safe driver insurance plan authorized pursuant to section 113B of chapter 175 of the General Laws, including the rent, related parking and utility expenses of the merit rating board; provided, that notwithstanding the provisions of any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter 90C of

Chap. 26

the General Laws	\$8,776,610
Highway Fund	\$100.00%

Military Division.

8700-0001 For the operation of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the camp Curtis Guild rifle range and certain national guard aviation facilities; provided, that notwithstanding the provisions of chapter 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades, so-called; and provided further, that said adjutant general shall maintain a roster of Massachusetts veterans as directed by section 15 of chapter 33 of the General Laws	\$5,257,403
8700-1140 The state quartermaster may expend an amount not to exceed \$500,000 from revenues collected for the purposes described in this item; provided, that the state quartermaster may expend from fees collected for the non-military rental or use of armories for the costs of utilities and maintenance; and provided further, that the state quartermaster may expend an amount not to exceed \$250,000 for salaries, subsistence, quarters, and associated costs for national guard soldiers ordered to perform state missions pursuant to chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or non-governmental entity to defray such expenses	\$500,000

Massachusetts Emergency Management Agency.

8800-0001 For the operations of the Massachusetts emergency management agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities	\$751,581
8800-0100 For the nuclear safety preparedness program of the Massachusetts emergency management agency; provided, that the costs of the program, including fringe benefits and indirect costs, shall be assessed upon Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the commonwealth; provided further, that the department of telecommunications and energy shall develop an equitable method of ap-	

	portioning such assessments among such licensees; and provided further, that such assessments shall be paid during the current fiscal year as provided by the department	\$358,128
8800-0200	For the Seabrook nuclear safety preparedness program; provided, that the cost of the program shall be assessed on electric companies in the commonwealth which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950, include communities located within the commonwealth and shall be credited to the General Fund; provided further, that for the purposes of this item, "electric companies" shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution and sale of electricity within the commonwealth; and provided further, that the term "electric company" shall not include municipalities or municipal light plants	\$269,473
8800-0300	For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire including a continuous real-time radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of said nuclear power plant; provided, that the cost of said item, including any applicable fringe benefits and indirect costs, shall be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase power from the Seabrook nuclear power plant; provided further, that for the purposes of said item, electric companies shall be defined as all persons, firms, associations and private corporations which own or operate works or distribute electricity in the commonwealth; provided further, that the term electric companies shall not include municipalities or municipal light plants; and provided further, that the department shall report to the house and senate committees on ways and means no later than March 1, 2004 the results of the monitoring project between the department and the citizens monitoring group, including but not limited to, the reasons for increases and decreases in radiation levels	\$90,356

Department of Correction.

- 8900-0001 For the operation of the commonwealth's department of correction; provided, that the department shall expend not less \$997,000 to cities and towns hosting facilities; provided further, that one-half of the number of inmates incarcerated at Souza Baranowski correctional center shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster; provided further, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety shall report to the committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety shall report to the committees on ways and means and public safety before January 1 of each year the point score compiled by the department of correction's objective classification system for all prisoners confined in each prison operated by the department; provided further, that not less than \$40,000 shall be provided for the Dismas House, so called; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction; and provided further, that the department may expend funds appropriated herein for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the military division, the Massachusetts parole board and the sex offender registry board \$427,805,435
- 8900-0010 For prison industries and farm services; provided, that the commissioner of correction shall submit quarterly financial reports detailing revenues generated and expended, to the house and senate committees on ways and means \$1,853,521
- 8900-0011 For a prison industries and farm services revenue retention account; provided, that the department may expend an amount not to exceed \$2,600,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from

	this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$2,600,000
8900-0045	The department of correction may expend for the operation of the department, including personnel-related expenses, an amount not to exceed \$6,624,000 from revenues received from federal inmate reimbursements; provided, that \$900,000 from said reimbursements shall not be available for expenditure and shall be deposited in the General Fund prior to the retention by the department of any said reimbursements; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$6,624,000

County Corrections.

8910-0000 For a reserve to fund county correctional programs; provided, that the funds appropriated in this item shall be distributed among the sheriffs departments of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties by the county government finance review board upon prior notification to the house and senate committees on ways and means; provided further, that funds appropriated herein shall be in addition to and contingent on the provisions of line item 1599-7092; provided further, that funds made available to Plymouth county can be expended for operating and debt service costs associated with state inmates housed in the Plymouth county facility, pursuant to the provisions of clauses 3 and 4 of the Memorandum of Agreement signed May 14, 1992; provided further, that Suffolk county may receive additional funding from the balance for county correction maintenance and operation expenses; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place such funds in a separate account within the treasury of each such county; provided further, that the treasurer shall authorize temporary

transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the commonwealth under this item; provided further, that upon receipt of the state distribution, the treasurer may transfer out of such account an amount equal to the funds so advanced; provided further, that all funds deposited in such accounts and any interest accruing thereto shall be used solely for the functions of the sheriffs' departments of the various counties including, but not limited to, maintenance and operation of jails and houses of correction, without further appropriation; provided further, that the sheriff's department of each county shall reimburse the county treasurer of each county for personnel-related expenses, with the exception of salaries, attributable to the operations of the sheriff's department of each county heretofore paid by the county including, but not limited to, the cost of employee benefits; provided further, that the spending plans required by this item shall be developed by the county government finance review board, in consultation with the Massachusetts Sheriffs' Association; provided further, that in accordance with section 247 of chapter 38 of the acts of 1995, all spending plans shall be detailed by subsidiary and object code in accordance with the expenditure classification requirements promulgated by the comptroller; provided further, that such spending plans shall be accompanied by a delineation of all personnel employed by each county correctional facility including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that such spending plans shall be accompanied by a delineation of all vehicles leased, owned or operated by each county sheriff; provided further, that such delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased and vehicle primary use; provided further, that no sheriff shall purchase any new vehicles or major equipment in fiscal year 2004 unless such purchase is made pursuant to a multicounty or regionalized collaborative procurement arrangement or unless such purchase is directly related to significant population increase or is otherwise necessary to address an immediate and unanticipated public safety crisis and is approved by the county government finance review board and the executive office of public safety;

provided further, that notwithstanding the provisions contained in this item, sheriffs may purchase "marked" prisoner transportation vans, so-called, upon notification to the county government finance review board; provided further, that notwithstanding the provisions of any special law to the contrary, no county treasurer shall retain revenues derived by the sheriffs from commissions on telephone service provided to inmates or detainees; provided further, that said revenues shall be retained by the sheriffs not subject to further appropriation for use in a canteen fund, so-called; provided further, that the county government finance review board and the executive office of public safety shall identify and develop county correction expenditures which shall be reduced through shared contracts, regionalized services, bulk purchasing and other centralized procurement savings programs; provided further, that documentation of such expenditures and savings shall be submitted to the house and senate committees on ways and means not later than December 30, 2003 and shall make provision for such system of shared contracts, regionalized services, bulk purchasing and other centralized procurement savings to take effect not later than June 30, 2004; provided further, that the daily count sheet for county facilities, so-called, compiled by the executive office of public safety, shall be filed with the Massachusetts Sheriffs' Association not less than monthly; provided further, that all revenues including, but not limited to, revenue received from housing federal prisoners, United States Marshals, canteen revenues, inmate industries and work-crew revenues shall be tracked and reported quarterly to the house and senate committees on ways and means and the Massachusetts Sheriffs' Association; provided further, that on or before August 15, 2003, each county sheriff shall submit a final spending plan for fiscal year 2004 to the county government finance review board and the house and senate committees on ways and means detailing the level of resources deemed necessary for the operation of each county correctional facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that failure by a county sheriff to comply with any provision of this item shall result in a reduction of subsequent quarterly payments to amounts consistent with a rate of expenditure of

95 per cent of the rate of expenditure for fiscal year 2003, as determined by the county government finance review board; provided further, that each sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of such spending plans not later than August 15, 2003; provided further, that on or before September 15, 2003, the county government finance review board shall have approved final fiscal year 2004 county correction budgets; provided further, that the county government finance review board shall provide the executive office of public safety and the house and senate committees on ways and means with copies of such approved budgets not later than October 15, 2003; provided further, that such budgets shall include distribution schedules for the final two quarters of fiscal year 2004 and such plans shall be used to make all subsequent quarterly distributions; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated in this item and each sheriff shall make all necessary adjustments to ensure that expenditures do not exceed the appropriation; provided further, that each county shall expend during fiscal year 2004, for the operation of county jails and houses of correction and other statutorily authorized facilities and functions of the office of the sheriff, in addition to the amount distributed from this item, not less than 102.5 per cent of the amount expended in fiscal year 2003 for such purposes from own-source revenues, which shall not be less than 5 per cent of total county revenues including, but not limited to, amounts levied pursuant to sections 30 and 31 of chapter 35 of the General Laws and amounts provided pursuant to sections 11 to 13, inclusive, of chapter 64D of the General Laws; provided further, that in fiscal year 2004, those counties which have not met maintenance of effort obligations in prior fiscal years shall expend not less than the minimum contribution, as defined above from own-source revenues; provided further, that notwithstanding the provisions stated in this item, the maintenance of effort obligations for Suffolk county shall be 4 per cent of the total fiscal year 2004 Suffolk county correction operating budget as approved by the county government finance review board; provided further, that notwithstanding the provisions of any general or special law

to the contrary, the deputy commissioner of local services shall certify on or before May 15, 2004 that all municipalities have appropriated and transferred to their respective county treasuries, not less than 102.5 per cent of the municipality's prior year obligations or minimum contributions as defined above, whichever is greater, for county corrections; provided further, that if a municipality fails to transfer such obligation, said deputy commissioner shall withhold an amount equal to the shortfall in the obligation due to the county from such municipality's fourth quarter local aid "cherry sheet" distribution, so-called, authorized from item 0611-5500 of section 2 and from funds made available from the State Lottery Fund distribution in section 3; provided further, that on or before August 1, 2003, said deputy commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 2004, notwithstanding the provisions of section 20A of chapter 59 of the General Laws, any county except Suffolk and Nantucket may increase its county tax for said fiscal year by an additional amount if the total amount of such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; provided further, that each sheriff shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the comptroller pursuant to section 27 of chapter 29 of the General Laws; and provided further, that each sheriff funded from this item shall report on a monthly basis to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than September 30, 2003 \$126,818,218

8910-0010 For the purpose of funding expenses for services provided to inmates of county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year 2004; provided, that said department shall notify the county government finance review board and the comptroller of all such expenses; provided further, that not more than 30 days after receiving such notification, the board shall certify to the

comptroller the amount of such expenses to be charged to this item; provided further, that upon receiving such certification, the comptroller shall effect the transfer of such amount from this item to item 4590-0903 in section 2B; and provided further, that such actual and projected payments shall be considered expenditures within each county spending plan and shall be reflected as such in proposed spending plans required by 8910-0000 in section 2 \$1,300,000

Sheriffs.

- 8910-0102 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampden county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2003 \$53,146,689
- 8910-0105 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Worcester county; provided, that said sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003 \$37,472,237
- 8910-0107 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Middlesex county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003 \$47,902,287
- 8910-0108 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Franklin county; provided, that said sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003 \$6,045,400
- 8910-0110 For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the admin-

	istration of the office of the sheriff of the former Hampshire county; provided, that said sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003	\$10,180,467
8910-0145	For the operation of the jail, house of correction, and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Berkshire county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003	\$12,652,543
8910-0160	For a retained revenue account for the Middlesex sheriff's department for reimbursements from the federal government for costs associated with the incarceration of federal inmates at the Billerica house of correction; provided, that the department may expend for the operation of the department and for renovation of a new training facility and one-time capital maintenance issues at the Billerica house of correction an amount not to exceed \$850,000 from revenues collected from the incarceration of federal inmates; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, 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; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$850,000
8910-0188	The Franklin sheriff's department may expend for the operation of the department an amount not to exceed \$1,200,000 from revenues received from federal inmate reimbursements; provided, that \$500,000 from the reimbursements shall not be available for expenditure and shall be deposited in the General Fund prior to the retention by the department of any said reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt	

	of retained revenues and related expenditures, 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 therefore as reported in the state accounting system	\$1,200,000
8910-0445	The Berkshire sheriff's department may expend an amount not to exceed \$150,000 from revenues generated from the operation of the Berkshire County Communication Center's 911 dispatch operations and other law enforcement related activities, including the Berkshire County Sheriff prison industries program; provided, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called	\$150,000
8910-0619	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Essex county; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in said county starting not later than August 1, 2003	\$39,114,291
8910-1000	For a prison industries revenue retention account for the Hampden sheriff's department; provided, that the department may expend any amount not to exceed \$600,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$600,000
8910-1100	For a prison industries revenue retention account for the Middlesex sheriff's department; provided, that the department may expend an amount not to exceed \$75,000 for revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded in the Massachusetts management accounting and reporting system	\$75,000
8910-1111	The Hampshire sheriff's department may expend for the opera-	

tion of the department an amount not to exceed \$163,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund before the retention by the department of any of these reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$163,000

8910-2222 The Hampden sheriff's department may expend for the operation of the department an amount not to exceed \$320,000 from revenues received from federal inmate reimbursements; provided, that \$312,000 form the reimbursements shall not be available for expenditure and shall be deposited into the General Fund; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, 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 therefore as reported in the state accounting system \$320,000

8910-6619 The Essex sheriff's department may expend for the operation of the department an amount not to exceed \$1,000,000 from revenues received from federal inmate reimbursements; provided, that \$600,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund before the retention by the department of any of these revenues; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$1,000,000

8910-7100 The Massachusetts Sheriffs' Association may expend for the operation of said association an amount not to exceed \$211,000 from revenues received from voluntary contributions from state and county sheriffs; provided, that the sheriffs shall appoint persons to serve as executive director, assistant executive director and research director and other staff positions as necessary to the Massachusetts Sheriffs' Association for the purpose of coordination and standardization of services and programs, the collection and analysis of data related to incarceration and recidivism and generation of reports, technical assistance and training to ensure standardization in organization, operations, and procedures; provided further, that this staff shall not be subject to section 45 of chapter 30 or to chapter 31 of the General Laws and shall serve at the will and pleasure of a majority of sheriffs; provided further, that the 14 sheriffs of the commonwealth shall form an agreement to fund the costs of this item in future fiscal years; provided further, that the executive director of the Association shall submit a report that shows the amounts of all grants awarded to each sheriff in fiscal year 2004; and provided further, that the report shall be submitted to the house and senate committees on ways and means not later than February 1, 2004 \$211,000

Parole Board.

8950-0001 For the operation of the parole board \$12,391,744
8950-0002 For the victim and witness assistance program of the parole board, in accordance with chapter 258B of the General Laws \$266,400
8950-0008 For the operation of the parole board's sex offender management program and the supervision of high-risk offenders, the parole board may expend an amount not to exceed \$400,000 from revenues collected from fees charged for parolee supervision pursuant to section 128 of chapter 276 as amended by this act; provided, that the parole board shall file a report with the house and senate ways and means committees no later than February 1, 2004 which shall include, but not be limited to, the number of parolees participating in said program and the reincarceration rate of participating parolees \$400,000

LEGISLATURE.

Senate.

9500-0000 For the operation of the senate \$17,897,012

House of Representatives.

9600-0000 For the operation of the house of representatives \$30,872,678

Joint Legislative Expenses.

9700-0000 For the joint operations of the legislature \$7,297,782

Commission on the Status of Women.

0950-0000 For the commission on the status of women \$145,000

SECTION 2B.

SECTION 2B. Notwithstanding the provisions of any general or special law to the contrary, the agencies listed in this section may expend the amounts listed in this section for the provision of services to agencies listed in section 2. All expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established by section 2Q of chapter 29 of the General Laws. No expenditures shall be made from the Intragovernmental Service Fund which would cause that fund to be in deficit at the close of fiscal year 2004. All authorizations in this section shall be charged to the Intragovernmental Service Fund. Any balance remaining in that fund at the close of fiscal year 2004 shall be transferred to the General Fund.

OFFICE OF THE SECRETARY OF STATE.

0511-0003 For the costs of providing electronic and other publications purchased from the state bookstore, for commission fees, notary fees and for direct access to the secretary's computer library \$25,000

0511-0235 For the costs of obsolete records destruction incurred by the office of the secretary of state; provided, that state agencies, including the judicial branch, may be charged for the destruction of their obsolete records by the records center where appropriate; provided further, that the secretary of state may expend revenues not to exceed \$100,000 of such funds received for the costs of such obsolete record destruction; and provided further, that such fees shall be charged on an equitable basis \$100,000

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.
Office of Dispute Resolution.

1100-1108 For the office of dispute resolution for the costs of mediation and other services provided to certain agencies \$300,000

Bureau of State Office Buildings.

1102-3333 For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract services purchased in performing renovations and related services for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities \$165,000

1102-3336 For the operation and maintenance of the space in the Hurley state office building occupied by the division of employment and training as amended in this act \$2,201,151

Reserves.

1599-2040 For the payment of prior year deficiencies based upon schedules provided to the house and senate committees on ways and means; provided, that the comptroller may charge departments' current fiscal year appropriations and transfer to such item amounts equivalent to the amounts to any prior year deficiency, subject to the conditions stated in this item; provided further, that the comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains or, if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains; provided further, that no chargeback shall be made which would cause a deficiency in any current fiscal year item of appropriation; provided further, that the comptroller shall report with such schedule a detailed reason for the prior year deficiency on all chargebacks assessed that exceed \$1,000 including the amount of the chargeback, the item of appropriation and subsidiary charged; and provided further, that the comptroller shall report on a quarterly basis on all chargebacks assessed, including the amount of the chargeback, the item of appropriation, subsidiary charged and the reason for the prior year deficiency \$7,000,000

1599-3100 For the cost of the commonwealth's employer contributions to the Unemployment Compensation Fund and the Medical Security Trust Fund; provided, that the secretary of administration and finance shall authorize the collection, accounting and payment of such contributions; and provided further, that in executing these responsibilities the state comptroller may charge in addition to individual appropriation accounts certain non-appropriated funds in amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense or related charges \$13,000,000

Division of Human Resources.

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the human resources division may collect a \$75 administrative fee from vendors who submit proposals in response to requests for proposals for the commonwealth master service agreement for specialized training and consultation services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed nonresponsive and its proposal shall not be considered for contract award; provided further, that the division shall charge to other items of appropriation for the cost of participants enrolled in programs sponsored by the division or to state agencies employing such participants; and provided further, that the division may collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs \$833,130

1750-0105 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge other items of appropriation or state agencies for costs incurred on behalf of these state agencies; provided further, that the secretary may transfer workers compensation-related fringe benefit assessments from federal grants and trust accounts to this item; provided further, that the secretary shall identify charges by item of appropriation; provided fur-

ther, that not more than \$1,600,000 shall be used for the compensation of employees; provided further, that the secretary shall file quarterly reports with the house and senate committees on ways and means detailing these items, including federal grants and trust accounts that have not yet paid their charges, and the reasons why, within 3 weeks of the close of each quarter; provided further, that no funds shall be expended from this item that would cause said item to be deficient; provided further, that said secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year 2004 to the house and senate committees on ways and means no later than February 27, 2004; provided further, that in accordance with chapter 177 of the acts of 2001, the secretary of administration and finance shall charge state agencies in fiscal year 2004 as provided in this section for workers' compensation costs, including related administrative expenses incurred on behalf of the employees of said agencies; provided further, that administrative expenses shall be allocated based on each agency's per cent of total workers' compensation benefits paid in fiscal year 2003; provided further, that the personnel administrator shall administer said charges on behalf of said secretary, and may establish such rules and procedures as deemed necessary to implement the provisions of this section; provided further, that the personnel administrator shall (1) notify agencies regarding the chargeback methodology to be used in fiscal year 2004, (2) notify agencies of the amount of their estimated worker's compensation charges for said fiscal year, and (3) require agencies to encumber funds in an amount sufficient to meet said estimated charges; provided further, that said estimated charges for each agency in said fiscal year shall be not less than the amount of the actual workers' compensation costs, including related administrative expenses, incurred by each such agency in fiscal year 2003, and may include such additional amounts as are deemed necessary under regulations promulgated pursuant to this section; provided further, that for any agency that fails within 30 days of the enactment of this act to encumber funds sufficient to meet said estimated charges, the comptroller shall so encumber funds on behalf of such agency, the personnel administrator shall (1) determine the amount of the actual worker's compensation costs incurred

by each agency in the preceding month, including related administrative expenses, (2) notify each agency of said amounts, (3) charge said amounts to each agency's accounts as estimates of the costs to be incurred in the current month; provided further, that notwithstanding any general or special laws to the contrary, any balance remaining in the workers' compensation Intergovernmental Service Fund, at the close of fiscal year 2003 shall be transferred to the General Fund; provided further, that any unspent balance at the close of fiscal year 2003 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Workers' Compensation Intergovernmental Service Fund and is hereby re-authorized for expenditures for such item in fiscal year 2004; provided further, that the personnel administrator is hereby authorized to expend in fiscal year 2004 for hospital, physician, benefit, and other costs related to workers' compensation for employees of state agencies, including administrative expenses; and provided further, that such expenditures may include payments for medical services provided to claimants in prior fiscal years, as well as compensation benefits and associated costs prior to fiscal years \$56,355,860

1750-0106 For the workers' compensation litigation unit, including the costs of personnel \$595,906

Division of Operational Services.

1775-0800 For the purchase, operation and repair of certain vehicles and for the cost of operating and maintaining all vehicles that are leased by other agencies, including the costs of personnel . . . \$7,600,000

1775-1000 For the provision of printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the commissioner of administration shall charge to other items of appropriation within the agencies of the executive branch for such services, including the costs of personnel \$1,000,000

Division of Information Technology.

1790-0200 For the cost of computer resources and services provided by the information technology division in accordance with the poli-

cies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that the secretary shall charge other items of appropriation for the cost of the resources and services; provided further, that notwithstanding any general or special law to the contrary, charges for the cost of computer resources and services provided by the bureau of computer services for the design, development, and production of reports and information required for the analysis and development of appropriations bills shall not be charged to any item of appropriation of the house of representatives, the senate or any joint legislative account in fiscal year 2003; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing each agency's charges and payments for the preceding quarter for this item; and provided further, that the secretary for administration and finance may establish regulations, procedures and a schedule of fees to further implement this section including, but not limited to, the development and distribution of forms and instructions, including the costs of personnel \$27,047,810

1790-0400 For the purchase, delivery, handling of and contracting for supplies, postage and related equipment and other incidental expenses provided pursuant to the provisions of section 51 of chapter 30 of the General Laws \$2,190,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

2001-1002 For the costs of data processing and related computer and mapping services, the distribution of digital cartographic and other data, the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws and for the staff and printing of the Environmental Monitor \$350,000

2030-1002 For the costs of overtime and special details provided by the office of fisheries, wildlife and environmental law enforcement \$160,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0122 For the costs of interpreter services provided by commission staff; provided, that the costs of personnel may be charged to this item; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$160,000

Department of Public Health.

4590-0901 For the costs of medical services provided at public health hospitals pursuant to a schedule of services and fees approved by the commissioner of public health, which may be expended for the purposes of hospital related costs, including capital expenditures and motor vehicle replacement \$150,000

4590-0903 For the costs of medical services provided at the department of public health Lemuel Shattuck hospital to inmates of the county correctional facilities; provided, that the costs shall be charged to items 8910-0000, 8910-0010, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, and 8910-0619, of section 2 pursuant to the provisions thereof; provided further, that expenditures from this item shall be for hospital-related costs, including, but not limited to, capital repair and the maintenance and motor vehicle replacement; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for the payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system \$2,800,000

Department of Mental Retardation.

5948-0012 For residential support services provided by the department for the purposes of supplementing educational services provided in item 7061-0012 of section 2 \$7,500,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Department of Highways.

6030-7501 For the cost of the purchase of bulk fuel for certain vehicles under the authority of the operational services division and the cost of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel \$600,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.
State Police.

8100-0002 For the costs of overtime associated with requested police detail; provided, that for the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system \$6,481,127

8100-0003 For the costs associated with the use of the statewide telecommunications system for the maintenance of the system \$156,375

Criminal Justice Training Council.

8200-1121 For the cost of space rentals, utilities and maintenance at the criminal justice training council's training academies and computer labs \$35,000

Military Division.

8700-1145 For the costs of utilities and maintenance and for the implementation of energy conservation measures with regard to the state armories \$500,000

Department of Correction.

8900-0021 For the cost of products produced by the prison industries and farm program and for the cost of services provided by inmates, including the costs of moving, auto repair, culinary and renovation and construction services; provided, that the costs for renovation and construction services shall not exceed the amount established by the department of procurement and general services; and provided further, that such revenues may also be expended for materials, supplies,

equipment, maintenance of facilities and compensation of
employees and for the inmate employment and training
program \$6,050,000

SECTION 2D.

SECTION 2D. The amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with section 6B of chapter 29 of the General Laws. The amount of any unexpended balance of federal grant funds received before June 30, 2003, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 2004, in addition to any amount appropriated in this section.

JUDICIARY.

Supreme Judicial Court.

0320-1700 For the purposes of a federally funded grant entitled, State Court
Improvement Program \$180,994

Trial Court

0332-6410 For the purposes of a federally funded grant entitled, Judicial
Oversight Project-Dorchester District Court \$159,638

DISTRICT ATTORNEYS.

Northern District Attorney.

0340-0208 For the purposes of a federally funded grant entitled, Community
Gun Violence Prosecution \$96,000

0340-0237 For the purposes of a federally funded grant entitled, Children's
Advocacy Center National Network \$10,000

Middle District Attorney

0340-0434 For the purposes of a federally funded grant entitled, Juvenile
Accountability Grant \$195,200

Plymouth District Attorney.

0340-0806 For the purposes of a federally funded grant entitled, Weed and
Seed \$140,000

0340-0807 For the purposes of a federally funded grant entitled, Gun
Prosecution \$80,000

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Bristol District Attorney.

0340-0923 For the purposes of a federally funded grant entitled, Community
Involvement Project \$148,284

Cape and Islands District Attorney.

0340-1034 For the purposes of a federally funded grant entitled, Juvenile
Diversion Program \$140,000

SECRETARY OF STATE.

0526-0114 For the purposes of a federally funded grant entitled, Historic
Preservation Survey and Planning \$600,000

0526-0115 For the purposes of a federally funded grant entitled,
Massachusetts Historical Commission - Federal Preservation
Grants \$400,000

Massachusetts Cultural Council.

0640-9716 For the purposes of a federally funded grant entitled, Folk and
Traditional Arts Initiative \$12,500

0640-9717 For the purposes of a federally funded grant entitled, Basic State
Plan \$394,100

0640-9718 For the purposes of a federally funded grant entitled, Arts
Education \$67,900

0640-9724 For the purposes of a federally funded grant entitled, Arts in
Underserved Communities \$105,500

0640-9729 For the purposes of a federally funded grant entitled, Challenge
America \$97,000

ATTORNEY GENERAL.

0810-0026 For the purposes of a federally funded grant entitled, Crime
Victim Compensation \$1,000,000

0810-6658 For the purposes of a federally funded grant entitled, Weed and
Seed \$175,000

Victim Witness Assistance Board.

0840-0900 For the purposes of a federally funded grant entitled, VOCA
Antiterrorism Supplemental Grant \$600,000

0840-0110 For the purposes of a federally funded grant entitled, Victims of
Crime Assistance Programs \$7,639,563

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0840-0999	For the purposes of a federally funded grant entitled, Training to Stop Abuse & Sexual Assault of Older Individuals or Individuals with Disabilities	\$242,375
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EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.
Office of Dispute Resolution.

1100-1117	For the purposes of a federally funded grant entitled, Agricultural Mediation Matching Grant	\$47,977
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Massachusetts Developmental Disabilities Council.

1100-1703	For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities Act; provided, that in order to qualify for this grant, this item shall be exempt from the first \$184,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws	\$1,300,000
1100-1710	For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Council Service Grant; provided, that in order to qualify for this grant, this item shall be exempt from the first \$65,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws	\$650,000

Office on Disability.

1107-2450	For the purposes of a federally funded grant entitled, Client Assistance Program	\$241,336
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Department of Revenue.

1201-0053	For the purposes of a federally funded grant entitled, Fathers in the Criminal Justice System	\$39,306
1201-0104	For the purposes of a federally funded grant entitled, Joint Federal-State Motor Fuel Tax Compliance Project	\$15,640
1201-0109	For the purposes of a federally funded grant entitled, Access and Visitation - Parent Education Program	\$222,469
1201-0117	For the purposes of a federally funded grant entitled, Child Care Custody Use and Self-Sufficiency Pathways of Low-Income Mothers	\$32,363
1201-0163	For the purposes of a federally funded grant entitled, Private Share of Parents of Fragile Families	\$125,000

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1201-0412	For the purposes of a federally funded grant entitled, Child Support Enforcement Grants	\$552,717
1201-1951	For the purposes of a federally funded grant entitled, Managing Child Support Arrears in Massachusetts	\$100,000

Department of Veterans Services.

1410-0254	For the purposes of a federally funded grant entitled, Homeless Veterans Reintegration - Training and Placement - statewide	\$150,000
1410-0255	For the purposes of a federally funded grant entitled, Veterans Reintegration, Training, and Placement - Urban	\$223,739
1410-0256	For the purposes of a federally funded grant entitled, Veterans Workforce Investment Program	\$850,000
1410-0257	For the purposes of a federally funded grant entitled, Homeless Veterans Reintegration Program - Training and Placement - Springfield	\$229,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-0130	For the purposes of a federally funded grant entitled, Marina Technical Assistance and Managed Measurement	\$30,000
2000-0141	For the purposes of a federally funded grant entitled, Coastal Zone Management Development	\$3,035,965
2000-0148	For the purposes of a federally funded grant entitled, National Estuary Program - Operation	\$515,000
2000-0154	For the purposes of a federally funded grant entitled, Wetlands Ecological Assessment	\$56,000
2000-0171	For the purposes of a federally funded grant entitled, Smart Growth on the South Shore	\$35,000
2000-0175	For the purposes of a federally funded grant entitled, Massachusetts Coastal 2000 Monitoring	\$200,000
2030-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects - Political Subdivisions	\$4,000,000
2000-9730	For the purposes of a federally funded grant entitled, Buzzards Bay Conservation & Management Plan	\$551,497
2100-9707	For the purposes of a federally funded grant entitled, FEMA Community Assistance Program	\$154,000
2120-9704	For the purposes of a federally funded grant entitled, NRCS - Wildlife Incentives Habitat Program	\$10,000

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2100-9720	For the purposes of a federally funded grant entitled, Blackstone Heritage Corridor Commission Cooperative Agreement, National Park Service	\$58,705
2100-9725	For the purposes of a federally funded grant entitled, National Dam Safety Program - Federal Emergency Management Administration	\$70,361
2100-9726	For the purposes of a federally funded grant entitled, Recreation Programs for Individuals with Disabilities, U.S. Department of Education	\$17,228
2100-9727	For the purposes of a federally funded grant entitled, Pier Repair - Gallops Island, Boston Harbor Islands Partnership Cooperative	\$103,000
2100-9730	For the purposes of a federally funded grant entitled, State Parks for Everyone, U.S. Department of Education	\$173,035
2120-9702	For the purposes of a federally funded grant entitled, Rural Community Fire Protection	\$65,070
2121-9705	For the purposes of a federally funded grant entitled, USFS Shade Tree and Health	\$457,524
2121-9709	For the purposes of a federally funded grant entitled, Forestry Planning	\$90,967
2121-9711	For the purposes of a federally funded grant entitled, USFS Rural Fire Prevention	\$231,722
2121-9712	For the purposes of a federally funded grant entitled, Forest Health Research	\$11,920
2121-9713	For the purposes of a federally funded grant entitled, Wildland-Urban Interface Fuels Management in Southeastern Massachusetts, USDA Forest Service	\$484,000
2121-9718	For the purposes of a federally funded grant entitled, Forestry Incentives Program- United States Forest Service	\$2,040
2121-9722	For the purposes of a federally funded grant entitled, Forest Resource Management - United States Forest Service	\$30,600
2121-9726	For the purposes of a federally funded grant entitled, USFS Forest Health Management	\$78,500
2140-9709	For the purposes of a federally funded grant entitled, WBNERR Operation and Management	\$862,711
2140-9714	For the purposes of a federally funded grant entitled, WBNERR Land Acquisition, US Department of Commerce NOAA	\$1,680,071
2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning	\$643,441
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tank Program	\$932,374

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2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration Program	\$2,038,530
2200-9721	For the purposes of a federally funded grant entitled, Charles George Landfill - Operable Unit III Operations and Maintenance	\$22,462
2200-9722	For the purposes of a federally funded grant entitled, Baird and McGuire	\$769,800
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Fund Cooperative Agreement	\$1,314,241
2200-9728	For the purposes of a federally funded grant entitled, Brownfields Assessment Program - multi-site	\$390,689
2200-9729	For the purposes of a Federally funded grant entitled, Brownfields Pilots Cooperative Agreement	\$42,905
2200-9730	For the purposes of a federally funded grant entitled, MMR Impact Area Groundwater Study	\$531,457
2230-9702	For the purposes of a federally funded grant entitled, Performance Partnership Grant	\$14,616,360
2240-9726	For the purposes of a federally funded grant entitled, Non-Point Source Pollution - Cranberry Bog Total Maximum Daily Load	\$9,412
2240-9744	For the purposes of a federally funded grant entitled, Water Resources Protection Strategy	\$ 14,630
2240-9746	For the purposes of a federally funded grant entitled, Wetlands Protection - State Development Grant - BVW Training Video	\$3,450
2240-9747	For the purposes of a federally funded grant entitled, Wetlands Protection - State Development Grant - Small Docks and Piers Guidance	\$ 6,425
2240-9761	For the purposes of a federally funded grant entitled, Acushnet River TMDL Surface Water and Nitrogen	\$11,000
2240-9762	For the purposes of a federally funded grant entitled, Reimbursement Operators Small Water Systems	\$413,700
2240-9763	For the purposes of a federally funded grant entitled, Connecticut River QAPP Development	\$50,000
2240-9764	For the purposes of a federally funded grant entitled, 3% Set aside - Special Appropriation	\$48,000
2240-9765	For the purposes of a federally funded grant entitled, Water Protection Coordination Grants to States	\$50,500
2240-9766	For the purposes of a federally funded grant entitled, Develop Bacteria Total Maximum Loads	\$12,500

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2240-9767	For the purposes of a federally funded grant entitled, Assabet River Watershed Project	\$50,000
2240-9768	For the purposes of a federally funded grant entitled, New Bedford St. Sweeping	\$75,000
2250-9712	For the purposes of a federally funded grant entitled, Clean Air Act	\$637,564
2250-9715	For the purposes of a federally funded grant entitled, Municipal Environmental Compliance Grant	\$67,915
2250-9716	For the purposes of a federally funded grant entitled, Ambient Air Toxics Pilot Project	\$38,611
2250-9717	For the purposes of a federally funded grant entitled, Evaluation Outcomes	\$96,000
2250-9718	For the purposes of a federally funded grant entitled, Environmental Results Automation	\$20,000
2250-9719	For the purposes of a federally funded grant entitled, EMS Development in Public Schools	\$10,000
2250-9720	For the purposes of a federally funded grant entitled, Anti-Idling Training Video for School Bus Drivers	\$3,000
2230-9705	For the purposes of a federally funded grant entitled, National Environmental Info Exchange Network	\$113,000
2230-9706	For the purposes of a federally funded grant entitled, National Environmental Network Challenge	\$895,264
2330-9222	For the purposes of a federally funded grant entitled, Clean Vessel	\$926,400
2330-9709	For the purposes of a federally funded grant entitled, Commercial Fisheries Research and Development	\$35,000
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics	\$618,000
2330-9713	For the purposes of a federally funded grant entitled, Right Whale Preservation and Protection Program	\$156,000
2330-9714	For the purposes of a federally funded grant entitled, Commercial Fisheries Extension	\$91,000
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fisheries Management	\$4,797
2330-9725	For the purpose of a federally funded grant entitled, Boating Infrastructure	\$300,000
2330-9726	For the purpose of a federally funded grant entitled, Lobster Trap Escape Vent Selectivity	\$47,700
2330-9727	For the purpose of a federally funded grant entitled, Reducing Blue Shark Bycatch in Pelagic Longline Fisheries	\$53,050

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2330-9728	For the purpose of a federally funded grant entitled, Monkfish Cooperative Research Project: Gillnet & Study Fleet	\$290,445
2330-9730	For the purpose of a federally funded grant entitled, Interstate Fisheries Management Support	\$233,956
2330-9731	For the purpose of a federally funded grant entitled, Biological Characterization of Mass. Scup Fisheries	\$71,082
2330-9732	For the purpose of a federally funded grant entitled, ACCSP Implementation Strategic Plan	\$36,691
2330-9733	For the purpose of a federally funded grant entitled, Further Testing of Cod Avoiding Trawl Net Design	\$318,760
2330-9734	For the purpose of a federally funded grant entitled, Pilot Industry Based Survey Implementation	\$750,980
2330-9735	For the purpose of a federally funded grant entitled, MA Multi-species Fishery Economic Assistance	\$5,500,000
2340-9701	For the purposes of a federally funded grant entitled, Safe Boating Program	\$913,260
2350-0013	For the Joint Enforcement Agreement between the Division of Law Enforcement and the National Marine Fisheries for enforcement of both Federal and State commercial fishing regulations	\$852,165
2350-0108	For the purposes of a federally funded grant entitled, Fisheries Enforcement Support Services	\$124,500
2440-9756	For the purposes of a federally funded grant entitled, Monitoring Boston Harbor Beaches	\$1,443
2440-9757	For the purposes of a federally funded grant entitled, Neponset Salt Marsh Restoration	\$425,500
2440-9758	For the purposes of a federally funded grant entitled, George's Island UST Removal	\$75,000
2440-9760	For the purposes of a federally funded grant entitled, Minuteman Commuter Bikeway	\$150,000
2440-9761	For the purposes of a federally funded grant entitled, Arlington to Boston Bike Path	\$250,000
2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement	\$173,000
2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators	\$119,491
2511-0335	For the purposes of a federally funded grant entitled, Integrated Pest Management Schools Day Care Centers	\$66,667
2511-0400	For the purposes of a federally funded grant entitled, Cooperative Pest Survey Program	\$27,087

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2511-0401	For the purposes of a federally funded grant entitled, Cooperative Pesticide Recordkeeping Program	\$19,625
2511-0972	For the purposes of a federally funded grant entitled, Farmland Protection	\$2,364,000
2515-1002	For the purposes of a federally funded grant entitled, Animal Disease Surveillance Homeland Security	\$16,328
2516-9002	For the purposes of a federally funded grant entitled, Development of Institutional Marketing	\$30,301
2516-9003	For the purposes of a federally funded grant entitled, Farmer's Market Coupon Program	\$607,229
2516-9004	For the purposes of a federally funded grant entitled, Senior Farmers Market Nutrition Program	\$56,900
2516-9007	For the purposes of a federally funded grant entitled, Organic Cost-Share Program	\$20,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Office of the Secretary.

4000-0705	For the purposes of a federally funded grant entitled, Emergency Shelter Grants Program	\$2,251,716
4000-0707	For the purposes of a federally funded grant entitled, Supportive Housing	\$3,685,614
4000-0708	For the purposes of a federally funded grant entitled, Head Start Demonstration	\$264,699
4000-0709	For the purposes of a federally funded grant entitled, Homelessness Continuum of Care	\$1,615,158
4000-0713	For the purposes of a federally funded grant entitled, Youth Development State Collaboration	\$153,887
4000-0715	For the purposes of a federally funded grant entitled, Better Access to Organizations Network (BATON)	\$165,485
4000-9401	For the purposes of a federally funded grant entitled, Community Mental Health Services	\$9,931,056
4000-9402	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant	\$39,549,723
4000-9404	For the purposes of a federally funded grant entitled, McKinney Shelter Plus Care	\$1,675,348
4000-0314	For the purposes of a federally funded grant entitled, Welfare Reform Administration	\$1,200,000
4000-0319	For the purposes of a federally funded grant entitled, HRSA State Planning Grant	\$321,195

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4003-0804	For the purposes of a federally funded grant entitled, Refugee Targeted Assistance Grant	\$2,411,283
4003-0805	For the purposes of a federally funded grant entitled, Refugee Resettlement Program	\$2,412,000
4003-0806	For the purposes of a federally funded grant entitled, Refugee Cash, Medical, and Administration	\$10,504,000
4003-0807	For the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant	\$877,008
4110-3020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that no funds shall be deducted for pensions, group health and life insurance or any other such indirect cost of federally reimbursed state employees	\$700,000
4110-3021	For the purposes of a federally funded grant entitled, Basic Support Grant	\$7,454,241
4110-3023	For the purposes of a federally funded grant entitled, Independent Living - Adaptive Housing	\$72,380
4110-3026	For the purposes of a federally funded grant entitled, Independent Living - Services to Older Blind Americans	\$674,470
4110-3027	For the purposes of a federally funded grant entitled, Rehabilitation Training	\$21,280
4110-3028	For the purposes of a federally funded grant entitled, Supported Employment	\$150,790
4120-0020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that no funds shall be deducted for pensions, group health and life insurance or any other such indirect cost of federally reimbursed state employees	\$40,300,000
4120-0187	For the purposes of a federally funded grant entitled, Supported Employment Program	\$880,000
4120-0189	For the purposes of a federally funded grant entitled, Special Projects and Demonstrations for providing Vocational Rehabilitation Services to individuals with severe disabilities in Massachusetts	\$370,000
4120-0191	For the purposes of a federally funded grant entitled, Informed Members Planning and Assessing Choices Together (IMPACT)	\$460,000
4120-0193	For the purposes of a federally funded grant entitled, Workforce Coordinating Grant for the Multi -Disabled	\$150,000
4120-0511	For the purposes of a federally funded grant entitled, Vocational Rehabilitation - Determination of Disability	\$33,550,000
4120-0605	For the purposes of a federally funded grant entitled, Minority Outreach for People With TBI in Massachusetts	\$315,000

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4120-0606	For the purposes of a federally funded grant entitled, Recreational Services	\$150,000
4120-0760	For the purposes of a federally funded grant entitled, Independent Living	\$1,670,000
4125-0103	For the purposes of a federally funded grant entitled, Massachusetts Assistive Technology Partnership	\$394,796
4130-2010	For the purposes of a federally funded grant entitled, Behavior Health Child Care Inclusion Project	\$99,450
4130-2015	For the purposes of a federally funded grant entitled, Child Care Research, Analysis and Evaluation Project	\$249,600
4130-9002	For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities	\$405,637
4200-1621	For the purposes of a federally funded grant entitled, Serious and Violent Offender Reentry Initiative	\$333,333
4400-0705	For the purpose of a federally funded grant entitled, Emergency Shelter Grants	\$2,184,000
4400-0707	For the purpose of a federally funded grant entitled Continuum of Care	\$6,248,158
4400-3067	For the purpose of a federally funded grant entitled, Food Stamp Employment and Training	\$611,063
4400-3069	For the purpose of a federally funded grant entitled, Full Employment Food Stamp Cash-Out	\$25,000
4500-1000	For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant	\$4,176,338
4500-1050	For the purposes of a federally funded grant entitled, Rape Prevention and Education	\$1,166,076
4500-1055	For the purposes of a federally funded grant entitled, Violence Against Women Planning Implementation	\$50,000
4500-2000	For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant	\$13,882,193
4502-1012	For the purposes of a federally funded grant entitled, Cooperative Health Statistics System	\$759,700
4510-0109	For the purposes of a federally funded grant entitled, State Loan Repayment Project	\$125,000
4510-0113	For the purposes of a federally funded grant entitled, Office of Rural Health	\$150,000
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement	\$114,251
4510-0119	For the purposes of a federally funded grant entitled, Rural Hospital Flexibility Program	\$312,793

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4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification	\$7,754,413
4510-0403	For the purposes of a federally funded grant entitled, Mass Reporting System Evaluate Effects	\$1,790,132
4510-0404	For the purposes of a federally funded grant entitled, Bioterrorism Hospital Preparedness	\$2,084,454
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement Amendments	\$181,760
4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments	\$153,622
4510-0624	For the purposes of a federally funded grant entitled, Retail Food Regulators Instruction	\$42,058
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention	\$838,642
4510-0792	For the purposes of a federally funded grant entitled, Trauma Ems-Matrnal and Child Health	\$4,837
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections	\$240,130
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program	\$822,098
4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Health Impact Assessments	\$697,017
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program	\$210,924
4510-9049	For the purposes of a federally funded grant entitled, Childhood Asthma and Hazardous Substances Applied Research and Development	\$57,628
4510-9052	For the purposes of a federally funded grant entitled, Tremolite Asbestos Exposure	\$18,034
4510-9053	For the purposes of a federally funded grant entitled, Beaches Environmental Assessment	\$317,698
4510-9054	For the purposes of a federally funded grant entitled, Pediatric Asthma Regional Surveillance	\$8,750
4510-9056	For the purposes of a federally funded grant entitled, National Environmental Public Health Tracking	\$511,190
4510-9061	For the purposes of a federally funded grant entitled, Environmental Education Program	\$2,500
4510-9062	For the purposes of a federally funded grant entitled, Prevalence of ALS and MS in Commonwealth Around Hazardous Waste Sites	\$74,655

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4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control	\$1,954,346
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$5,360,439
4512-0180	For the purposes of a federally funded grant entitled, Epidemiology and Lab Surveillance	\$1,897,390
4512-0183	For the purposes of a federally funded grant entitled, Lab Marker Recent HIV Infection Research	\$11,101
4512-0184	For the purposes of a federally funded grant entitled, Integration of Viral Hepatitis Prevention Services into Existing Prevention Programs	\$386,117
4512-9045	For the purposes of a federally funded grant entitled, Massachusetts State Treatment Needs Program	\$101,691
4512-9060	For the purposes of a federally funded grant entitled, Substance Abuse Response to Terrorist Attack	\$130,817
4521-9061	For the purposes of a federally funded grant entitled, State Data Infrastructure Program	\$25,000
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection	\$81,176
4513-0111	For the purpose of a federally funded grant entitled, Housing Opportunities-People with AIDS	\$1,300,000
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants, and Children (WIC)	\$62,822,281
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education - Risk Reduction	\$10,701,026
4513-9021	For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps	\$8,578,494
4513-9022	For the purposes of a federally funded grant entitled, Prevention Disability State Based Project	\$387,000
4513-9027	For the purposes of a federally funded grant entitled, MassCare - Community AIDS Resource Enhancement	\$888,692
4513-9030	For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Mass Children and Youth	\$100,000
4513-9035	For the purposes of a federally funded grant entitled, AIDS Surveillance and Seroprevalence Project	\$1,026,213
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources	\$19,353,734
4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester	\$190,512

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4513-9046	For the purposes of a federally funded grant entitled, Congenital Anomalies Center of Excellence	\$1,165,000
4513-9050	For the purposes of a federally funded grant entitled, Max Care - Maximizing Children's Health and Safety in Child Care	\$100,000
4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project	\$465,560
4513-9053	For the purposes of a federally funded grant entitled, Strengthen HIV/AIDS and STD Prevention Through Behavioral Data and Program Decision Making	\$213,909
4513-9060	For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention - Mass Injury Intervention and Surveillance	\$180,000
4513-9061	For the purposes of a federally funded grant entitled, Abstinence Education Project	\$739,012
4513-9062	For the purposes of a federally funded grant entitled, Alcohol Screening Assessment - Pregnancy	\$150,000
4513-9066	For the purposes of a federally funded grant entitled, Universal Newborn Hearing Screening-Enhancement Project	\$139,800
4513-9067	For the purposes of a federally funded grant entitled, Mass Family Connection Project Innovative Approaches Promoting Healthy Behaviors	\$150,000
4513-9069	For the purposes of a federally funded grant entitled, HIV Intervention Care Demonstration - Incarcerated	\$1,440,269
4513-9071	For the purposes of a federally funded grant entitled, Early Hearing Detection and Intervention (EHDI) Tracking and Research	\$152,000
4513-9072	For the purposes of a federally funded grant entitled, Intimate Partner Violence Among Racial and Ethnic Minority Populations	\$460,922
4513-9073	For the purposes of a federally funded grant entitled, Massachusetts Medical Home Project	\$197,962
4513-9074	For the purposes of a federally funded grant entitled, Genetics Services Project	\$300,000
4513-9075	For the purposes of a federally funded grant entitled, Alcohol Screening During Pregnancy - Replicating Lessons Learned . . .	\$150,000
4513-9102	For the purposes of a federally funded grant entitled, Emergency Medical Services Children Partnership	\$100,000
4514-1001	For the purposes of a federally funded grant entitled, Cultural Perspective -Obesity Among Hispanic Participants	\$149,852
4514-1002	For the purposes of a federally funded grant entitled, WIC EBT Cooperative Agreement	\$30,375

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4515-0113	For the purposes of a federally funded grant entitled, Health Program for Refugees	\$475,303
4515-0114	For the purposes of a federally funded grant entitled, Refugee Health Services Special Conditions	\$205,780
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project	\$3,107,101
4515-0117	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological & Operational Research	\$79,690
4515-0121	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological Studies and Consortium	\$126,233
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers	\$482,684
4515-0202	For the purposes of a federally funded grant entitled, Monitoring Prevalence of STD and TB in Corrections Facilities	\$38,165
4515-0203	Prevalence of STD, TB and HIV Risk Behavior Among MSM	\$44,828
4516-1018	For the purposes of a federally funded grant entitled, Lyme Disease Research and Education	\$594,612
4516-1019	For the purposes of a federally funded grant entitled, Laboratory Biomonitoring Planning	\$399,826
4516-1021	For the purposes of a federally funded grant entitled, Public Health Preparedness and Response for Bioterrorism	\$18,841,292
4518-0505	For the purposes of a federally funded grant entitled, Tech Data & Mass Birth/Infant Death File Linkage/Analysis Assistive Reproductive	\$99,018
4518-0506	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase III	\$180,000
4518-0507	For the purposes of a federally funded grant entitled, Core Injury Surveillance Phase II	\$132,000
4518-0508	For the purposes of a federally funded grant entitled, Statewide Injury Surveillance Evaluation	\$269,250
4518-0509	For the purposes of a federally funded grant entitled, Occupational Health Surveillance Low Incomes	\$237,929
4518-0510	For the purposes of a federally funded grant entitled, Behavioral Risk Factor Surveillance	\$189,235
4518-0513	For the purposes of a federally funded grant entitled, Occupational Injuries to Under Age 18 Youth - Enhancement Surveillance	\$126,281
4518-0514	For the purposes of a federally funded grant entitled, National Violent Death Reporting System	\$258,303
4518-0530	For the purposes of a federally funded grant entitled, State Assessment Initiatives Support by Cooperative Agreements ...	\$116,320

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4518-0532	For the purposes of a federally funded grant entitled, Core Occupational Health Surveillance	\$239,653
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index	\$29,716
4518-1002	For the purposes of a federally funded grant entitled, Massachusetts Death File - Social Security Administration	\$148,650
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records - Social Security Administration	\$370,101
4518-9022	For the purposes of a federally funded grant entitled, Sentinel Event Notification System for Occupational Risks	\$110,000
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries	\$36,000
4518-9025	For the purposes of a federally funded grant entitled, Fatality Surveillance and Field Investigations	\$125,466
4570-1508	For the purposes of a federally funded grant entitled, Well-integrated Screening and Evaluation for Women Across the Nation	\$1,187,500
4570-1509	For the purposes of a federally funded grant entitled, Massachusetts Cardiovascular Disease Prevention	\$360,000
4570-1510	For the purposes of a federally funded grant entitled, Obesity Prevention through State Nutrition and Physical Activity Programs	\$489,807
4570-1511	For the purposes of a federally funded grant entitled, Massachusetts Pass Key to Women's Health	\$100,000
4570-1512	For the purposes of a federally funded grant entitled, National Cancer Prevention Control	\$7,666,055
4590-0305	For the purposes of a federally funded grant entitled, Tobacco Use Prevention and Control	\$1,571,990
4590-0306	For the purposes of a federally funded grant entitled, Design & Characterization of Cigarettes	\$234,830
4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act	\$364,235
4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention and Support Services Act	\$1,726,569
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living	\$2,867,221
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support Services	\$5,508,000
4800-163	For the purposes of a federally funded grant entitled, Teen Living Program - Father's Outreach Program	\$487,827

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4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services	\$4,530,155
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment	\$466,699
5012-9121	For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness	\$1,299,036
5012-9154	For the purposes of a federally funded grant entitled, Disaster Relief	\$135,000
5012-9156	For the purposes of a federally funded grant entitled, Crisis Counseling Program - 9/11 Attacks	\$659,000
5014-9105	For the purposes of a federally funded grant entitled, Data Infrastructure	\$75,000
5046-9102	For the purposes of a federally funded grant entitled, Shelter Plus Care Program	\$144,240
5047-9101	For the purposes of a federally funded grant entitled, Worcester Communities of Care for Youth	\$2,000,000
5947-0007	For the purposes of a federally funded grant entitled, Massachusetts Bridges to Community Project	\$371,341

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-0018	For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance	\$3,195,565
6000-0019	For the purposes of a federally funded grant entitled, Section 5307 Transportation Demand Management	\$595,474
6000-0020	For the purposes of a federally funded grant entitled, Jobs Access Reverse Commute	\$1,564,223
6000-0023	For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant	\$2,939,171
6000-0049	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant	\$2,663,310

Massachusetts Aeronautics Commission.

6006-0042	For the purposes of a federally funded grant entitled, Airport System Planning	\$400,000
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Board of Library Commissioners.

7000-9700	For the purposes of a federally funded grant entitled, Federal Reserve - Title I	\$198,481
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7000-9702 For the purposes of a federally funded grant entitled, Library Service Technology Act	\$3,247,678
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Department of Labor and Workforce Development.

7002-4201 For the purposes of a federally funded grant entitled, Quality Child Care Initiative	\$90,426
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7002-4202 For the purposes of a federally funded grant entitled, Tools for Schools Program Support	\$10,000
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7002-4203 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistics Program	\$119,204
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7002-4204 For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance	\$25,396
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7002-4212 For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring	\$102,683
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7002-4213 For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring	\$266,326
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7002-4215 For the purposes of a federally funded grant entitled, Occupational Illness and Injury	\$104,914
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7002-4216 For the purpose of a federally funded grant entitled, Lead Enforcement Cooperation Agreement	\$96,115
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7002-6621 For the purposes of a federally funded grant entitled, Administrative Clearing Account	\$8,000,000
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7002-6624 For the purposes of a federally funded grant entitled, Unemployment Insurance Programs Administration	\$86,150,542
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7002-6626 For the purposes of a federally funded grant entitled, Employment Service Programs Administration	\$22,033,951
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7002-6627 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program	\$1,374,111
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7002-6628 For the purposes of a federally funded grant entitled, Federal Disabled Veterans Outreach	\$1,652,288
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7002-6629 For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program	\$1,419,071
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7002-6645 For the purposes of a federally funded grant entitled, Reed Act-State Unemployment Trust Fund Distribution, to support the costs of initiatives which will enhance and improve the operations and offerings of the Massachusetts One-Stop Career Center System and provide increased direct benefits to Massachusetts workers and employers; provided, that not more than \$925,000 shall be expended for the operation of the	
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New Perspectives Program, an effort to provide intensive assessment and counseling services to Massachusetts workers who need assistance in adjusting to career change; provided further, that not more than \$800,000 shall be expended for enhancements to the Massachusetts One-Stop Employment System (MOSES), including, but not limited to, the construction of a relational database, the creation of a capacity for job seekers to conduct intelligent searches of multiple commercial internet-based job banks, and improvements in the services offered to employers in the Massachusetts job bank; provided further, that not less than \$300,000 shall be expended for a comprehensive job vacancy survey; provided further, that not less than \$400,000 shall be expended for the costs associated with integrating existing stand-alone workforce development performance management systems into the MOSES system; and provided further, that all funds appropriated under this line item must be expended within 2 years of enactment of this act		\$2,425,000
7002-9701	For the purposes of a federally funded grant entitled, Federal Bureau of Labor Statistics	\$2,114,830
7003-0806	For the purposes of a federally funded grant entitled, Reed Act Distribution - Employment Services Program; provided, that funds from item shall be expended for the provision of employment assistance services to persons determined to be eligible for such services by the department of transitional assistance under the program set forth in chapter 118 of the General Laws; provided further, that funds expended from this item are subject to the limits set forth in chapter 53A of chapter 151A and section 903 of the Social Security Act, 42 USC section 1103; and provided further, that all funds appropriated under said item must be expended within 2 years of the enactment of this act	\$5,981,299
7003-0808	For the purposes of a federally funded grant entitled, Reed Act Distribution - One Stop Career Centers; provided, that not more than \$2,750,000 shall be expended for the one-stop career centers that were in existence on May 1, 1997 which are located in the Boston, Hampden county and the metro north service delivery areas and any satellite offices thereof which opened on or before December 1, 1997; provided further, that each career center shall inform unemployed or underemployed recipients of transitional aid to families with	

	dependent children who seek assistance from such center of the full range of education and training programs that are available to them, the availability of jobs in the professions for which such programs prepare participants, and the average wage rates in such professions within the commonwealth; provided further, that not less than \$1,000,000 shall be expended for one-stop career centers that opened after January 1, 1999; and provided further, that all funds appropriated under said item must be expended within 2 years of the enactment of this act	\$3,750,000
7003-1010	For the purposes of a federally funded grant entitled, Trade Expansion Act Program	\$6,727,500
7003-1627	For the purpose of federally funded grant entitled, Welfare to Work	\$2,924,083
7003-1628	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Year One	\$531,825
7003-1630	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Adult Activities	\$11,861,298
7003-1631	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Youth Formula Grants	\$19,602,697
7003-1632	For the purpose of a federally funded grant entitled, Workforce Investment Act Title I-Dislocated Workers	\$31,389,887
7003-1633	For the purposes of a federally funded grant entitled, Workforce Investment Act Title I - Disability grant	\$1,000,000
7003-1634	For the purposes of a federally funded grant entitled, Workforce Investment Act Title V - Incentive Grant	\$2,887,400
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training	\$68,472

Department of Housing and Community Development.

7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$6,640,000
7004-2033	For the purposes of a federally funded grant entitled, Low Income Home Energy Assistance Program; provided, that consistent with applicable federal regulations and the state plan, the de-	

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	partment of housing and community development shall provide monthly payments in advance to participating agencies	\$75,111,984
7004-2034	For the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$17,000,000
7004-0302	For the purposes of a federally funded grant entitled, Lead Paint Abatement Grant	\$2,000,000
7004-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$46,772,916
7004-9009	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$6,760,000
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$165,000,000
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$11,415,720
7004-9020	For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$5,219,450
7004-9028	For the purposes of a federally funded grant entitled, Home Investment Partnerships; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$22,600,000

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7004-9039	For the purposes of a federally funded grant entitled, HOME Technical Assistance	\$150,000
7004-9051	For the purposes of a federally funded grant entitled, Shelter Plus Care-Lowell; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$26,664
7004-9052	For the purposes of a federally funded grant entitled, Shelter Plus Care-Boston; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$530,196
7004-9053	For the purposes of a federally funded grant entitled, Shelter Plus Care-Southbridge; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$120,000
7004-9054	For the purposes of a federally funded grant entitled, Shelter Plus Care-New Bedford; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$36,000

Division of Energy Resources.

7006-9000	For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance	\$5,000
7006-9001	For the purposes of a federally funded grant entitled, One Call Project	\$10,000
7006-9002	For the purposes of a federally funded grant entitled, Pipeline Security	\$454,000
7006-9215	For the purposes of a federally funded grant entitled, Rebuild Massachusetts Communities	\$125,000
7006-9209	For the purposes of a federally funded grant entitled, Clean Cities Rebate program	\$4,000
7006-9210	For the purposes of a federally funded grant entitled, Revitalizing Brockton	\$30,000
7006-9211	For the purposes of a federally funded grant entitled, South Yarmouth CNG Shuttle	\$25,752
7006-9212	For the purposes of a federally funded grant entitled, CNG Trash Haulers	\$150,000

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7006-9214	For the purposes of a federally funded grant entitled, Industries of the Future	\$200,000
7006-9215	For the purposes of a federally funded grant entitled, Rebuild Massachusetts	\$125,000
7006-9216	For the purposes of a federally funded grant entitled, City of Boston Municipal Energy Program	\$40,000
7006-9217	For the purposes of a federally funded grant entitled, Affordable Comfort New England	\$40,000
7006-9218	For the purposes of a federally funded grant entitled, Mystic Valley Combined Heat	\$100,000
7006-9219	For the purposes of a federally funded grant entitled, Industry of the Future	\$100,000
7006-9220	For the purposes of a federally funded grant entitled, Potential for Wind Energy	\$69,700
7006-9221	For the purposes of a federally funded grant entitled, SEP Regional Conference/Workshop	\$20,000
7006-9720	For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program	\$26,108
7006-9743	For the purposes of a federally funded grant entitled, State Energy Plan	\$974,000
7006-9755	For the purposes of a federally funded grant entitled, String Ribbon Photovoltaic Manufacturing	\$8,249
7006-9757	For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program	\$38,862

Department of Economic Development.

7007-9007	For the purposes of a federally funded grant entitled, Urban Enterprise Program	\$254,744
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Department of Education.

7010-0217	For the purposes of a federally funded grant entitled, Teacher Quality Enhancement Grants for State Partnerships	\$84,580
7010-8802	For the purposes of a federally funded grant entitled, Technology Literacy Challenge - Administration	\$115,800
7010-8888	For the purposes of a federally funded grant entitled, School Renovations Ideas and Technology - Distribution	\$19,200,000
7010-9095	For the purposes of a federally funded grant entitled, Massachusetts Parent Involvement- Administration	\$188,277
7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project	\$95,003

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7010-9999	For the purposes of a federally funded grant entitled, School Renovation Ideas and Technology Administration	\$200,000
7027-0210	For the purposes of a federally funded grant entitled, Partnerships in Character Education	\$286,216
7027-4444	For the purposes of a federally funded grant entitled, High School Reform SG - Distribution	\$724,062
7027-9117	For the purposes of a federally funded grant entitled, Occupational Education - Distribution	\$530,125
7030-0191	For the purposes of a federally funded grant entitled, Bilingual Education Programs - Technical Assistance by State Education Agencies	\$35,164
7030-2122	For the purposes of a federally funded grant entitled, Reading Excellence - Administration	\$47,358
7030-2222	For the purposes of a federally funded grant entitled, Standards, Assessments & Accountability	\$854,086
7030-9737	For the purposes of a federally funded grant entitled, Chapter II Block Grant - Distribution	\$189,559
7032-0217	For the purposes of a federally funded grant entitled, Robert C Byrd Honors Scholarship Program - Distribution	\$929,435
7032-0228	For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program	\$1,216,398
7033-9401	For the purposes of a federally funded grant entitled, Christa McAuliffe Fellowship Program - Administration	\$8,500
7035-0013	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution	\$7,803,124
7035-0020	For the purposes of a federally funded grant entitled, Massachusetts State Improvement Grant Project Focus	\$2,752,287
7035-0117	For the purposes of a federally funded grant entitled, Education Consolidation Innovative Act Distribution	\$1,128,426
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution	\$4,409,428
7035-0167	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Administration	\$345,000
7035-0176	For the purposes of a federally funded grant entitled, Comprehensive School Demonstration - Distribution	\$6,400,000
7035-0177	For the purposes of a federally funded grant entitled, Comprehensive School Demonstration - Administration	\$190,588
7035-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Payment Program	\$336,646
7035-7777	For the purposes of a federally funded grant entitled, Special Education TA - Administration	\$84,492

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7038-0002	For the purposes of a federally funded grant entitled, Adult Basic Education - Title III	\$2,266,059
7038-0107	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution	\$9,027,470
7038-0188	For the purposes of a federally funded grant entitled, Family Literacy Administration Phase II	\$167,664
7038-0192	For the purposes of a federally funded grant entitled, Adult Learning Disabilities New England Partnership - Administration	\$30,601
7038-9004	For the purposes of a federally funded grant entitled, School Based Programs - Distribution	\$347,489
7038-9005	For the purposes of a federally funded grant entitled, School Based Training	\$162,199
7038-9008	For the purposes of a federally funded grant entitled, Learn and Serve America, Higher Ed and Schools Partnership	\$235,600
7038-9747	For the purposes of a federally funded grant entitled, Emergency Immigrant Assistance - Distribution	\$211,284
7038-9748	For the purposes of a federally funded grant entitled, Refugee Children School Impact Grant Program	\$537,500
7043-1001	For the purposes of a federally funded grant entitled, Title I Basic Program	\$220,646,251
7043-1002	For the purposes of a federally funded grant entitled, Title I Reading First State Grants	\$15,301,143
7043-1004	For the purposes of a federally funded grant entitled, Title I Migratory Children	\$1,818,902
7043-1005	For the purposes of a federally funded grant entitled, Title I Neglected and Delinquent Children	\$1,267,269
7043-2001	For the purposes of a federally funded grant entitled, Title II Teacher Quality State Grants	\$50,869,453
7043-2002	For the purposes of a federally funded grant entitled, Title II State and Local Technology Grants	\$12,814,920
7043-3001	For the purposes of a federally funded grant entitled, Title III Language Instruction/LEP Immigrants	\$7,173,119
7043-4001	For the purposes of a federally funded grant entitled, Title IV Safe and Drug Free Schools	\$7,143,515
7043-4002	For the purposes of a federally funded grant entitled, Title IV 21st Century Community Learning Centers	\$6,359,594
7043-4003	For the purposes of a federally funded grant entitled, Community Service Expelled/Suspended	\$975,394
7043-5001	For the purposes of a federally funded grant entitled, Title V Innovative Programs State Grants	\$7,617,530

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7043-6001	For the purposes of a federally funded grant entitled, Title VI State Assessment Grants	\$7,345,671
7043-6002	For the purposes of a federally funded grant entitled, Rural And Low-Income Schools	\$193,929
7043-6501	For the purposes of a federally funded grant entitled, Title X Homeless Children/Youth	\$1,055,917
7043-7001	For the purposes of a federally funded grant entitled, Special Education Grants	\$191,890,947
7043-7002	For the purposes of a federally funded grant entitled, Preschool Grants	\$10,103,890
7043-8001	For the purposes of a federally funded grant entitled, Vocational Education Grants	\$18,101,085
7043-8002	For the purposes of a federally funded grant entitled, Tech-Prep. Education	\$1,697,959
7043-9001	For the purposes of a federally funded grant entitled, Teacher Quality Enhancement/Partnerships	\$312,828
7043-9002	For the purposes of a federally funded grant entitled, Transition to Teaching	\$586,160
7053-2105	For the purposes of a federally funded grant entitled, Special Food Distribution Cash	\$775,000
7053-2111	For the purposes of a federally funded grant entitled, Special Milk Program	\$725,625
7053-2112	For the purposes of a federally funded grant entitled, Special Assistance Funds	\$78,100,000
7053-2113	For the purposes of a federally funded grant entitled, Community School Lunch Program	\$25,188,000
7053-2114	For the purposes of a federally funded grant entitled, School Breakfast Program	\$29,166,500
7053-2117	For the purposes of a federally funded grant entitled, Child Care Program	\$53,680,000
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance	\$920,000
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children	\$6,000,000
7062-0008	For the purposes of a federally funded grant entitled, Office of School Lunch Programs - Child Care Program Administration	\$2,850,000
7062-0009	For the purposes of a federally funded grant entitled, Summer Feeding - Administration	\$125,000
7062-0010	For the purposes of a federally funded grant entitled, Two Percent Child Care- Administration	\$585,252

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7062-0016	For the purposes of a federally funded grant entitled, Charter Schools Assistance	\$349,097
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools Assistance- Distribution	\$4,401,968
7062-0019	For the purposes of a federally funded grant entitled, Career Resource Network State Grant	\$230,000

Board of Higher Education.

7066-1574	For the purposes of a federally funded grant entitled, Improving Teacher Quality Grants - SAHES	\$2,038,661
7070-0017	For the purposes of a federally funded grant entitled, State Student Incentive Grant Program - Board of Higher Education	\$946,011
7110-6019	For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits - Fitchburg State College	\$127,214
7110-6030	For the purposes of a federally funded grant entitled, Expanding Horizons Student Support Services - Fitchburg State College	\$172,578
7110-6046	For the purposes of a federally funded grant entitled, Co-Step Special Education Payroll and Benefits- Fitchburg State College	\$83,000
7110-6064	For the purposes of a federally funded grant entitled, USIA Community Connections Payroll- Fitchburg State College	\$40,694
7114-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Salem State College	\$115,697
7503-6555	For the purposes of a federally funded grant entitled, Title III Strengthening Institutions Program - Bristol Community College	\$410,314
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Bristol Community College	\$394,735
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program - Bristol Community College	\$340,071
7509-1490	For the purposes of a federally funded grant entitled, Educational Opportunities Centers Payroll - Mount Wachusett Community College	\$126,874
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - Mount Wachusett Community College	\$231,360

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7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College	\$184,777
7509-9721	For the purposes of a federally funded grant entitled, Gear-up - Payroll - Mount Wachusett Community College	\$262,172
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students - North Shore Community College	\$437,000
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound - North Shore Community College	\$339,000
7511-9750	For the purposes of a federally funded grant entitled, Talent Search	\$188,000
7518-6127	For the purposes of a federally funded grant entitled, College Work Study Program - Bunker Hill Community College	\$235,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.

Department of State Police.

8100-0208	For the purposes of a federally funded grant entitled, MCSAP Wireless Communications Program	\$160,111
8100-0209	For the purposes of a federally funded grant entitled, Region 1 Training Academy Motor Carrier Safety Assistance	\$138,909
8100-0210	For the purposes of a federally funded grant entitled, MCSAP-CVE New Entrant Audit	\$61,644
8100-0213	For the purposes of a federally funded grant entitled, MCSAP Main Grant FY03	\$2,327,650
8100-2058	For the purposes of a federally funded grant entitled, New England State Police Administrator's Conference - Regional Investigation	\$3,000,000
8100-9706	For the purposes of a federally funded grant entitled, Cannabis Eradication Controlled Substance Prosecution DEA Cooperative Agreement	\$80,000
8100-9719	For the purposes of a federally funded grant entitled, FY01 DNA No Suspect Backlog Reduction	\$917,030
8100-9720	For the purposes of a federally funded grant entitled, FY03 DNA No Suspect Backlog Reduction	\$1,789,772

Criminal Justice Training Council.

8200-0010	For the purposes of a federally funded grant entitled, Massachusetts Police Corps	\$2,521,961
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Department of Fire Services.

8324-1503	For the purposes of a federally funded grant entitled, Terrorism Preparedness Training	\$80,000
8324-1505	For the purposes of a federally funded grant entitled, USFA/NFA State Fire Training Program	\$25,000
8324-9707	For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program	\$200,000

Registry of Motor Vehicles.

8400-0090	For the purposes of a federally funded grant entitled, Enhance CDL Licensing	\$240,000
8400-0092	For the purposes of a federally funded grant entitled, Enhancing Social Security Verification	\$221,000

Committee on Criminal Justice.

8600-0002	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act - Planning	\$137,803
8600-0003	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act	\$1,235,582
8600-0008	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986	\$1,787,879
8600-0009	For the purposes of a federally funded grant entitled, Narcotics Control Assistance	\$10,797,224
8600-0010	For the purposes of a federally funded grant entitled, Statistical Analysis Center	\$51,377
8600-0020	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program	\$3,087,502
8600-0021	For the purposes of a federally funded grant entitled, Challenge Grants Programs	\$157,000
8600-0023	For the purposes of a federally funded grant entitled, Criminal History Improvement	\$1,053,107
8600-0024	For the purposes of a federally funded grant entitled, State Prisoner Residential Substance Abuse Treatment	\$680,058
8600-0025	For the purposes of a federally funded grant entitled, Local Law Enforcement Block Grants	\$735,685
8600-0034	For the purposes of a federally funded grant entitled, Juvenile Accountability Incentive Block Grant	\$4,258,929
8600-0042	For the purposes of a federally funded grant entitled, Bullet-proof Vest Partnership Program	\$100,000

Military Division.

8700-0001 For the purposes of a federally funded grant entitled, Military Construction Costs \$3,000,000

Massachusetts Emergency Management Agency.

8800-0002 For the purposes of a federally funded grant entitled, Community Emergency Response Team Train the Trainer \$50,000

8800-0003 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Performance Grant \$3,407,781

8800-0037 For the purposes of a federally funded grant entitled, Hazard Mitigation 1224/1142 \$3,764,513

8800-0042 For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act \$214,283

8800-0048 For the purposes of a federally funded grant entitled, Flood Mitigation Assistance Program \$722,265

8800-0055 For the purposes of a federally funded grant entitled, Department of Housing and Urban Development Disaster Relief \$336,068

8800-0063 For the purposes of a federally funded grant entitled, Emergency Operations Center Grant \$98,322

8800-0064 For the purposes of a federally funded grant entitled, Hazard Mitigation 1364 \$1,520,166

8800-0066 For the purposes of a federally funded grant entitled, All Hazardous Emergency Operations Planning Grant \$2,144,079

8800-0067 For the purposes of a federally funded grant entitled, Citizen Corporation/CERT Programs \$435,603

8800-0068 For the purposes of a federally funded grant entitled, Preparedness Equipment - State and Local \$50,220

8800-0069 For the purposes of a federally funded grant entitled, Comprehensive Environmental Response, Compensation, and Liability Act Grant \$5,000

8800-0078 For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation Program \$400,195

8800-0079 For the purposes of a federally funded grant entitled, State Domestic Preparedness Program \$949,621

8800-0080 For the purposes of a federally funded grant entitled, Local Emergency Planning Committees Planning and Conference \$30,500

8800-0082 For the purposes of a federally funded grant entitled, Snow Removal Declaration 3175 \$10,000,000

Governor's Highway Safety Board.

8850-0004	For the purposes of a federally funded grant entitled, State Agency Programs	\$18,619,013
8850-0029	For the purposes of a federally funded grant entitled, Demonstration /Evaluation of Rational Speed Limits	\$102,147
8850-0030	For the purposes of a federally funded grant entitled, Crash Outcome Data Evaluation System	\$35,717
8850-0031	For the purposes of a federally funded grant entitled, FY02 Enforcing the Underage Drinking Law	\$200,000
8850-0032	For the purposes of a federally funded grant entitled, Increased Seat Belt Use in Secondary Law States	\$199,334

Department of Correction.

8900-0019	For the purposes of a federally funded grant entitled, Violent Offender Incarceration/Truth in Sentencing	\$1,000,000
8903-0019	For the purposes of a federally funded grant entitled, Residential Substance Abuse Treatment	\$485,000

Sheriffs.

8910-0118	For the purposes of a federally funded grant entitled, Life Skills for Offenders	\$250,000
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EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-1074	For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$10,402,632
9110-1077	For the purposes of a federally funded grant entitled, Older Americans Act, Title III-E, National Family Caregiver Support Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$5,446,764
9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance; provided that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$495,478
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act - Title III Nutrition Program; provided, that the	

	executive office of elder affairs may provide periodic payments in advance to participating agencies	\$13,420,000
9110-1174	For the purposes of a federally funded grant entitled, Nutrition Services Incentive Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$3,976,430
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$1,933,980
9110-2457	For the purposes of a federally funded grant entitled, Springfield Multicultural Alzheimer's Services Project; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$462,000
9110-2531	For the purposes of a federally funded grant entitled, Caregiver Resource Center for Deaf and Late Deafened Elders; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$157,604

SECTION 3. Notwithstanding any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 of the General Laws, for the fiscal year ending June 30, 2004 the distribution to cities and towns of the balance of the State Lottery Fund, as paid by the treasurer from the General Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, shall be \$661,378,162 and shall be apportioned to the cities and towns in accordance with this section; provided, that the amount of any balance in the State Lottery Fund at the end of the fiscal year shall be transferred to the General Fund.

Notwithstanding any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 of the General Laws, the total amounts to be distributed and paid to each city, town, regional school district, independent agricultural school and county maintaining an agricultural school from items 0611-5500 and 7061-0008 of section 2 shall be as set forth in the following lists; provided, that, no later than August 1, 2003, the department of education shall report to the house and senate committees on ways and means on any data errors or statistical discrepancies in the calculation of foundation budgets or minimum required local contributions, and any districts that are at risk of falling below foundation as a result of such discrepancies; provided further, that the amounts to be distributed from item 0611-5500 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under section 37 of chapter 21 of the General Laws. No payments to cities, towns, or counties maintaining an agricultural school pursuant to this section shall be made after November 30 of the fiscal year by the state treasurer until he receives certification from the commissioner of revenue of said commissioner's acceptance of the prior fiscal year's annual financial reports submitted pursuant to section 43 of chapter

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44 of the General Laws.

Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, for fiscal year 2004 all wage adjustment factors calculated within the foundation budget appearing below 1 shall be raised by 100% of the difference between the wage adjustment factor and 1.

Notwithstanding any general or special law to the contrary, minimum required local contributions for fiscal year 2004 as calculated by the department of education shall equal preliminary local contribution in fiscal year 2003 increased by the municipal revenue growth factor, less half the excess debt service amount as defined in section 2 of chapter 70 of the General Laws, provided that in no case shall required net school spending be reduced below the foundation budget as a result of excess debt.

Notwithstanding any general or special law to the contrary, for fiscal year 2004, Chapter 70 aid shall be the difference between a district's foundation budget and the sum of that district's share of preliminary local contributions of member communities as determined by the department of education, plus aid as needed to guarantee that in no case shall chapter 70 aid be less than 80 per cent of a district's chapter 70 aid in fiscal year 2003.

Notwithstanding the definition of "Net school spending" in section 2 of chapter 70 of the General Laws, for the purpose of calculating the minimum required local contribution for fiscal year 2004, pursuant to said chapter 70, the department of education shall consider health care costs for retired teachers to be part of net school spending for any municipality in which health care costs for retired teachers were considered to be part of net school spending in fiscal year 1994. The department shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994. If there is a conflict between this section and the distributions listed below, the distribution below shall control.

The state treasurer shall make advance payments for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district, or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of administration and finance, pursuant to guidelines established by said secretary.

Notwithstanding any general or special law to the contrary, a regional school district whose budget for fiscal year 2004 has not been approved by two-thirds of the member towns pursuant to section 16B of chapter 71 as of July 1, 2003 shall be deemed to have spending authority of one-twelfth of its prior year budget on a month-to-month basis for a period not to exceed two months. In any instance where assessments to member towns were calculated by a regional school district based on chapter 70 amounts contained in House 1, the regional school committee shall recalculate assessments to reflect the chapter 70 appropriation to the district provided in this section within 15 days of the effective date of this act. A town may convene a special town meeting no later than 45 days after such effective date, and if more than one-third of the member towns have expressed disapproval of the regional school district budget, the process provided in the sixth paragraph of said section 16B shall apply.

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
ABINGTON	6,066,632	-	1,758,051
ACTON	2,603,014	29,696	1,195,284
ACUSHNET	5,563,574	23,875	1,349,775
ADAMS	-	35,042	1,720,579
AGAWAM	9,470,219	-	3,138,137
ALFORD	-	-	12,923
AMESBURY	8,322,927	-	1,763,634
AMHERST	4,763,773	222,910	6,883,094
ANDOVER	4,945,356	-	1,576,354
AQUINNAH	-	-	1,887
ARLINGTON	4,802,777	4,491,775	3,833,185
ASHBURNHAM	-	-	595,717
ASHBY	-	-	349,366
ASHFIELD	96,581	-	143,485
ASHLAND	2,588,396	291,598	909,060
ATHOL	-	4,377	1,924,937
ATTLEBORO	26,034,470	-	4,874,098
AUBURN	3,735,310	-	1,465,175
AVON	570,215	400,636	347,387
AYER	3,588,964	44,218	653,637
BARNSTABLE	6,105,388	-	1,799,394
BARRE	7,881	-	677,399
BECKET	73,044	8,580	65,888
BEDFORD	1,935,588	484,271	699,674
BELCHERTOWN	8,716,396	-	1,316,398
BELLINGHAM	7,282,910	-	1,618,431
BELMONT	2,824,519	827,483	1,520,795
BERKLEY	4,753,283	-	478,440
BERLIN	494,057	-	190,373
BERNARDSTON	-	-	223,551
BEVERLY	6,107,219	2,452,442	3,485,521
BILLERICA	12,688,538	2,349,321	3,617,520
BLACKSTONE	117,677	-	1,130,441
BLANDFORD	-	-	101,161
BOLTON	-	-	158,122
BOSTON	200,498,366	164,211,152	53,968,473
BOURNE	4,398,105	352,555	1,037,581
BOXBOROUGH	1,290,263	-	206,884

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
BOXFORD	1,446,557	36,411	400,102
BOYLSTON	381,691	-	302,601
BRAINTREE	4,655,171	3,378,041	2,790,848
BREWSTER	820,927	-	337,981
BRIDGEWATER	112,410	-	2,792,709
BRIMFIELD	878,098	-	310,111
BROCKTON	106,909,135	4,310,392	15,637,164
BROOKFIELD	1,308,158	-	420,657
BROOKLINE	4,922,047	3,497,741	3,380,871
BUCKLAND	6,377	-	232,150
BURLINGTON	3,547,194	1,386,400	1,360,578
CAMBRIDGE	6,791,105	17,956,060	6,820,267
CANTON	2,512,730	878,002	1,260,474
CARLISLE	586,786	14,729	187,183
CARVER	8,810,175	-	1,255,697
CHARLEMONT	70,546	-	134,534
CHARLTON	4,835	-	1,090,377
CHATHAM	448,125	-	147,795
CHELMSFORD	6,593,456	2,535,342	2,759,926
CHELSEA	40,885,822	3,396,864	4,747,616
CHESHIRE	235,214	-	457,909
CHESTER	-	-	140,028
CHESTERFIELD	114,818	-	105,694
CHICOPEE	36,376,295	1,195,616	8,535,325
CHILMARK	-	-	3,358
CLARKSBURG	1,464,518	13,114	305,399
CLINTON	8,493,786	175,517	1,915,036
COHASSET	1,147,273	166,099	365,106
COLRAIN	-	-	196,429
CONCORD	1,542,930	383,959	817,244
CONWAY	556,983	-	140,227
CUMMINGTON	32,478	-	61,610
DALTON	229,451	-	848,429
DANVERS	3,570,012	1,118,972	1,722,964
DARTMOUTH	7,819,334	-	2,217,842
DEDHAM	3,053,874	1,550,298	1,898,464
DEERFIELD	610,012	-	421,939
DENNIS	-	-	471,165

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
DEVENS	328,000	-	-
DIGHTON	-	-	601,950
DOUGLAS	5,782,260	-	589,300
DOVER	331,900	-	179,149
DRACUT	13,599,611	-	3,086,109
DUDLEY	-	-	1,306,181
DUNSTABLE	-	30,076	166,548
DUXBURY	2,655,314	-	823,068
EAST BRIDGEWATER	9,132,173	-	1,291,216
EAST BROOKFIELD	21,904	-	239,424
EAST LONGMEADOW	3,278,506	-	1,163,174
EASTHAM	242,054	-	128,941
EASTHAMPTON	6,923,012	108,874	2,305,254
EASTON	7,373,725	-	1,883,909
EDGARTOWN	323,078	28,507	40,872
EGREMONT	-	-	55,927
ERVING	245,334	13,150	54,375
ESSEX	-	33,828	203,853
EVERETT	16,475,953	4,084,357	3,050,157
FAIRHAVEN	6,793,464	391,434	1,756,757
FALL RIVER	85,448,326	2,290,951	19,402,249
FALMOUTH	4,231,106	-	1,216,594
FITCHBURG	35,633,988	214,811	7,230,474
FLORIDA	415,390	-	44,427
FOXBOROUGH	5,687,603	-	1,360,167
FRAMINGHAM	8,131,670	4,697,500	5,530,116
FRANKLIN	21,308,583	-	2,141,760
FREETOWN	892,240	-	845,301
GARDNER	16,525,404	120,747	3,490,701
GEORGETOWN	3,271,897	52,998	596,482
GILL	-	-	185,131
GLOUCESTER	5,243,302	1,923,054	2,264,906
GOSHEN	71,297	-	59,634
GOSNOLD	8,046	1,962	468
GRAFTON	5,599,191	-	1,363,188
GRANBY	3,294,206	-	724,012
GRANVILLE	1,179,511	-	120,132
GREAT BARRINGTON	-	-	681,422

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
GREENFIELD	8,625,218	-	2,656,246
GROTON	-	-	633,120
GROVELAND	-	-	572,919
HADLEY	593,711	138,341	280,365
HALIFAX	2,113,493	-	799,621
HAMILTON	-	42,887	533,202
HAMPDEN	-	-	514,302
HANCOCK	133,439	17,638	32,868
HANOVER	4,100,314	1,326,394	938,920
HANSON	30,000	-	1,096,347
HARDWICK	-	3,228	336,620
HARVARD	1,145,540	55,090	1,648,035
HARWICH	1,363,502	-	376,383
HATFIELD	537,782	-	268,720
HAVERHILL	31,598,621	2,503,145	6,827,711
HAWLEY	20,505	12,924	24,447
HEATH	-	-	54,725
HINGHAM	3,162,330	334,151	1,214,451
HINSDALE	77,323	-	179,555
HOLBROOK	4,086,575	4,757	1,370,152
HOLDEN	111,568	-	1,454,110
HOLLAND	654,814	-	153,540
HOLLISTON	5,801,129	412,300	1,088,152
HOLYOKE	56,447,493	606,646	8,164,179
HOPEDALE	4,902,809	-	567,333
HOPKINTON	4,201,006	120,287	558,625
HUBBARDSTON	-	-	293,378
HUDSON	5,242,895	-	1,824,009
HULL	3,613,343	1,388,549	966,033
HUNTINGTON	-	-	266,546
IPSWICH	1,968,840	775,432	894,957
KINGSTON	3,233,959	-	807,788
LAKEVILLE	1,804,785	-	669,072
LANCASTER	-	-	773,606
LANESBOROUGH	498,078	-	311,424
LAWRENCE	107,929,578	190,699	16,928,453
LEE	1,482,316	-	575,965
LEICESTER	8,447,596	-	1,515,032

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
LENOX	1,073,673	72,146	476,164
LEOMINSTER	30,008,550	11,693	4,779,809
LEVERETT	217,431	-	153,710
LEXINGTON	4,895,754	-	1,392,955
LEYDEN	-	-	61,869
LINCOLN	458,937	292,012	415,099
LITTLETON	1,387,507	164,924	500,608
LONGMEADOW	3,385,200	-	1,182,253
LOWELL	103,496,105	6,340,746	17,476,479
LUDLOW	8,738,810	-	2,401,815
LUNENBURG	3,625,757	-	941,409
LYNN	96,301,391	9,477,523	12,851,766
LYNNFIELD	1,659,938	362,288	674,713
MALDEN	26,881,531	5,586,730	7,454,621
MANCHESTER	-	-	214,734
MANSFIELD	9,628,528	725,040	1,292,920
MARBLEHEAD	2,354,377	39,403	1,026,392
MARION	317,718	-	198,208
MARLBOROUGH	5,916,088	2,728,327	2,786,797
MARSHFIELD	11,635,063	202,756	1,832,675
MASHPEE	3,853,031	-	236,666
MATTAPOISETT	449,798	-	371,347
MAYNARD	2,145,808	586,886	1,004,037
MEDFIELD	3,701,551	744,614	760,033
MEDFORD	9,996,450	6,432,448	6,402,709
MEDWAY	6,153,863	187,002	897,832
MELROSE	5,012,390	2,704,187	2,786,945
MENDON	20,626	-	333,019
MERRIMAC	-	-	652,335
METHUEN	25,782,225	163,026	4,603,440
MIDDLEBOROUGH	14,891,489	-	2,152,990
MIDDLEFIELD	-	-	36,878
MIDDLETON	854,271	126,570	306,150
MILFORD	9,314,774	-	2,740,501
MILLBURY	5,562,191	-	1,550,680
MILLIS	1,821,686	320,940	708,699
MILLVILLE	38,008	-	299,243
MILTON	3,219,806	1,245,145	2,082,868

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Municipality	7061-0008	0611-5500	Lottery Distribution
	Chapter 70	Additional Assistance	
MONROE	34,732	13,927	6,377
MONSON	5,672,320	-	1,078,262
MONTAGUE	-	-	1,050,583
MONTEREY	-	12,538	31,187
MONTGOMERY	-	-	71,839
MOUNT WASHINGTON	10,059	33,286	2,817
NAHANT	364,640	125,393	265,399
NANTUCKET	775,218	-	66,534
NATICK	3,945,346	1,942,474	2,069,792
NEEDHAM	3,603,998	205,993	1,418,675
NEW ASHFORD	54,834	7,313	8,028
NEW BEDFORD	99,645,731	716,255	20,272,783
NEW BRAINTREE	-	-	96,712
NEW MARLBOROUGH	-	-	48,224
NEW SALEM	-	-	79,036
NEWBURY	-	-	397,117
NEWBURYPORT	2,793,820	1,380,057	1,360,628
NEWTON	9,115,550	1,377,012	4,428,398
NORFOLK	3,236,571	-	842,604
NORTH ADAMS	13,731,726	185,853	3,781,341
NORTH ANDOVER	3,911,440	120,549	1,635,892
NORTH ATTLEBOROUGH	17,266,193	-	2,538,546
NORTH BROOKFIELD	4,329,232	-	707,851
NORTH READING	3,087,241	945,499	921,054
NORTHAMPTON	6,425,910	577,922	3,460,946
NORTHBOROUGH	2,491,114	61,111	918,552
NORTHBRIDGE	11,463,830	3,071	1,985,075
NORTHFIELD	-	-	259,157
NORTON	11,111,313	-	1,794,549
NORWELL	1,815,262	541,079	584,616
NORWOOD	3,359,544	2,665,880	2,280,261
OAK BLUFFS	507,397	-	62,930
OAKHAM	66,787	-	146,533
ORANGE	4,875,842	2,115	1,393,773
ORLEANS	214,362	-	159,824
OTIS	79,789	-	25,525
OXFORD	8,034,044	-	1,848,802
PALMER	10,069,381	-	1,607,734

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
PAXTON	80,630	-	397,604
PEABODY	15,666,037	3,140,276	4,273,806
PELHAM	112,953	-	129,327
PEMBROKE	7,716,142	-	1,463,767
PEPPERELL	-	-	1,104,533
PERU	31,894	-	89,232
PETERSHAM	268,840	-	94,046
PHILLIPSTON	-	4,386	137,975
PITTSFIELD	26,664,443	880,284	6,708,257
PLAINFIELD	42,943	-	37,273
PLAINVILLE	2,334,300	-	655,201
PLYMOUTH	16,321,643	-	3,279,583
PLYMPTON	478,208	-	208,033
PRINCETON	-	-	259,175
PROVINCETOWN	247,301	22,181	124,552
QUINCY	12,132,223	11,567,002	9,033,749
RANDOLPH	10,240,371	1,825,854	3,311,003
RAYNHAM	300	-	964,956
READING	6,082,107	1,534,901	1,841,015
REHOBOTH	-	-	796,592
REVERE	23,784,526	5,334,444	5,316,611
RICHMOND	308,895	-	99,313
ROCHESTER	1,204,450	-	359,839
ROCKLAND	8,823,145	394,336	2,104,059
ROCKPORT	1,142,321	-	394,035
ROWE	42,445	-	3,692
ROWLEY	-	114,232	391,966
ROYALSTON	-	-	124,147
RUSSELL	-	-	192,357
RUTLAND	8,895	-	660,841
SALEM	10,290,730	3,298,731	3,582,967
SALISBURY	-	-	537,269
SANDISFIELD	6,389	-	25,694
SANDWICH	5,453,106	88,406	813,793
SAUGUS	3,382,514	1,784,087	1,999,340
SAVOY	443,042	13,801	85,489
SCITUATE	3,051,265	875,037	1,231,872
SEEKONK	2,931,775	-	1,057,967

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
SHARON	5,823,785	62,495	1,196,755
SHEFFIELD	-	11,938	190,069
SHELBURNE	-	-	224,115
SHERBORN	316,331	20,951	179,491
SHIRLEY	3,950,169	185,558	993,217
SHREWSBURY	10,287,704	298,861	2,110,492
SHUTESBURY	458,403	-	127,296
SOMERSET	2,553,323	-	1,240,942
SOMERVILLE	19,441,989	16,219,924	10,692,616
SOUTH HADLEY	4,949,208	20,214	2,189,688
SOUTHAMPTON	2,128,180	-	492,324
SOUTHBOROUGH	2,505,027	-	367,543
SOUTHBRIDGE	14,401,675	-	3,019,639
SOUTHWICK	-	-	937,706
SPENCER	175,765	-	1,789,359
SPRINGFIELD	208,406,858	1,829,496	28,974,118
STERLING	-	-	595,435
STOCKBRIDGE	-	-	93,460
STONEHAM	2,627,863	2,028,958	1,915,613
STOUGHTON	8,543,084	103,134	2,898,763
STOW	-	6,974	367,900
STURBRIDGE	1,039,058	-	650,667
SUDBURY	3,351,225	641,561	778,236
SUNDERLAND	833,349	-	402,993
SUTTON	4,475,551	-	661,909
SWAMPSCOTT	1,944,830	352,328	892,119
SWANSEA	3,973,381	-	1,650,958
TAUNTON	38,524,537	-	7,597,724
TEMPLETON	-	-	1,052,152
TEWKSBURY	11,322,673	-	2,540,701
TISBURY	284,186	-	91,244
TOLLAND	-	9,864	4,971
TOPSFIELD	583,120	253,284	369,587
TOWNSEND	-	-	1,007,487
TRURO	209,577	-	26,236
TYNGSBOROUGH	5,808,979	-	793,386
TYRINGHAM	29,274	-	11,431
UPTON	6,830	-	429,828

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
UXBRIDGE	8,869,122	-	1,239,204
WAKEFIELD	3,895,320	1,438,080	2,070,499
WALES	592,846	-	192,249
WALPOLE	4,314,774	883,775	1,661,399
WALTHAM	5,727,143	5,458,868	4,764,032
WARE	7,030,768	15,257	1,433,470
WAREHAM	11,013,918	-	1,824,735
WARREN	-	-	613,802
WARWICK	-	28,890	70,313
WASHINGTON	16,679	23,752	58,939
WATERTOWN	2,375,554	4,427,251	2,675,788
WAYLAND	2,290,575	280,373	611,716
WEBSTER	6,607,929	62,006	2,079,811
WELLESLEY	2,949,947	96,838	1,163,702
WELLFLEET	116,462	-	54,888
WENDELL	-	25,534	109,541
WENHAM	-	139,794	285,763
WEST BOYLSTON	2,552,355	67,754	595,198
WEST BRIDGEWATER	1,570,286	47,212	552,344
WEST BROOKFIELD	-	-	392,097
WEST NEWBURY	-	-	251,169
WEST SPRINGFIELD	12,308,163	-	2,851,691
WEST STOCKBRIDGE	-	-	91,587
WEST TISBURY	-	182,434	30,556
WESTBOROUGH	2,592,041	145,058	859,807
WESTFIELD	29,328,636	-	5,085,250
WESTFORD	9,400,986	895,514	1,196,145
WESTHAMPTON	278,415	-	118,799
WESTMINSTER	-	-	538,162
WESTON	1,367,350	-	346,827
WESTPORT	3,945,860	-	1,124,879
WESTWOOD	2,108,502	36,263	635,077
WEYMOUTH	19,035,638	2,424,084	6,423,581
WHATELY	124,453	-	106,535
WHITMAN	58,114	-	1,926,372
WILBRAHAM	-	-	1,077,658
WILLIAMSBURG	350,234	-	271,186
WILLIAMSTOWN	880,910	-	835,190

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Municipality	7061-0008 Chapter 70	0611-5500 Additional Assistance	Lottery Distribution
WILMINGTON	3,307,933	1,254,452	1,245,458
WINCHENDON	9,523,654	25,366	1,367,138
WINCHESTER	2,953,621	344,404	1,124,847
WINDSOR	33,525	28,020	54,390
WINTHROP	4,538,855	2,287,531	2,248,669
WOBURN	4,502,553	3,586,952	2,809,553
WORCESTER	154,518,307	11,809,090	26,953,316
WORTHINGTON	-	-	94,935
WRENTHAM	3,386,805	-	846,314
YARMOUTH	-	-	1,075,298
Total Aid to Regional Schools	496,768,662		
Total	3,108,140,558	378,517,988	661,378,162

Regional School	7061-0008 Chapter 70
ACTON BOXBOROUGH	2,834,559
ADAMS CHESHIRE	9,498,192
AMHERST PELHAM	9,244,885
ASHBURNHAM WESTMINSTER	8,787,951
ASSABET VALLEY	2,441,550
ATHOL ROYALSTON	15,987,562
BERKSHIRE HILLS	2,614,817
BERLIN BOYLSTON	770,332
BLACKSTONE MILLVILLE	10,270,844
BLACKSTONE VALLEY	4,599,841
BLUE HILLS	3,035,559
BRIDGEWATER RAYNHAM	18,751,051
BRISTOL COUNTY	1,168,934
BRISTOL PLYMOUTH	5,815,953
CAPE COD	1,776,571
CENTRAL BERKSHIRE	7,095,300
CHESTERFIELD GOSHEN	638,591
CONCORD CARLISLE	1,417,979
DENNIS YARMOUTH	6,120,344
DIGHTON REHOBOTH	10,636,396
DOVER SHERBORN	1,138,654

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Regional School	Chapter 70
DUDLEY CHARLTON	20,233,330
ESSEX COUNTY	3,664,972
FARMINGTON RIVER	360,806
FRANKLIN COUNTY	1,925,246
FREETOWN LAKEVILLE	6,014,792
FRONTIER	2,613,407
GATEWAY	5,644,248
GILL MONTAGUE	5,837,026
GREATER FALL RIVER	10,259,130
GREATER LAWRENCE	14,135,001
GREATER LOWELL	14,808,778
GREATER NEW BEDFORD	16,623,590
GROTON DUNSTABLE	9,028,783
HAMILTON WENHAM	3,061,591
HAMPDEN WILBRAHAM	9,400,100
HAMPSHIRE	2,383,522
HAWLEMONT	606,785
KING PHILIP	5,540,786
LINCOLN SUDBURY	1,711,978
MANCHESTER ESSEX	1,317,284
MARTHAS VINEYARD	2,631,535
MASCONOMET	4,244,361
MENDON UPTON	7,820,674
MINUTEMAN	2,052,550
MOHAWK TRAIL	5,904,434
MONTACHUSETT	7,242,461
MOUNT GREYLOCK	1,635,600
NARRAGANSETT	8,092,672
NASHOBA	5,181,573
NASHOBA VALLEY	1,908,915
NAUSET	3,122,423
NEW SALEM WENDELL	595,315
NORFOLK COUNTY	594,178
NORTH MIDDLESEX	18,837,421
NORTH SHORE	1,407,994
NORTHAMPTON SMITH	732,334
NORTHBORO SOUTHBORO	1,513,082
NORTHEAST METROPOLITAN	5,201,971
NORTHERN BERKSHIRE	2,877,607

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Regional School	Chapter 70
OLD COLONY	2,524,441
OLD ROCHESTER	1,469,860
PATHFINDER	2,357,609
PENTUCKET	12,065,168
PIONEER	3,808,395
QUABBIN	15,119,489
QUABOAG	7,336,961
RALPH C MAHAR	4,113,302
SHAWSHEEN VALLEY	3,074,457
SILVER LAKE	5,606,085
SOUTH MIDDLESEX	2,131,644
SOUTH SHORE	1,678,575
SOUTHEASTERN	8,647,881
SOUTHERN BERKSHIRE	1,687,824
SOUTHERN WORCESTER	4,831,497
SOUTHWICK TOLLAND	6,628,633
SPENCER EAST BROOKFIELD	12,092,425
TANTASQUA	6,119,767
TRI COUNTY	3,115,362
TRITON	7,625,408
UPISLAND	767,074
UPPER CAPE COD	2,560,503
WACHUSETT	14,081,660
WHITMAN HANSON	21,130,837
WHITTIER	4,779,683

Regional Total	496,768,662
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SECTION 4. Section 41 of chapter 3 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The state secretary shall assess each executive and legislative agent a filing fee upon entering the agent's name upon the docket. The fee shall be \$1,000 for initial annual registration and \$1,000 for subsequent annual registrations. The state secretary in his discretion may waive for good cause upon written request this increase in filing fees for executive and legislative agents who exclusively file to represent not for profit entities.

SECTION 5. Sections 43, 44 and 45 of chapter 6 of the General Laws are hereby repealed.

SECTION 6. Section 116A of said chapter 6 is hereby further amended by striking out, in line 15, as appearing in the 2000 Official Edition, the words "metropolitan district commission".

SECTION 7. Section 135 of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:-

The fee for each identification card issued by the commission shall be not less than \$15. The card shall be valid for 5 years and then may be renewed for a fee of not less than \$15. If a card is lost or stolen, the commission may issue a duplicate card for a fee of not less than \$10. A fee shall not be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. § 1381 et seq. The commission shall determine the fee annually by regulation.

SECTION 8. Section 136 of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:-

The commission may issue a certificate of blindness to certify that a resident is legally blind as defined in this section. The commission shall charge a fee of not less than \$10 for each certificate of blindness that it issues. No fee shall be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. §1381 et seq. The commission shall determine this fee annually by regulation.

SECTION 9. Section 156 of said chapter 6 is hereby amended by inserting after the word "be", in line 1, as so appearing, the following words:- within the executive office of public safety,.

SECTION 10. Said section 156 of said chapter 6 is hereby further amended by striking out, in line 7, as so appearing, the words "metropolitan district commission".

SECTION 11. Said chapter 6 is hereby amended by striking out section 172A, as so appearing, and inserting in place thereof the following section:-

Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for criminal offender record information. A fee shall not be assessed for a request from a victim of a crime, a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a governmental agency or from such other persons as the board shall exempt. The criminal history systems board shall assess a fee of \$25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself; provided, however, that if a person shall be found indigent, as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the General Fund.

SECTION 12. Said chapter 6 is hereby further amended by inserting after section 178P the following section:-

Section 178Q. The sex offender registry board shall assess upon every sex offender a sex offender registration fee of \$75, hereinafter referred to as a sex offender registry fee. Said offender shall pay said sex offender registry fee upon his initial registration as a sex offender and annually thereafter on the anniversary of said registration; provided, however,

that no such fee shall be assessed or collected until the offender has either (1) waived his right to petition for an evidentiary hearing to challenge his duty to register as a sex offender as set forth in section 178L or (2) has completely exhausted the legal remedies made available to him to so challenge said duty to register pursuant to sections 178L and 178M and has not prevailed in his attempt to eliminate said duty. A sex offender's duty to pay the fee established by this section shall only terminate upon the termination of said offender's duty to register as a sex offender as set forth in section 178G.

The sex offender registry board may waive payment of said sex offender registry fee if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that said person is determined to be unable to pay the sex offender registry fee. The sex offender registry board shall establish procedures relative to the collection and waiver of such fee by regulation. Said sex offender registry fee shall be collected by the sex offender registry board and shall be transmitted to the treasurer for deposit into the General Fund. The sex offender registry board shall account for all such fees received and report said fees annually to the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 13. Section 202 of said chapter 6, as appearing on the 2000 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of this section, section 203 and the Children's Trust Fund but shall not exercise any supervision or control with respect to the board.

SECTION 14. Chapter 6A of the General Laws is hereby amended by inserting after section 18A the following section:-

Section 8B. (a) There shall be a commonwealth development coordinating council responsible for preparing a coordinated development policy for the commonwealth addressing housing, transportation, capital development, economic development and the preservation of environmental resources in the commonwealth.

(b) The council shall be comprised of a chair appointed by the governor, the secretaries of the executive offices of economic development, housing and community development, environmental affairs and transportation and construction, and the commissioners of the department of capital asset management and maintenance, and of the division of energy resources, or their respective designees. The chair shall serve at the pleasure of the governor and shall serve as an ex-officio member of the governor's cabinet. The governor shall appoint the following advisory members: the chairman of the Massachusetts water resources authority, the chairman of the Massachusetts Bay transportation authority, the executive director of a regional transportation authority, three regional planning representatives, a municipal planning representative and a professional planner.

(c) The coordinated development policy shall:

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- (1) discourage wasteful use of land, water and energy resources;
 - (2) support revitalization and reinvestment in urban areas and older suburbs; encourage reuse and rehabilitation of existing infrastructure rather than the construction of new infrastructure in undeveloped areas;
 - (3) protect, to the maximum extent possible, environmentally sensitive lands, natural resources, wildlife habitats and cultural and historic landscapes;
 - (4) support a range of convenient and affordable transportation choices;
 - (5) protect economically productive natural areas including farmland and forests;
 - (6) provide an adequate supply of affordable housing for all income levels throughout each community, particularly households earning 50 per cent or less of the area median income, as defined by the federal department of housing and urban development;
 - (7) encourage a clear and transparent development approval process; encourage regional solutions and approaches to planning for transportation, housing development and water supply;
 - (8) require coordination among state agencies on sustainable growth efforts; encourage coordination and cooperation among all state agencies; and
 - (9) ensure that funding and construction activities by state agencies do not promote development that is inconsistent with state, regional and local sustainable development plans.
- (d) The council shall:
- (1) coordinate and make recommendations to capital planning done by agencies and political subdivisions of the commonwealth;
 - (2) resolve inconsistencies between agency plans and local or regional sustainable development plans;
 - (3) encourage state agencies to consider secondary growth impact in capital planning and to site facilities in areas with infrastructure rather than undeveloped areas;
 - (4) direct appropriate agencies to provide technical assistance as necessary to municipalities in their growth planning;
 - (5) develop comprehensive policies and principles regarding the disposition, reuse and development of surplus commonwealth property which shall maximize the development of affordable housing, particularly near mass transit facilities, minimize environmental impact and respect local and regional input;
 - (6) develop as part of the coordinated development plan, based on public hearing process, a long-term state-wide transportation plan for the commonwealth that includes planning for inter-modal and integrated transportation;
 - (7) develop, based on public hearing process, procedures to be used for transportation project selection in which the executive office of transportation and construction, the department of highways and any regional planning district organized pursuant to chapter 40B participate to the extent found to be appropriate by the council; and
 - (8) establish criteria for project selection to be used in the procedures developed pursuant to clause (7).

SECTION 15. Said chapter 6A is hereby further amended by striking out section 16, as amended by section 6 of chapter 177 of the acts of 2001, and inserting in place thereof the following section:-

Section 16. The executive office of health and human services shall serve as the principal agency of the executive department for the following purposes: (a) developing, coordinating, administering and managing the health, welfare and human services operations, policies and programs; (b) supervising and managing the organization and conduct of the business affairs of the departments, commissions, offices, boards, divisions, institutions and other entities within the executive office to improve administrative efficiency and program effectiveness and to preserve fiscal resources; (c) developing and implementing effective policies, regulations and programs to assure the coordination and quality of services provided by the secretary and all of the departments, agencies, commissions, offices, boards, and divisions; (d) acting as the single state agency under section 1902(a)(5) of the Social Security Act authorized to supervise and administer the state programs under title XIX, for the programs under titles IV (A), IV (B), IV (E), XX and XXI of the Social Security Act, and for the programs under the Rehabilitation Act; and (e) maximizing federal financial participation for all agencies, departments, offices, divisions and commissions within the executive office.

The executive office of health and human services shall include: (1) the department of elder affairs under the direction of a secretary of elder affairs, who shall be appointed by the governor; (2) the office of health services, which shall include the department of public health, the department of mental health, the division of medical assistance and the Betsy Lehman center for patient safety and medical error reduction; (3) the office of children, youth and family services, which shall include the department of social services, the department of transitional assistance, the department of youth services, the office of child care services, the child abuse prevention board and the office for refugees and immigrants; (4) the office of disabilities and community services, which shall include the department of mental retardation, the Massachusetts rehabilitation commission, the Massachusetts commission for the blind, the Massachusetts commission for the deaf and hard of hearing and the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke; (5) the department of veterans' services under the direction of the secretary of veterans' services, who shall be appointed by the governor; (6) the managed care oversight board; and (7) the health facilities appeals board.

The governor shall appoint a secretary of health and human services, who shall serve at the pleasure of the governor and shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, commissions, offices, boards, divisions and other agencies within the executive office.

The secretary shall have the authority to: (a) through the department of elder affairs and the division of medical assistance and other agencies within the executive office, as appropriate, operate and administer the programs of medical assistance and medical benefits under chapter 118E; provided, however, that the executive office under the direction of the

secretary shall be the single state agency under section 1902(a)(5) of the Social Security Act, under Title XIX agency, for programs under titles IV(A), IV(B), IV(E), XX and XIX of the Social Security Act and for programs under the Rehabilitation Act; (b) establish certain rates of payment for health care services pursuant to section 2A of chapter 118G; (c) coordinate and supervise the administration of the executive office and its agencies to promote economy and efficiency and improve service delivery; (d) establish uniform regional and area boundaries for the agencies within the executive office; (e) establish uniform contracting and payment procedures for the executive office and its agencies; (f) develop and implement a management information system for the management of fiscal, client and program data necessary for the efficient administration of the agencies within the executive office; (g) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the executive office and agencies within the executive office, including regarding the sharing of data, including personal data, between and among the executive office and its agencies, subject to appropriate protections for the confidentiality of client data; (h) execute all instruments necessary for carrying out the business of the executive office and its agencies; (i) acquire, own, hold, dispose of, lease and encumber property in the name of the executive office and its agencies; (j) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the executive office or its agencies; (k) charge and collect fees, rentals and other charges as may be reasonable and necessary for carrying out the business of the executive office and its agencies; (l) apply for and accept funds, including grants, bequests, gifts and contributions on behalf of the commonwealth in accordance with section 6 of chapter 29B; and (m) serve as the executive and administrative head of each office, department, division, bureau, section, agency and other administrative unit within the executive office, except as specifically provided by law. The secretary may delegate any of the foregoing powers to an officer having charge of a department, office, division or other administrative unit within the executive office.

The secretary of health and human services may appoint an assistant secretary for each of the following offices: health services; disabilities and community services; and children, youth and family services. The assistant secretaries shall serve at the pleasure of the secretary and shall perform such duties as the secretary shall determine. Notwithstanding any general or special law to the contrary, the secretary may appoint an individual to serve simultaneously as the commissioner of any agency within the executive office and as an assistant secretary for the offices of health services, disability and community services and children, youth and family services. If the secretary appoints an individual to serve simultaneously as a commissioner and assistant secretary, the individual shall only be compensated for service in 1 office.

The secretary may appoint, consistent with sections 3 and 7, whatever personnel he deems necessary or desirable for the effective performance of the executive office. Such personnel shall perform such duties as the secretary shall determine and serve at the pleasure

of the secretary.

The secretary shall establish a performance measurement system for the agencies within the executive office, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of human services programs, service delivery and policy decision-making. The performance measurement system shall require each agency to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on human services and elder affairs.

SECTION 16. Section 16B of said chapter 6A, as appearing in the 2000 Official Edition, is hereby amended by adding the following sentence:- This section shall not apply to chapter 118E medical care and assistance, other than acute care services as defined by the secretary of health and human services, to eligible persons aged 65 and over as those services shall be administered by the secretary of elder affairs pursuant to section 1 of chapter 19A.

SECTION 17. Section 1 of chapter 19A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The secretary shall administer chapter 118E relative to medical care and assistance to eligible persons age 65 and older except for acute care services as defined by the secretary of health and human services. The secretary shall be responsible for administering and coordinating a comprehensive system of long-term care benefits and services for elderly persons, including institutional, home-based and community-based care and services.

SECTION 18. Said chapter 19A is hereby further amended by striking out section 4B, as so appearing, and inserting in place thereof the following section:-

Section 4B. The department shall manage the home care program established in section 4 with respect to clinical screening, service authorization activities and case management for Medicaid community-based long-term care made available to eligible elderly persons pursuant to chapter 118E and the regulations promulgated thereunder; provided, however, that the programs and activities authorized by this section shall be administered and coordinated in accordance with the single state agency requirement under 42 CFR Part 431 and other applicable requirements of Title XIX of the Social Security Act, or its successor title. The primary goal of the coordinated system of care shall be to assist elders in maintaining their residences in the community consistent with their clinical and psychosocial needs in the most cost-effective manner possible. As used in this section, the word "Medicaid" shall mean medical care and assistance provided to eligible persons pursuant to said chapter 118E and said Title XIX or its successor title, the term "executive office" shall mean the executive office of health and human services and the term "community long-term care" shall mean those Medicaid services determined by the department in consultation with the secretary of health and human services.

The coordinated system of care shall be administered by agencies under contract with the department that shall be known as aging services access points, hereinafter referred to as

ASAPs. ASAPs shall be designated by the department and may be operated nonprofit agencies, home care providers as defined in clause (c) of the third paragraph of section 4, a combination of home care corporations acting jointly or by state agencies. Pursuant to the terms of those contracts, ASAPs shall coordinate services on behalf of Medicaid eligible elders; provided, however, that the department shall maintain exclusive responsibility for determining the financial or categorical eligibility of elders for Medicaid and the secretary of health and human services shall establish rates and methods of payment for Medicaid services delivered pursuant to this section. Administrative payments to ASAPs for Medicaid-funded functions including, but not limited, to screenings, assessments, case management and coordination of care shall be established by the department in consultation with the secretary of health and human services. Administrative payments for home care-funded services under said section 4 shall be established by the department in consultation with the secretary of health and human services. The department, in consultation with the secretary of health and human services, may develop a capitation system of payment for services in which ASAPs shall be at financial risk for any Medicaid services authorized and purchased on behalf of an eligible person that exceed the amount of said capitation payments.

The department shall establish performance and outcome goals for Medicaid and home care-related functions of ASAPs and may establish such goals for any other responsibilities contracted to ASAPs for managing the coordinated system. Continuation of the contracts authorized by this section shall be dependent on the achievement of the Medicaid-related performance and outcome goals, as determined by the department.

ASAPs shall be responsible for: (1) providing information and referral services to elders; provided, however, that referrals for terminally ill elders shall include referrals to licensed and certified hospices for determination of eligibility, appropriateness and consumer interest in services; (2) conducting intake, comprehensive needs assessments, preadmission screening and clinical eligibility determinations for elders seeking institutional and community care services from Medicaid or the home care program, which in the case of hospice clients, shall adhere to Medicare and Medicaid conditions of participation pursuant to 42 C.F.R. 418 and 114.3 C.M.R. 43.00; (3) developing a comprehensive service plan based on the needs of an elder, provided, however, that a medical plan of care for an elder shall be developed by a licensed or certified health care provider; (4) arranging, coordinating, authorizing and purchasing community long-term care services called for in the comprehensive service plan; and (5) monitoring the outcomes of and making periodic adjustments to a service plan in consultation with service and health care providers. The establishment of a comprehensive service plan for an elder shall not establish an entitlement to services for that eligible person for services beyond that established by law or beyond the amounts appropriated therefor.

ASAP responsibilities for Medicaid-related functions shall be those established by the department. When renewing the annual terms of a contract the subsequent fiscal year, the department shall seek to promote continuity in the the coordinated system of care consis-

tent with this section; provided, however, that substantive changes to the terms and conditions of an annual agreement, including changes to the functional responsibilities of ASAP's as defined in this section, shall be negotiated after the department's written findings that such changes are necessary as a result of changes in federally reimbursable services, rates of federal reimbursement rates or state fiscal demands or that the division is prepared to implement a more comprehensive, cost-effective and coordinated system of long-term care than that established in this section. The written finding required by this paragraph shall be submitted to the executive office, the secretary of administration and finance and the legislature's joint committee on human services and elderly affairs.

ASAPs shall not provide direct services except for case management; information and referral, and protective services as defined in regulations of the home care program established pursuant to 651 C.M.R. 3.00 et seq. and nutrition services established pursuant to 651 CMR 4.00 et seq. and the Older Americans Act, as amended, 42 U.S.C. 3021 et seq. Except for the direct services provided by ASAPs pursuant to this section, no ASAP shall have a direct or indirect financial ownership interest in an entity that provides institutional or community long-term care services on a compensated basis. The department may grant a waiver of the restrictions in this paragraph upon a finding that public necessity and convenience require such a waiver.

Overall management, administration and oversight activities related to the screening and authorization of community long-term care services and related case management services shall be the responsibility of the department. The department shall actively explore with interested parties programmatic options that would decrease the reliance of nursing facilities on Medicaid funding and shall promote increased residential and community long-term care program options for elders needing long-term care services. The department shall also explore future coordinated systems of service delivery options as identified in the coordinated aging, rehabilitation and disability services project.

SECTION 19. Said chapter 6A is hereby further amended by inserting after section 16 the following section:-

Section 16A½. (a) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary of administration and finance and the secretary of public safety, shall develop and implement a coordinated prescription drug procurement plan for all pharmacy benefit plans funded or subsidized, in whole or in part, by the commonwealth. The plan shall maximize cost savings, efficiencies, affordability and be designed to improve health outcomes, benefits and coverage in the pharmacy benefit plans.

(b) As part of the prescription drug procurement plan, the secretary shall contract with a third party nonprofit pharmacy benefits manager to provide pharmacy benefit management services and negotiate pharmaceutical discounts, rebates and other prescription related cost savings with pharmaceutical manufacturers on behalf of the commonwealth. The secretary shall contract with a nonprofit corporation or establish an inter-governmental service agreement for the provision of pharmacy benefit management services. The non-profit pharmacy

benefits management corporation shall have experience in the administration of publicly-funded health benefit plans and shall be qualified to assess and manage the clinical efficacy and cost-effectiveness of the pharmacy benefit plans for the commonwealth. The non-profit pharmacy benefits management corporation shall be considered to possess a fiduciary responsibility to the pharmacy plans.

(c) The secretary shall ensure that the procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively management the pharmacy plans of the commonwealth. The tools shall include, but shall not be limited to:

(1) a statewide preferred drug list including negotiations with pharmaceutical companies for the payment of supplemental rebates or price discounts, in compliance with 42 U.S. C. section 1396r-8 ;

(2) clinically appropriate and effective disease management programs;

(3) a prescription drug discount program; and

(4) development of appropriate processes to ensure access to clinically appropriate prescription drug therapies and medically-necessary prescriptions.

(d) A contract in existence with any agency or pharmacy benefit plan shall not be terminated before its expiration date solely due to this section. A contract currently in existence with any agency or pharmacy benefit plan shall not be renewed or extended in a manner inconsistent with this section.

(e) For the purposes of subsection (c) of section 39 of chapter 19A, this section shall be considered a successor statute to section 62 of chapter 177 of the acts of 2001 but shall not be construed to have the effect of repealing chapter 62.

(f) The secretary shall submit, on April 15 of each year, a report detailing the coordinated prescription drug procurement plan to the house and senate clerks, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on health care. The report shall include, but not be limited to, a review of the pharmacy benefit manager's designated formulary and an analysis of: (1) the actual discounts or rebates received as a result of the plan and other prescription related cost savings information for each prescription benefit plan funded in whole or in part by the commonwealth; (2) administrative costs relating to the prescription drug benefits in each plan; and (3) disease management or other programs implemented to improve health outcomes including drug therapy coordination and safe utilization of prescription drugs. The report shall also include recommendations for enhancing the benefits provided by each plan, saving costs, reducing inefficiencies and otherwise improving access and quality.

SECTION 20. Said chapter 6A is hereby further amended by inserting after section 16F, inserted by section 1 of chapter 171 of the acts of 2002, the following section:-

Section 16G. The secretary of health and human services shall convene interagency children's services teams to establish effective means of collaboration among and between human service agencies and other entities, including but not limited to school districts, for the provision of supports and services to children and to determine which agency or agencies

within the jurisdiction of the secretary shall provide or contract for appropriate services to a child in cases when disputes arise among agencies over the delivery of services to a child or when the services are not being provided to a child. For purposes of this section, "agency" shall mean any department, office, commission, board, institution or other agency of the commonwealth within the executive office of health and human services. The teams shall be created on a local or regional basis in accordance with regulations to be developed by the secretary.

The secretary or his designee shall chair the local or regional interagency children's services teams and preside over meetings. The interagency teams shall also include the commissioner or chief executive officer, or his designee, of the following agencies: the department of public health, the department of social services, the department of education, the department of transitional assistance, the department of mental retardation, the department of mental health, the commission on the deaf and hard of hearing, the Massachusetts rehabilitation commission, the commission for the blind or any other agency considered necessary by the secretary to ensure delivery of appropriate and needed services to a child.

The interagency teams shall review the cases on a local or regional basis; seek to identify the assessments and services that might be provided to a family; provide opportunities to receive testimony and evidence from the child, the child's family, the representative of the child or family or the representative or other employee of any agency; designate an agency to act as a lead agency and develop a plan for collaboration; if necessary, designate an agency to provide or contract for such services; and direct a designated agency to accept responsibility for the child and provide or contract for the services.

Students may be referred to the local interagency team by a school district, by any agency or department of the state, or by a parent, guardian, surrogate parent, other service provider of the child, educational advocate or legal advocate representing the child. Written consent of the parent or guardian shall be required before any sharing of information concerning a child and all federal and state laws and regulations regarding consent, confidentiality, and privilege shall apply. The parent, guardian, surrogate parent, educational advocate or legal advocate of a child shall be provided notice in their primary language of their rights pursuant to this section, including notice of any referral, the requirement for parental consent to the release of any information and records, and copies of all writings produced by the team; shall be part of the interagency team and shall be invited to interagency team meetings and participate actively in its work as it affects the child.

The interagency teams shall have full access to, and the agencies shall provide all information relevant to the cases if the appropriate consent is provided by parents or students, as may be established by applicable statutes or regulations. All confidential information shall be returned to its originating source upon completion of the team's work and shall not be retained by the interagency team or any member thereof and a member of the interagency team shall not disseminate confidential information to any other individual or entity.

The interagency team shall keep a written record concerning the work of the interagency team with respect to each child referred to it, including information as to the services or placement sought, alternatives considered, conclusions reached, any further recommendations and the membership of the team. The parents, local school district and all relevant agencies shall be promptly informed of the results of the interagency team's work. A parent legal guardian, surrogate parent and educational advocate and legal advocate of a student shall have the right, upon request, to review or request copies of the written record maintained by the interagency team. The written record maintained by the interagency team shall be kept by the secretary, shall be kept confidential and shall not be disseminated by any team member.

Nothing herein shall be construed to alter individual education plan development processes, service provision or placement processes applicable to school districts or to alter existing due process rights and procedures under state or federal law. Further, the child and the parent, legal guardian, or educational surrogate of the child shall retain all applicable rights to consent or not to consent to any offered service that might be offered or recommended by the interagency team. Nothing herein shall be construed to require presentation of any issue to the interagency team before using any of the remedies under federal and state law including complaints to the department of education and hearings and mediations before the bureau of special education appeals.

If no collaborative plan is developed and no decision is agreed upon by a majority of the interagency team, the secretary shall designate and require an agency to provide appropriate and needed services to the child. If a designated agency fails to provide services to a child in a manner consistent with the decision of the team, the secretary shall review the matter. If the secretary finds that the decision of the interagency team is reasonable and within the jurisdiction of the designated agency, he shall direct the agency to provide services in accordance with the decision of the interagency team and shall take any other action consistent with state law to ensure that appropriate services are provided to the child.

The secretary shall promulgate regulations as to the operation of the interagency teams. These regulations shall mandate that the entire team process, including notification to all parties of the team's decision, shall be completed in no less than 30 working days. The regulations shall set forth an appeal pursuant to chapter 30A to a hearing officer appointed by the secretary.

For purposes of this section, "child" shall mean a person under the age of 18, or under the age of 22 if the person is disabled or has special needs.

The secretary shall issue an annual report summarizing the activities of the teams during the preceding fiscal year.

SECTION 21. Section 18 of said chapter 6A is hereby amended by inserting after the word "police", in line 7, as appearing in the 2000 Official Edition, the following words:- ; the office of commonwealth security; the department of forensic sciences.

SECTION 22. The first paragraph of section 18½ of said chapter 6A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof

the following sentence:- The secretary shall, subject to section 3, appoint 3 undersecretaries.

SECTION 23. Said section 18½ of said chapter 6A, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:-

One undersecretary shall be the undersecretary of homeland security and shall oversee the functions and administration of the office of homeland security and shall be responsible for developing, coordinating, implementing and overseeing policies and programs relative to homeland security and emergency preparedness and administering state and federal grant programs to provide comprehensive initiatives relative to homeland security and emergency preparedness. Said undersecretary shall advise the secretary on all matters relative to anti-terrorism and emergency preparedness, develop and implement such policies and procedures as he deems necessary to carry out the mission of said office and coordinate with appropriate federal, state and local law enforcement and criminal justice agencies to develop cohesive strategies to ensure the security of the commonwealth and its residents.

SECTION 24. Section 4A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following four paragraphs:-

In the event a new governmental mandate effective on or after July 1, 2003 is imposed upon a contractor providing a social services program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate, provided that the contractor furnishes substantial evidence to the governmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a "new governmental mandate" shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly or indirectly imposes an obligation upon the contractor to take any action or to refrain from taking any action.

For the purposes of this section, a "material adverse financial impact" shall mean: (a) an increase in the reasonable costs to the contractor in performing the contract of the lesser of (i) three percent (3%) of the maximum obligation amount or unit price of the contract, or (ii) five thousand dollars (\$5,000), in aggregate as a result of all such mandates in effect during the contract year; or (b) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to the provisions of this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H of said chapter 7 for a hearing and decision de novo on all issues. A contractor's request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination

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is not received within 30 days of the governmental unit's receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the Superior Court, Suffolk Division, pursuant to chapter 30A.

SECTION 25. Section 53 of said chapter 7, as so appearing, is hereby amended by striking out, in line 16, the words "one hundred thousand dollars" and inserting in place thereof the following words:- \$200,000, but as of January 1 each year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12 month period for which data are available.

SECTION 26. Section 54 of said chapter 7, as so appearing, is hereby amended by striking out, in lines 55 and 56, the words "in the most cost-efficient manner" and inserting in place thereof the following words:- according to agency accounting records in accordance with avoidable cost accounting standards.

SECTION 27. Paragraph (4) of section 54 of said chapter 7 is hereby amended by striking out, the words "according to agency accounting records", inserted by section 26, and inserting in place thereof the following words:- in the most cost-efficient manner in accordance with avoidable cost accounting standards.

SECTION 28. Said paragraph (4) of said section 54 of said chapter 7, as amended by section 27 of this act, is hereby further amended by inserting after the word fifty-five, in line 70, the following words:- ; provided, however, that with respect to any proposed privatization contract whereby a non-governmental person or entity seeks to provide services currently provided by the employees of the Massachusetts Bay Transportation Authority, the comprehensive written estimate required by this paragraph shall be an estimate of the costs of regular authority providing the subject services in the most cost-efficient manner in accordance with avoidable cost accounting standards.

SECTION 29. Section 12 of chapter 7A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 20, the word "operating" and inserting in place thereof the following word:- budgetary.

SECTION 30. Section 18 of said chapter 7A, added by section 8 of chapter 184 of the acts of 2002, is hereby amended by inserting after the word "town", in line 3, the following words:- , a housing authority,.

SECTION 31. Said section 18 of said chapter 7A, as so appearing, is hereby further amended by inserting after the word "town", in lines 10, the second time it appears, line 15, the second time it appears, line 19, the second time it appears, line 21, the second time it appears, lines 23 and 29, the second time it appears, and inserting in place thereof, in each instance, the following words:- the housing authority.

SECTION 32. Section 9 of chapter 8 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 17 to 19, inclusive, the words "commissioner of the department of the metropolitan district commission and said commis-

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sioner shall utilize the members of the metropolitan district commission" and inserting in place thereof the following words:- director of the division of urban parks and recreation and said director shall utilize the members of the urban park.

SECTION 33. Section 10 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The state treasurer shall prepare and submit to the house and senate committees on ways and means on or before the last day of August, November, February and May official cash flow projections for the current fiscal year and for the fiscal quarters beginning October 1, January 1, April 1 and July 1, respectively.

SECTION 34. Section 35D of said chapter 10, as so appearing, is hereby amended by striking out, in line 15, the words ", subject to appropriation".

SECTION 35. Section 35G of said chapter 10 is hereby repealed.

SECTION 36. Section 35H of said chapter 10 is hereby repealed.

SECTION 37. Section 35L of said chapter 10 is hereby repealed.

SECTION 38. Section 35Q of said chapter 10 is hereby repealed.

SECTION 39. Section 35S of said chapter 10 is hereby repealed.

SECTION 40. The second sentence of subsection (a) of section 35V of said chapter 10, as appearing in section 7 of chapter 177 of the acts of 2001, is hereby amended by striking out the words "subsection (b)" and inserting in place thereof the following words:- subsections (b) and (c).

SECTION 41. Said section 35V of said chapter 10, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following 2 subsection:-

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fees for obtaining and renewing a license, certificate, registration, permit or authority issued by a board within the division of professional licensure by an amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect as of July 1, 1996, to be expended by the director of professional licensure pursuant to subsection (a). The secretary of administration and finance may increase the fees of any board of registration established subsequent to July 1, 1996 based on the amount of the fee at the time of the board's original promulgation by the secretary of administration and finance. The secretary of administration and finance shall promulgate regulations to effect the change in fees not later than 45 days after the fee increase.

(c) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fees for obtaining or renewing a license, certificate, registration, permit or authority issued by board and also fees for an appeal, variance request, approval, plan review, dual fuel review and any and all other ancillary fees charged for services with the division of professional licensure as set forth in

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801 CMR 4.02 by an additional amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect on January 1, 2003 or at the time of the original promulgation of the board, whichever date is later. Amounts collected pursuant to this subsection shall become part of the fund established pursuant to subsection (a) and shall be expended by the director of professional licensure pursuant to said subsection (a).

SECTION 42. Section 35X of said chapter 10, inserted by section 10 of chapter 184 of the acts of 2002, is hereby amended by adding the following subsection:-

(c) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fee for obtaining or renewing a license, certificate, registration, permit or authority issued by a board within the department of public health, excluding the board of registration in medicine, by an additional amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect before the fee increases authorized pursuant to subsection (b); but the fees for any board that has not increased fees pursuant to said subsection (b) shall be increased by an amount not to exceed 100 per cent. All of this increase shall be deposited in the Quality in Health Professions Trust Fund.

SECTION 43. (A) Said chapter 10 is hereby further amended by striking out section 42, as appearing in the 2000 Official Edition, and inserting in place thereof the following 4 sections:-

Section 42. There shall be established on the books of the commonwealth a separate fund to be known as the State Election Campaign Fund, consisting of all revenues received under section 6C of chapter 62, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The state treasurer shall deposit the fund in accordance with sections 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time after June 30 in any year in which elections are held for statewide elective office.

The state election campaign fund shall be expended only for the payment to eligible candidates, as determined under chapter 55C of amounts due on account of public financing on campaigns for statewide elective office and any unexpended balances shall be redeposited, as herein provided, pending the next year in which elections are held for statewide elective office.

Section 42A. On or before the eighth Tuesday before the primacy election in any year in which elections are held for statewide elective office, the balance of the state election campaign fund shall be determined by the comptroller as of June 30th of that year and the State Election Campaign Fund shall thereupon be divided by the comptroller into primary and state election accounts as follows: (a) 50 per cent of the fund shall be allocated to the primary election account which shall be further subdivided into as many primary candidate accounts as there are candidates for statewide elective office who have been certified by the

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director of campaign and political finance as eligible for public financing pursuant to section 4 of chapter 55C. Each primary candidate account of a candidate for governor so certified shall first be credited with \$750,000. If the primary election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the primary election account shall be proportionately allocated in equal amounts to the remaining primary candidate accounts; (b) 50 per cent of the fund shall be allocated to the state election account. On or before the fourth Tuesday preceding the state election, the state election account shall be further subdivided into as many state election candidate accounts as there are candidates for statewide elective office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section 6 of chapter 55C; provided, however, that one state election candidate account only shall be established for each governor and lieutenant governor team of candidates. Each state election candidate account for a team of candidates for governor and lieutenant governor so certified shall first be credited with \$750,000. If the state election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the state election account shall be proportionately allocated in equal amounts to the remaining state election candidate accounts.

Section 42B. On or before the eighth, sixth, fourth and second Tuesday before the primary election in any year in which elections for statewide elective office are held the state treasurer shall without further appropriation distribute from each primary candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository account designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday before the primary election all primary candidate accounts established under section 43 shall be closed and any balances remaining shall be allocated to the general election account and shall be available for distribution as herein provided.

On or before the fourth and second Tuesday before the state election in any year in which elections are held for statewide elective office, the state treasurer shall without further appropriation distribute from each state election candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday before the state election all state election candidate accounts established under section 43 shall be closed and any balances remaining shall be redeposited as provided in section 41 pending the next year in which statewide elections are held.

Section 42C. The state auditor shall conduct a post-audit of all accounts and transactions involving the state election campaign fund for any year in which elections are held for statewide elective office and shall conduct such other special audits and post-audits as he may deem necessary. The state auditor shall publish a report of any post-audit required by this section on or before April 1 of the year following any year in which elections are held for statewide elective office. The comptroller shall conduct a post-audit of the accounts and

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transaction of any candidate for state auditor.

(B) Subsection (b) of section 18C of chapter 55 of the General Laws, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) each candidate or candidate's committee that, during an election cycle, can reasonably expect to raise or spend more than \$50,000 for the offices of governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, auditor or \$5,000 for the offices of councillor, state senator and state representative.

(C) Chapter 55A of the General Laws is hereby repealed.

(D) The General Laws are hereby further amended by inserting after chapter 55B the following chapter:-

CHAPTER 55C. LIMITED PUBLIC FINANCING OF CAMPAIGNS FOR STATEWIDE ELECTIVE OFFICE.

Section 1. Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

"Director", the director of campaign and political finance as established by chapter 55.

"Candidate", any candidate as defined by chapter 55.

"Statewide elective office", the office of governor, lieutenant governor, attorney general, secretary, treasurer and receiver general and auditor.

"Contribution", any contribution as defined by chapter 55.

"Qualifying contribution", any contribution made by an individual and deposited in a candidate's depository account as required by section nineteen of chapter 55 during the calendar year in which elections are held for statewide elective office or the next preceding calendar year except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds \$250 or would exceed \$250 when added to any such contribution previously made by the same individual during the calendar year in which elections are held for statewide elective office or the next preceding calendar year.

The same contribution may be a qualifying contribution for both the primary election and the state election in a year in which elections are held for statewide elective office but no contribution shall remain a qualified contribution after the end of any such year.

Section 1A. (a) On or before the last day for filing that candidate's nomination papers with the state secretary pursuant to chapter 53, every candidate for statewide elective office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree:

(1) in the case of primary candidates, to abide by the following limits on expenditures for the following elective offices in the campaign for the state primary:

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Governor \$1,500,000
Lieutenant Governor 625,000
Attorney General 625,000
Secretary 375,000
Treasurer and Receiver General 375,000
Auditor 375,000; and

(2) in the case of all candidates for statewide elective office, to abide by the following limits on expenditures for the following elective offices in the campaign for the state election:

Governor and Lieutenant Governor \$1,500,000
Attorney General 625,000
Secretary 375,000
Treasurer and Receiver General 375,000
Auditor 375,000

The name of a candidate who fails to file any statement within the time required by this subsection shall not appear on the state primary ballot nor on the state election ballot, and the director shall inform the state secretary of any such failure.

(b) On or before the last day for filing withdrawals of nominations for the state primary, every primary candidate for statewide office who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that primary by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state primary ballot, and the director shall inform the state secretary of any such failure. The state primary campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(c) On or before the last day for filing withdrawals of nominations made at the state primary, every candidate for statewide office in the state election who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that election by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state election ballot, and the director shall inform the state secretary of any such failure. The state election campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(d) Any candidate appointed to fill a vacancy in a nomination for statewide elective

office shall file the statement required by subsection (a) not later than the last day for filing the certificate of nomination to fill such vacancy. The time for opposing candidates to file the statements required by subsection (b) or (c), as the case may be, shall be extended accordingly.

(e) Any candidate who files a statement with the director under this section and who makes expenditures in excess of the limit established by this section, or in excess of the amount stated by said candidate pursuant to subsection (b) or (c), shall be punished by a fine of not more than the total of 2 times the amount of the expenditures in excess of said limit or said amount, as the case may be, in addition to the penalties provided by section 12.

Section 2. On or before the ninth Tuesday before the primary election in any year in which elections are held for statewide elective office the state secretary shall determine and certify to the director and the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the primary ballot and are opposed, by one or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur following the filing of such certificates of nominations and nomination papers other than a vacancy caused by withdrawal of a candidate within the time allowed by law. On or before the fifth Tuesday before the state election in any such year the state secretary shall determine and certify to the director and to the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the state election ballot and are opposed by one or more candidates who have qualified for the state election ballot. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot, as provided with respect to candidates for the primary election, and any, such candidates nominated at the primary election shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur other than a vacancy caused by withdrawal of a candidate within the time allowed by law. The state secretary shall promptly determine and certify to the director and state treasurer the name and address of any candidate that no longer qualifies for the primary or state election ballot or no longer has opposition because of death or withdrawal or ineligibility for office or because objections to certificates of nomination and nomination papers have been sustained or because of a recount or for any other like reason.

Section 3. The director shall determine and certify to the state treasurer those candidates for statewide elective office that are eligible for limited public financing as provided in sections 4 and 6 and shall determine and certify to the state treasurer the amounts due to each eligible candidate as provided in sections 5 and 7.

The director shall prescribe and make available forms on which statements of qualifying contributions shall be filed by candidates, which statements shall contain the name

and address of each individual making a contribution, the amount of the contribution and date of deposit, the cumulative total of all contributions made by that individual during the calendar year in which elections are held for statewide elective office and the next preceding calendar year and shall contain such other information and shall be organized in such a manner as the director may reasonably require to expedite the determinations required to be made by the director by this chapter. The director shall notify candidates of any amounts determined by the director to be due from candidates under section nine and shall direct that such amounts be paid to the state election campaign fund. On or before January 30 of any year next following a year in which elections are held for statewide elective office the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section 3 of chapter 55 and shall make copies of such report available to any person upon payment of the reasonable cost of copying or reproduction.

Section 4. Any candidate for statewide elective office certified by the state secretary under section 2 as qualifying for the ballot and having opposition in primary election shall be eligible to receive limited public financing of his primary election campaign, to the extent provided by section 5, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

Governor \$75,000

Lieutenant Governor 15,000

Attorney General 37,500

Secretary 15,000

Treasurer and Receiver General 15,000

Auditor 15,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth Tuesday.

Section 5. Any candidate eligible to receive limited public financing of his primary election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section 1, subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the primary candidate account established for that candidate under section 42 of chapter 10; (b) nor shall any candidate be entitled to receive

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any amount in excess of the following maximum amounts for the following statewide elective offices:

- Governor \$750,000
- Lieutenant Governor 312,500
- Attorney General 312,500
- Secretary 187,500
- Treasurer and Receiver General 187,500
- Auditor 187,500

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the eighth, sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

Section 6. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the state election shall be eligible to receive limited public financing of his state election campaign, to the extent provided by section 7, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

- Governor and Lieutenant Governor \$125,000
- Attorney General 62,500
- Secretary 25,000
- Treasurer and Receiver General 25,000
- Auditor 25,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said fourth Tuesday.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining eligibility for public financing of such candidate's state election campaign.

Section 7. Any candidate eligible to receive limited public financing of his state election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section one

subject to section nine and subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the state election candidate account established for that candidate under section 43 of chapter 10; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

Governor and Lieutenant Governor \$750,000

Attorney General 312,500

Secretary 187,500

Treasurer and Receiver General 187,500

Auditor 187,500

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the fourth and second Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining the extent of public financing of such candidate's state election campaign.

Section 8. No candidate shall be eligible to receive public financing under this chapter unless and until the candidate deposits with the director a bond for the faithful compliance by such candidate and any political committee organized on his behalf with the provisions of this chapter. Such bond shall be in a form approved by the director, shall be signed by such candidate and the chairman and treasurer of any such committee, shall run to the commonwealth, shall be in force during the year in which elections for statewide elective office are held and for the following calendar year. The bond deposited for the purpose of receiving public financing for the primary election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the primary election campaign. The bond deposited for the purpose of receiving public financing for the state election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the state election campaign, but in the case of a candidate for governor, the bond on behalf of said candidate shall be in the amount which the comptroller has credited to the account established on behalf of that governor and lieutenant governor team.

On determination by the director that a candidate has failed to make the payments to the state treasurer required by section 9 the director may request the attorney general to bring an action in the name of the state treasurer upon the bond of such candidate and his political committee and may recover for the benefit of the state election campaign fund, up to the sum of such bond, any such payments so required. Any such action shall be in addition to remedies otherwise available by law and no action on any such bond shall preclude the director

from bringing such other civil or criminal proceedings as may otherwise be provided by law.

Section 9. Within 2 weeks following any primary or state election for statewide elective office any candidate who has received public financing under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository account as of the primary or state election less any reserve necessary to cover debts incurred to defray campaign expenditures incurred during such primary or state election. Except as provided in this section, any candidate having a surplus balance following any such primary or state election shall thereupon pay to the state treasurer for deposit to the State Election Campaign Fund an amount determined by multiplying such surplus balance by a fraction the numerator of which is the total amount of public financing received on account of such primary or state election campaign and the denominator of which is the sum of such public financing received and all contributions received by such candidate. No candidate having a surplus balance following the primary election shall be required to make any payment on account of such surplus if such candidate is certified by the state secretary under section 2 as qualifying for the ballot and having opposition in the state election and is certified by the director of campaign and political finance as eligible for public financing for the state election within 3 weeks following such primary election. In determining and certifying the amount to which any such candidate is entitled under section 7, the director shall reduce the amount that would otherwise be determined under that section by an amount equal to the amount that such candidate would be required to pay to the state treasurer under this section but for this sentence.

If the director determines that any portion of the payments made to an eligible candidate under this chapter was in excess of the aggregate amount of the payments to which the candidate was entitled he shall so notify the candidate and he shall thereupon pay to the state treasurer an amount equal to the excess amount.

If the director determines that any portion of the payments made to a candidate under this chapter for use in his primary election campaign or his state election campaign was used for any purpose other than to defray campaign expenditures in that campaign, or to repay loans the proceeds of which were used to defray campaign expenditures in that campaign, the director shall so notify the candidate and he shall thereupon pay an amount equal to the full amount so used to the state treasurer without regard to the source of the funds so used.

Any candidate who fails to pay an amount determined by the director to be due within 10 days of notice thereof shall be subject to a penalty of \$50 per day for every day that such amount remains unpaid.

Section 10. No candidate shall be required to accept public financing nor shall any candidate otherwise eligible for public financing be denied such financing solely because an opposing candidate declines to accept such financing.

Section 11. The director shall promulgate such rules and regulations as are necessary to effectuate the purposes of this chapter.

The director shall have the same power and authority to investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed and taken by candi-

dates pursuant to this chapter as is provided by section 3 of chapter 55 pertaining to campaign contributions and expenditures.

Section 12. Violation by any person of any provision of this chapter shall, in addition to any civil liabilities established by this chapter, be punished by imprisonment for not more than 1 year or by a fine of not more than on \$1,000, or both.

(E) Section 6C of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "Massachusetts Clean Elections" and inserting in place thereof the following words:- State Election Campaign.

(F) Any funds in the Massachusetts Clean Elections Fund shall on the effective date of this act be transferred to the State Election Campaign Fund, established by section 42 of chapter 10 of the General Laws. Any funds in the Massachusetts Clean Elections Judgment Fund, established by section 174 of chapter 184 of the acts of 2002, shall be transferred to the General Fund.

SECTION 44. Section 47 of said chapter 10, as appearing in the 2000 Official Edition, is hereby amended by inserting after the seventh sentence the following sentence:- The state treasurer and state auditor shall be equally responsible for all administrative costs associated with the board.

SECTION 45. Section 49 of said chapter 10 is hereby repealed.

SECTION 46. Section 51 of said chapter 10 is hereby repealed.

SECTION 47. Section 59 of said chapter 10, as appearing in the 2000 Official Edition, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following three sentences:- Funds collected pursuant to said section 24 shall be expended without further appropriation for the purpose of developing and maintaining nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct. Funds collected pursuant to said section 20 shall be expended without further appropriation for the purpose of developing and maintaining residential and nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct. In order to ensure that said services established by the commissioner continue without interruption, the comptroller may certify for payment amounts in anticipation of revenues collected for the corresponding quarter during the previous fiscal year.

SECTION 48. Said chapter 10 is hereby further amended by adding the following 3 sections:-

Section 70. There shall be a commission to be known as the alcoholic beverages control commission, to consist of a commissioner and 2 associate commissioners appointed by the treasurer. Not more than 2 members shall be members of the same political party. The commissioner shall serve a term coterminous with the treasurer. The 2 associate commissioners serving on the alcoholic beverages control commission on May 1, 2003 shall remain the associate commissioners until January 2, 2005. The 2 associate commissioners shall thereafter be appointed by the treasurer for terms of 4 years. The commissioner shall

serve as chairman and shall devote his full time during business hours to his official duties. The positions of commissioner and associate commissioner shall be classified in accordance with section 45 of chapter 30 and their salaries shall be determined in accordance with section 46C of said chapter 30. Any vacancy may be filled in like manner for the remainder of the unexpired term. The treasurer may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard. Two members shall constitute a quorum for the purpose of conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

Section 71. The commission shall have general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages as defined in section 1 of chapter 138, and also of the quality, purity and alcoholic content thereof.

The commission shall submit to the governor, the treasurer and to the general court, as soon as possible after the end of each state fiscal year, a full report of its actions and of the conduct and condition of traffic in alcoholic beverages during such year, together with recommendations for such legislation as it deems necessary or desirable for the better regulation and control of such traffic and for the promotion of temperance in the use of such beverages. The members shall receive their necessary traveling and other expenses incurred while in the performance of their official duties.

Section 72. The commission may appoint and remove a secretary. It may expend for such investigators, clerical and other assistants as may be necessary for the performance of its duties such amounts as may be appropriated and the employees shall retain all collective bargaining and other rights previously held. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31, for the purpose of enforcing or causing to be enforced the penalties provided by law against every person who is guilty of a violation of chapter 138 of which they can obtain reasonable proof, and shall make all necessary and appropriate investigations for that purpose. Each person appointed as an investigator shall complete a basic reserve police officer training course through the criminal justice training council and shall attend a basic training course conducted by the commission. All investigators shall attend an annual in-service training course pursuant to this section. Each member of the commission, and each of its employees having access to moneys received by it, shall give to the treasurer a bond for the faithful performance of his duties in a penal sum and with sureties approved by the treasurer.

SECTION 49. Section 7 of chapter 15A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The board of trustees of a state or community college with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a five-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projec-

tions for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to insure continuing access to the institution by residents of the commonwealth and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students. Said proposal, upon its receipt by the board of higher education, shall be transmitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on education, arts, and humanities. The board shall, with ninety days of the submission of the plan, take a vote to approve said plan. Approval shall require a two-thirds vote. If the board proposes amendments to the plan, and said amendments receive a two-thirds vote of approval, said amendments shall be returned to the institution's board of trustees. If the board of trustees approves said amendments, the plan shall be considered adopted. If the institution's board of trustees rejects the proposed changes, it may submit a redrafted plan, which will be treated as a new plan under the provisions of this section.

SECTION 50. Section 9 of said chapter 15A is hereby amended by inserting after the word "education", in line 185, as appearing in the 2000 Official Edition the following 4 clauses:-

; (dd) to develop funding formulas for state and community colleges pursuant to section 15B of this chapter; (ee) to develop a standardized form for reporting institutional expenditures, and for the submission of institutional spending plans pursuant to subparagraph (m) of the first paragraph of section 2 of this act; (ff) to approve the expansion of campus missions to embrace specialized missions, expanded regional or national outreach, or a more entrepreneurial model of service delivery pursuant to section and subparagraph (p) of the first paragraph of section 22 of this chapter; (gg) develop a system to track students who transfer out of public institutions of higher education in order to improve data on what degrees, if any, those students earn from other institutions of higher education.

SECTION 51. Said section 9 of said chapter 15A is hereby further amended by inserting after the word "account", in line 24, as so appearing, the following words:- the analysis mandated in clause (c).

SECTION 52. Said section 9 of said chapter 15A, as so appearing, is hereby further amended by inserting after the word "examinations.", in line 99, the following sentence:- In order to facilitate the timely use of such data, the board shall, in consultation with the public institutions of higher education, establish a schedule for submission of the data.

SECTION 53. Section 15B of said chapter 15A, as so appearing, is hereby amended by inserting after the second paragraph, the following paragraph:-

Boards of trustees in each segment of the higher education system shall prepare their budget request in accordance with funding formulas. The board of higher education shall develop the formulas for the institutions within the state and community college segments in consultation with the boards of trustees. The university trustees shall develop funding formulas for the university campuses in consultation with the campus administrations and

the board of higher education. All funding formulas shall be periodically reviewed and revised as needed.

SECTION 54. Said section 15B of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 23 to 27, inclusive, the words "attaching whatever comments and recommendations it may desire or deem necessary. Said comments and recommendations shall be consistent with the aforementioned funding formulas, statewide needs and the adopted institutional and system long range plans." and inserting in place thereof the following words:- and shall attach comments and recommendations for use by the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. In the case of the university, it shall be the responsibility of the trustees to submit comments and recommendations regarding the budget requests of individual campuses within the university system to the board of higher education. In the case of any institution, or the university, having failed to submit data according to the schedule established under clause (s) of the first paragraph of section 9, the board of higher education may withhold transmittal of the budget request from that board of trustees to the secretary and committees. The comments and recommendations attached by the board of higher education for each state and community college and by the board of trustees of the university for each university campus, shall be consistent with the funding formulas, statewide needs, performance measurement standards, as well as the mission statements and 5-year plans for individual campuses and the public higher education system as a whole. They shall also reflect analysis by the respective boards for each campus regarding progress made by the campuses in fulfilling strategic plans including, but not limited to, significant achievements and progress in addressing any previously identified deficiencies. The comments and recommendations shall be made available to the individual institutions and campuses before submission to the secretary and legislative committees with sufficient time allowed to provide opportunity for comment and response by those institutions and campuses.

SECTION 55. Section 22 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 41 to 43, inclusive, the words "on or before the first Wednesday of December in each year; (m) submit financial data and an annual institutional spending plan to the council for review" and inserting in place thereof the following words:- to the board of higher education according to a schedule determined by the board in consultation with the board of trustees; (m) submit financial data and other data as required by the board of higher education for the careful and responsible discharge of its purposes, functions, and duties. The data shall be reported annually to the board of higher education according to a schedule determined by the board of higher education in consultation with the board of trustees. The board of trustees shall also submit an annual institutional spending plan to the council for review, comment, and transmittal to the secretary for administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. Spending plans shall be reported using a standardized format developed by the board of higher education in conjunction with the institutional boards of trustees' in a manner

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to allow comparison of similar costs between the various institutions of the commonwealth.

SECTION 56. Said chapter 15A is hereby further amended by adding the following section:-

Section 41. The board of higher education may establish fees to be charged to independent institutions of higher education which seek approval of articles of organization, articles of amendment, or foreign corporation certificates pursuant to sections 30, 30A, 31, and 31A of chapter 69 and which transfer records to the board of higher education pursuant to section 31B of said chapter 69. The revenue received from the collection of the fees shall be retained by the board of higher education in a revolving trust fund and shall be expended solely for carrying out said sections. Fees shall not be greater than the costs incurred by the board of higher education in implementing said sections. The board of higher education shall report annually to the house and senate committee on ways and means the amount of funds collected and any expenditures made from the funds.

SECTION 57. Chapter 16 of the General Laws is hereby amended by striking out section 19, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 19. The department may dispose of solid wastes, from whatever source, in any manner and at any site which is determined by the department to meet the siting criteria established under section 150A½ of chapter 111. The department may purchase, lease, acquire, receive by gift or take by eminent domain under chapter 79 any land, structures, facilities and easements necessary for solid waste disposal. As used in this section, the term "solid waste disposal" shall include storage or treatment of residual waste. To carry out this section, the department may contract with any person, firm, corporation, or body politic to plan, design, manage, construct, maintain or operate solid waste disposal facilities and to otherwise implement this section, and may accept any gifts or grants of money or property, whether real or personal, from any source, including but not limited to the United States or its agencies relative to the disposal of solid waste. The department may contract with users, public and private, including agencies of the commonwealth and its political subdivisions, to dispose of solid waste. The department may lease any land acquired under this section for solid waste disposal to any person, firm or corporation for the purpose of constructing, operating and maintaining a privately owned solid waste processing disposal facility or related facility, including facilities related to the processing, marketing or manufacture of materials recovered from solid waste. The department, on a continuing basis, shall review and make recommendations on the manner of operation and adequacy from an environmental quality standpoint of any solid waste disposal facility planned, established or operated under section 18 to 24, inclusive, by the secretary, and subject to appropriation such recommendations shall be implemented by the secretary. Any land acquired under this section may be disposed of by the commonwealth pursuant to chapter 7 upon termination of a solid waste disposal facility or completion of use of a site, with the concurrence of the department in the best interests of the commonwealth and for a use compatible with local zoning by-laws or

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ordinances; provided, however, that in no event shall such land be so disposed of unless a written offer is made to the city or town wherein such land lies for an amount of money not less than the principal amount remaining to be paid on bonds issued to meet the capital outlay expenditures relative to such land and such offer is not accepted within 2 months after being made or is refused by the mayor of the city or the board of selectmen of the town wherein such land lies.

The department shall not exercise its eminent domain authority as authorized herein with respect to sites for residual waste treatment, processing or disposal until all permits, licenses and approvals of the city or town wherein the site lies have been granted, a siting agreement has been established pursuant to sections 12 and 13 of chapter 21D, and the approval of said exercise of eminent domain authority has been obtained by a majority vote of the city council, board of aldermen, or board of selectmen of said city or town.

SECTION 58. Section 23 of said chapter 16 of the General Laws is hereby repealed.

SECTION 59. The last paragraph of section 5G of chapter 18 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following sentence:- Notwithstanding any general or special law or rule or regulation to the contrary, an insurer doing business in the commonwealth shall provide information requested by the department of transitional assistance and the division of medical assistance for use by the agencies for the purpose of recovering public assistance benefits under this section and section 22 of chapter 118E.

SECTION 60. Sections 10, 11, 12, 13, 14, 15, 16, 17 and 18 of chapter 20 of the General Laws are hereby repealed.

SECTION 61. Sections 20 and 21 of said chapter 20 are hereby repealed.

SECTION 62. Said chapter 20 is hereby amended by adding the following 4 sections:-

Section 23. (a) The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of agricultural preservation restrictions as defined in section 31 of chapter 184, for land actively devoted to agricultural or horticultural uses as defined in sections 1 to 5, inclusive, of chapter 61A. The commissioner of agricultural resources may from funds appropriated to carry out this section, or received from other sources, pay any agricultural land owner for a project submitted by a city or town and approved by the agricultural lands preservation committee established by section 24 such amount as is determined by the agricultural lands preservation committee to be equitable in consideration of anticipated benefits from such project but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for agricultural purposes pursuant to this section. Title to agricultural preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located which provides assistance satisfactory to the agricultural lands preservation committee, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such land jointly with the

commonwealth. Projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary, shall establish procedures for management of such program.

(b) Notwithstanding any general or special law to the contrary, the department of agricultural resources, with the approval of the co-holder, if any, in its sole discretion, may grant to any owner of land subject to an agricultural preservation restriction held by the commonwealth a nonassignable special permit allowing nonagricultural activities to occur on the agricultural preservation restriction land, provided: (1) the land is being actively utilized for full-time commercial agriculture; (2) the permit is for a maximum of 5 years duration, which may, at the discretion of the department, be renewed; and (3) the agricultural lands preservation committee finds that the grant of a special permit will not defeat or derogate from the intent and purposes of retaining the land for agricultural use and preserving the natural agricultural resources of the commonwealth and that the agricultural preservation restriction owner meets all requirements pertaining to special permits contained in the agricultural preservation restriction agreement form presently utilized by the commonwealth at the time of application for the special permit.

Section 24. (a) There shall be an agricultural lands preservation committee in the department of agricultural resources, the members of which shall be the commissioner of agricultural resources, who shall be chairman, the secretary of environmental affairs, the director of housing and community development, the director of the office of state planning, the chairman of the board of agricultural resources or their respective designees, and 4 members appointed by the governor, 2 of whom shall be owners and operators of farms within the commonwealth. Members appointed by the governor shall receive \$50 for each day or portion thereof spent in discharge of their official duties not to exceed \$600 annually and shall be reimbursed for the necessary expenses incurred. The dean of the college of food and natural resources of the University of Massachusetts and the state conservationist of the United States Department of Agriculture Soil Conservation Service, or their respective designees, shall serve as nonvoting members.

(b) The committee shall evaluate and accept or reject projects submitted by cities and towns. In so evaluating, the committee shall consider at a minimum the following:

(1) the suitability of land as to soil classification and other criteria for agricultural use;

(2) the fair market value of such land and the fair market value of such land when used for agricultural purposes as determined by independent appraisals; and

(3) the degree to which the acquisition would serve to preserve the agricultural potential of the commonwealth.

(c) The commissioner of agricultural resources may establish such rules and regulations as may be deemed necessary to carry out this section.

(d) Each member of the committee appointed by the governor shall be appointed for

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a term of 4 years, and until his successor is qualified. Of the first such members appointed, 1 shall serve for a term of 1 year; 1 shall serve for a term of 2 years; 1 shall serve for a term of 3 years; 1 shall serve for a term of 4 years. A person appointed to fill a vacancy shall serve for the unexpired term of such vacancy. Any member may be eligible for reappointment.

Section 25. The agricultural lands preservation committee shall prepare an annual report. The report shall include the number and geographic distribution of applications accepted and rejected, the acreage and costs of purchases, and such other information as will enable the program to be evaluated.

Section 26. Land under agricultural preservation restrictions, while actively devoted to agricultural, horticultural or agricultural and horticultural use as defined in sections 1 to 5, inclusive, of chapter 61A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section 10 of said chapter 61A.

SECTION 63. Section 1 of chapter 21 of the General Laws, as appearing in the 2000 Official Edition is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The department of conservation and recreation shall consist of a division of urban parks and recreation, a division of state parks and recreation and a division of water supply protection. Each division shall be under the administrative supervision of a director. The division of urban parks and recreation shall have control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities within the geographic area defined in section 33 of chapter 92. The division of state parks and recreation shall have control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities outside of the geographic area defined in section 33 of chapter 92.

SECTION 64. Said chapter 21 is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The department shall be under the control of a stewardship council, which shall consist of 13 persons to be appointed by the governor in the manner provided in section 2A for terms of 7 years.

SECTION 65. Section 2A of said chapter 21, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraphs:-

The governor shall appoint 11 members of the stewardship council with due regard to geographical distribution, provided that 5 members shall reside within the urban parks district defined in section 33 of chapter 92, at least one of whom shall be a resident of the city of Boston, and 1 of whom shall be a resident of Berkshire county. Of these members, no more than 1 may come from the same county except as provided herein.

SECTION 66. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words "and the Trustees of Reservations, to

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nominate three candidates for the seventh member of the board" and inserting in place thereof the following words:- the Trust for Public Land, the Environmental League of Massachusetts and the Trustees of Reservations, to nominate 6 candidates for the remaining 2 members of the council.

SECTION 67. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 12, the word "three" and inserting in place thereof the following figure:- 6.

SECTION 68. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 13, the words "the seventh member of the board" and inserting in place thereof the following words:- the remaining 2 members of the council.

SECTION 69. Said section 2A of chapter 21, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words ", which member shall be appointed without regard to the county membership restrictions outlined above".

SECTION 70. Section 2B of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 20 and 21, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- stewardship council.

SECTION 71. Said section 2B of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 23 and 24, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

SECTION 72. Said section 2B of said chapter 21, as so appearing, is hereby further amended by striking out the last paragraph.

SECTION 73. Section 2C of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 9 and 10, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- stewardship council.

SECTION 74. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in line 5, the word "Three" and inserting in place thereof the following word:- Six.

SECTION 75. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 5, 7 and 14, the word "board" and inserting in place thereof, in each instance, the following words:- stewardship council.

SECTION 76. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in line 17, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

SECTION 77. Section 2D of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

SECTION 78. Section 2E of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in

place thereof the following words:- stewardship council.

SECTION 79. Said chapter 21, as so appearing, is hereby amended by striking out section 2F and inserting in place thereof the following section:-

Section 2F. The directors of the divisions of state parks and recreation and urban parks and recreation shall work in cooperation with the director of the division of fisheries and wildlife within the department of fish and game to establish coordinated management guidelines for sustainable forestry practices on public forest lands within the departments of conservation and recreation and on private forest lands. Said guidelines for public forest lands shall include agreements on equipment, personnel transfers, operational costs, and assignment of specific management responsibilities.

The commissioner of conservation and recreation shall submit management plans to the stewardship council for the council's adoption with respect to all reservations, parks, and forests under the management of the department, regardless of whether such reservations, parks, or forests lie within the urban parks district or outside the urban parks district. Said management plans shall include guidelines for the operation and land stewardship of the aforementioned reservations, parks and forests, shall provide for the protection and stewardship of natural and cultural resources and shall ensure consistency between recreation, resource protection, and sustainable forest management. The commissioner shall seek and consider public input in the development of management plans, and shall make draft plans available for a public review and comment period through notice in the Environmental Monitor. Within thirty days of the adoption of such management plans, as amended from time to time, the commissioner shall file a copy of such plans as adopted by the council with the state secretary and the joint committee on natural resources and agriculture of the general court.

The commissioner of conservation and recreation shall be responsible for implementing said management plans, with due regard for the above requirement.

SECTION 80. Said chapter 21 is hereby further amended by inserting after section 2F the following section:-

Section 2G. The stewardship council shall develop an oversight strategy of park management plans, capital planning and policy development. Such oversight strategies will be published annually and after a 30 day public comment period will be finalized and submitted to the Secretary of Environmental Affairs. Such oversight plans must be prepared and submitted 45 days prior to the submission to the legislature of the governor's annual budget.

SECTION 81. Said chapter 21 is hereby further amended by striking out section 3, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 3. The commissioner of conservation and recreation shall be the executive and administrative officer of the department, and he shall exercise supervision, direction and control over all the divisions of the department in accordance with such programs and policies as may from time to time be promulgated by the stewardship council. The commissioner

shall be responsible for administering all laws vested in the department by general or special laws. The commissioner shall appoint and remove the directors of urban parks and recreation, state parks and recreation and water supply protection with the approval of the stewardship council. The commissioner shall appoint and remove the directors of other divisions, bureaus or offices which he may establish as he deems appropriate for the efficient management and centralized administration of the department. The directors shall be qualified by training, executive ability, relevant experience and personal participation in the public programs of federal, urban, or state parks and recreation systems, to administer the duties of their respective offices, and shall not be subject to chapter 31. The commissioner may also appoint and remove a professional geologist, who shall be the state geologist and who shall not be subject to chapter 31 or section 9A of chapter 30.

SECTION 82. Section 3A of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "board of environmental management" and inserting in place thereof the following words:- stewardship council.

SECTION 83. Section 3B of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ", with the approval of the board of environmental management,".

SECTION 84. Section 3C of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in line 7, the words "board of environmental management" and inserting in place thereof, in each instance, the following words:- stewardship council.

SECTION 85. Section 3D of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ", with the approval of the board of environmental management,".

SECTION 86. Sections 4, 4A, 4B, 4D, 4E, 4F, 4G, 5, 5A, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6F½, 7, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H and 7I of said chapter 21 are hereby repealed.

SECTION 87. Section 6I of said chapter 21 is hereby repealed.

SECTION 88. Section 8 of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words "water resources" and inserting in place thereof the following words:- water supply protection.

SECTION 89. Said section 8 of said chapter 21, as so appearing, is hereby further amended by striking out, in line 3, the words "of the department of environmental management" and inserting in place thereof the following words:- department of conservation and recreation.

SECTION 90. Section 9A of said chapter 21, as so appearing, is hereby amended by striking, in line 9, the words "the governor,".

SECTION 91. Section 14 of said chapter 21, as so appearing, is hereby amended by striking out, in line 23, the words "environmental management" and inserting in place thereof the following:- conservation and recreation.

SECTION 92. Said section 14 of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 23 to 26, the words ", except that when the work to be done involves property under the care and control of the metropolitan district commission the division shall designate the metropolitan district commission as the contracting agent".

SECTION 93. Sections 17A and 17B of said chapter 21 are hereby repealed.

SECTION 94. Section 17F of said chapter 21 is hereby repealed.

SECTION 95. Section 19 of said chapter 21, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 7, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- fish and game.

SECTION 96. Section 26A of said chapter 21, as so appearing, is hereby amended by striking out, in lines 47 and 48, the words "metropolitan district commission".

SECTION 97. Said chapter 21 is hereby further amended by adding the following 5 sections:-

Section 59. (a) The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of watershed preservation restrictions, as defined in section 31 of chapter 184, for land classified as watershed land as defined in regulations to be promulgated by the department of conservation and recreation.

(b) The commissioner of the department of conservation and recreation, the "commissioner", may from funds appropriated to carry out the provisions of this section, or received from other sources, pay the owner of watershed lands which he determines to be beneficial to the maintenance of the water supply of the commonwealth an amount determined to be equitable but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for watershed purposes pursuant to this section. Title to such watershed preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located, which provides assistance satisfactory to the commissioner, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such restrictions jointly with the commonwealth.

(c) Watershed preservation restriction projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary of environmental affairs, shall establish procedures for the management of such programs.

Section 60. There is hereby created a watershed lands preservation committee in the department of conservation and recreation, the members of which shall be the commissioner of conservation and recreation, the secretary of environmental affairs, the director of the Massachusetts Water Resources Authority, the director of the division of water supply in the department of environmental protection, 1 member appointed by the speaker of the house,

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1 member appointed by the minority leader of the house, 1 member appointed by the president of the senate, 1 member appointed by the minority leader of the senate, and 2 members appointed by the governor, 1 of whom shall represent an organization dedicated to conservation of natural resources and 1 of whom shall have expertise in the field of hydrology. The committee shall advise the commissioner of the department of conservation and recreation on the evaluation of projects and shall advise the commissioner on any rules or regulations necessary to carry out the intent of the watershed preservation restriction program.

Section 61. The commissioner of conservation and recreation shall prepare an annual report on the watershed preservation restriction program. The report shall include the number and geographic distribution of applicants accepted and rejected, the acreage and cost of purchase and such other information as will enable evaluation of the program.

Section 62. Land under watershed preservation restriction, while remaining under such restriction, shall be assessed for general tax purposes, to reflect the diminution of land value which may be caused by such watershed preservation restriction.

Section 63. Whenever the department deems it necessary to make surveys, soundings, drillings or examinations to obtain information for or to expedite the construction of its watershed system, parks, recreational facilities or other projects under its jurisdiction, the department, its authorized agents or employees, may, after due notice by registered or certified mail, enter upon any lands, waters and premises in the commonwealth for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this section, and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may then be pending. The department shall make reimbursement for any injury or actual damage resulting to such lands, waters and premises caused by any act of its authorized agents or employees and shall, so far as possible, restore such lands to the same condition as prior to the making of such surveys, soundings, drillings or examinations.

SECTION 98. Section 7 of chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 22 to 24, inclusive, the words "commissioner of environmental protection; the commissioner of fisheries, wildlife and environmental law enforcement, and the other."

SECTION 99. Section 7A of said chapter 21A is hereby repealed.

SECTION 100. Section 8 of said chapter 21A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 13, 14 and 15, the words "the division of outdoor advertising, the outdoor advertising board, the division of mineral resources, the powers and duties of the department of natural resources" and inserting in place thereof the following words:- and the powers and duties.

SECTION 101. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

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The department of conservation and recreation shall include a division of urban parks and recreation, a division of state parks and recreation and a division of water supply protection.

SECTION 102. Said section 8 of said chapter 21A is hereby further amended by striking out, in lines 48 and 49, the words "food and agriculture shall include the department of food and agriculture" and inserting in place thereof the following words:- "agricultural resources shall include".

SECTION 103. Said section 8 of said chapter 21A is hereby further amended by striking out, in lines 50 and 51, the words "Massachusetts standardbred and breeding fund committee."

SECTION 104. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 53 and 54, the words "fisheries, wildlife and environmental law enforcement" and inserting in place thereof the following words:- fish and game.

SECTION 105. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 56, the words "division of law enforcement."

SECTION 106. The sixth paragraph of said section 8 of said chapter 21A, as so appearing, is hereby amended by striking out the last sentence.

SECTION 107. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the ninth and tenth paragraphs.

SECTION 108. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word "include", in line 102, the following words:- the office of law enforcement, the office of administrative appeals.

SECTION 109. Section 8A of said chapter 21A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "department of environmental management, the commissioner of the metropolitan district commission" and inserting in place thereof the following words:- department of conservation and recreation.

SECTION 110. Said section 8A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words "fisheries, wildlife and environmental law enforcement" and inserting in place thereof the following words:- fish and game.

SECTION 111. Said section 8A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 11 and 13, the word "six" and inserting in place thereof, in each instance, the following figure:- 5.

SECTION 112. Section 10 of said chapter 21A is hereby repealed.

SECTION 113. Said chapter 21A is hereby further amended by inserting after section 10 the following 8 sections:-

Section 10A. The office of law enforcement shall be in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of law enforcement. The director shall be qualified by training,

experience and executive ability and shall not be subject to chapter 31. The secretary shall appoint the director and may remove him. The director shall appoint and may remove with the approval of the secretary such deputy directors of enforcement and chiefs of enforcement as may be necessary to carry out the duties of the office; provided, however, that the chief of enforcement of the boating and recreation vehicle safety enforcement bureau shall be appointed and may be removed by the director with the approval of the boating and recreational vehicle safety advisory board established pursuant to section 11 of chapter 21A. Such positions shall not be subject to chapter 31. The deputy directors of enforcement, assisted by law enforcement coordinators, shall perform such enforcement and administrative duties as assigned by the director.

The director may with the approval of the secretary designate employees of the commonwealth and the United States as deputy environmental police officers.

The director may promulgate rules and regulations necessary for implementation of sections 10A to 10H, inclusive; provided, however, that no rule or regulation promulgated under this section shall take effect before the thirtieth day next following the date on which a copy of such rule or regulation has been filed with the joint committee on natural resources and agriculture.

Section 10B. It shall be the duty of the office of law enforcement to enforce all penal laws which it is the duty of any agency within the executive office of environmental affairs to enforce, the General Laws or any special laws to the contrary notwithstanding.

Nothing in this section shall be construed as divesting other officers or employees of the commonwealth of the duty to enforce laws as provided for in the General Laws or any special laws. It shall also direct all inspections, claims and investigations. All police agencies shall at once notify the office of law enforcement or an environmental police officer thereof of a person presumed to be lost in any of the woodlands of the commonwealth.

Section 10C. The secretary, undersecretary, director, deputy directors of enforcement, chiefs of enforcement and all deputy chiefs of enforcement, law enforcement coordinators, and the wardens, as defined in section 1 of chapter 131, and all environmental police officers and deputy environmental police officers shall have and exercise throughout the commonwealth, subject to such rules and regulations as the director, with the approval of the secretary, may from time to time adopt, all the authority of police officers and constables, except the service of civil process. Such rules and regulations shall be filed with the state secretary in accordance with section 37 of chapter 30. The director may authorize in writing any such deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, and any environmental police officer to have in their possession and carry a firearm, revolver, club, billy, handcuffs, twistlers, or any other weapon or article required in the performance of official duty.

Section 10D. Each deputy director of enforcement, chief of enforcement, deputy chief of enforcement, warden, environmental police officer or deputy environmental police officer, when on duty and in uniform shall wear on his outer clothing or otherwise display a metallic badge bearing the seal of the commonwealth and appropriate words to identify his position,

together with a number to be assigned by the director.

The director may, with the approval of the secretary, prescribe by rules and regulations a standard form of uniform to be worn by such personnel. Such badge or uniform or any distinctive part thereof so prescribed shall be worn only by such personnel entitled thereto under the rules and regulations.

Whoever violates this section by wearing such badge or uniform without authority or by impersonating an officer authorized to wear such badge or uniform shall be punished by a fine of not less than \$10 or more than \$100 dollars.

Section 10E. The secretary, director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, may in the performance of their duties enter upon and pass through or over private property or lands whether or not covered by water, and may keep or dispose of sick, dead, injured, or helpless fish, birds or mammals that may come into their possession, subject to such rules and regulations as the director, with the approval of the secretary, may adopt.

Section 10F. Notwithstanding chapter 149 or of any other general or special law to the contrary, the director, with the approval of the secretary, shall make rules and regulations governing the tours of duty and hours of work for the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police officers. The rules and regulations shall provide, in the case of boat based personnel, that such officers may be required to be on duty up to 96 consecutive hours, and off duty a similar number of hours, for each tour of duty. Land based personnel, however, shall be compensated for any additional work in accordance with section 30C of chapter 149. Boat personnel shall be paid \$4.50 in lieu of meals allowances for each day of duty and shall be deemed to be on full travel status. Such rules and regulations shall also provide for the assignment of all officers of the division to any area within the commonwealth and for the conduct of such officers in the performance of their duties.

Section 10G. If the director, his assistant or any environmental police officer, deputy environmental police officer, members of the state police, local police, local town law enforcement officials in shellfish beds over which they have jurisdiction, or harbormasters acting pursuant to authority arising under chapter 90B, employed to enforce the sections contained in section 10H determines that a violation thereof has occurred or is occurring, he may request the offender state his name and address.

Whoever, upon such request, refuses to state his name and address may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than \$200 dollars. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation.

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Six copies of such notice shall be made and each shall contain the name and address of the offender and, if served with the notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motorboat involved, if any; the number of the license, certificate of permit, if any, issued pursuant to chapter 130 or chapter 131 which is relevant to the violation; the specific offense or offenses charged and the time and place of the violation; and the time and place for his required appearance. The notice shall be signed by the officer, and shall be signed by the offender in acknowledgment that the notice has been received. The officer shall deliver to the offender at the time and place of the violation a copy of the notice. At or before the completion of each tour of duty the officer shall forward to his commanding officer copies of each notice of such violation that he has issued during such tour. The commanding officer shall promptly mail 1 copy of each notice to the director and shall retain and safely preserve 1 copy. Before the end of his tour of duty such issuing officer shall forward to the respective court before whom the offender has been notified to appear the court copy of each notice of such violation that he has issued during such tour. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing; or may mail to such clerk, with the citation, the fine provided on the citation, provided that it is the first offense for such violation within 2 calendar years.

At the time of such appearance the person shall provide the clerk with the notice issued by said officer and shall pay to the clerk the fine as provided in section 10H, such payment to be made only by cash, postal note, money order or certified check. Payment of the fine shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal and a person notified to appear before the clerk of a district court shall not be required to report to any probation officer, and no record of the case shall be entered in the probation records. If at any time the court finds that the interests of justice so require, it may cause a warrant to be issued as provided in section 32 of chapter 218.

If any person notified to appear before the clerk of the district court fails to so appear and pay the fine provided under this section or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with a summons issued upon such complaint, the clerk shall send to such person by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest.

The director, his assistants, any environmental police officers, deputy environmental police officers, members of the state police, local police and shellfish constables in areas of their respective jurisdiction empowered to enforce section 10H may seize any fish, birds, or mammals unlawfully taken or held which shall be forfeited to the commonwealth and disposed of by the director for the best interests of the commonwealth.

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The secretary shall adopt rules and regulations consistent with this chapter and shall file the regulations in accordance with section 37 of chapter 30.

All fines, penalties and forfeitures in actions under this section or section 10H shall be paid to the general fund of the city or town in which the violation occurred; provided, however, that if the complaining officer is receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid to the commonwealth; and provided, further, that if the complaining officer is an environmental police officer or deputy environmental police officer, such fines, penalties and forfeitures shall be retained by the division of law enforcement; and provided, further, that if the complaining officer is a chief park ranger or park ranger, such fines, penalties or forfeitures, in addition to those imposed pursuant to section 16 of chapter 270, shall be forwarded to the department of conservation and recreation to be deposited as revenue and shall be applicable to the department's retained revenue account. At the end of each fiscal year, the office of law enforcement shall pay the Inland Fish and Game Fund an amount equivalent to the sum of all fines, penalties and forfeitures received by the office of law enforcement during such fiscal year for violations of chapter 131 or the regulations promulgated under this chapter.

The director shall issue books of non-criminal citation forms to the enforcement personnel authorized under this section. The director may charge a reasonable fee for such citation forms in accordance with section 3B of chapter 7.

Section 10H. A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section 4A of chapter 21, the regulations promulgated pursuant to section 17A of said chapter 21, the regulations promulgated pursuant to chapter 90B, or the rules and regulations of the division of fisheries and wildlife regulating activity on land under the management of such division, may so appear within the time specified and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section 2, 3, 4, 5, 5A, 6, 7, subsection (b) of section 9, section 12, 12A or 13A of chapter 90B may so appear within the time specified and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in section 10G for violation of subsections (b), (c) and (e) of section 8 of said chapter 90B may so appear within the time specified and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section 17A, 33, 34, 36, 39, 40, 51, 69, 70, 71, 72, 81, 82 or 95 of chapter 130 may so appear within the time specified and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section 35, 37, 38, 38A, 41, 41A, 44, 67, 68, 80, 92, 100A or 100C of said chapter 130 may so appear and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section 47 and section 75 of chapter 130, or section 65 of chapter 131, may so appear within the time specified and pay a fine of \$200.

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A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section 1, 5, 6, 8, 10, 11, 13, 16, 19A, 23 to 25, inclusive, 26, 27, 28, 30, 32, 33, 36, 38, 44, 47, 49 to 54, inclusive, 57, 59, 69, 71, 72, 76, 77, 79, 80 or 82 of chapter 131 may so appear and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violations of section 58, 66, 67, 70, 75A or 80A of said chapter 131 may appear and pay a fine of \$100.

SECTION 114. Section 11 of chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the following word:- office.

SECTION 115. Section 11A of said chapter 21A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "the commissioner of the metropolitan district commission or his designee,".

SECTION 116. Said chapter 21A is hereby further amended by inserting after section 11A, the following 2 sections:-

Section 11B. There shall be in the department of fisheries, wildlife and environmental law enforcement a board to be known as the public access board composed of the director of the division of fisheries and wildlife, the director of the office of law enforcement, the director of the division of marine fisheries, the director of the division of forests and parks and the deputy chief engineer of the division of waterways or their respective designees and the chairmanship of said board shall be by vote of said members. The board shall meet at the call of the chairman and shall by majority vote designate locations of public access to great ponds and other waters within the commonwealth and locations of trails and paths for snowmobiling, hiking, skiing or other uses; provided, however, that no location shall be so designated except after a public hearing in the city or town in which it is situated. Notice of such hearing shall be given in the case of a city, to its mayor and in the case of a town, to its board of selectmen at least twenty days before the date of the hearing. The department shall, after receiving written notice of such designation, acquire by purchase, gift, or lease or, with the consent of the governor, by eminent domain such land and water areas, or interests and easements therein, which have been designated by said board for the purpose of providing such public access, trails and related facilities, or it may utilize public lands with the consent of the department or other public agency in charge thereof. The department may construct such roads, parking areas, docks, ramps, trails, shelters, comfort stations and related facilities as may be designated by said board and shall maintain, operate and improve such facilities and associated land and water areas; provided, however, that the department may enter into agreements with other public agencies to transfer operation of such areas to said agency. The department may adopt, after public hearing, regulations governing the use of land and water areas under this section, violation of which may be punished by a fine of not more than \$100 and which may be enforced by any employee of the commonwealth, or of a city or town, having police powers. The cost of such acquisition, construction, maintenance, operation and improvement, and the administrative and other expenses, including planning, incurred

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by the department in connection with the activities authorized by this section shall be chargeable to the General Fund. The board may purchase from sums appropriated safety, rescue, patrol and maintenance equipment and may transfer the same to agencies of the commonwealth having responsibilities for law enforcement or management of public lands.

Section 11C. The commissioner, with the approval of the stewardship council, may from time to time, for the purpose of promoting the public safety, health and welfare, and protecting public and private property, wildlife, fresh water fisheries, and irreplaceable wild, scenic and recreational river resources, adopt, amend, modify, or repeal orders regulating, restricting or prohibiting dredging, filling, removing or otherwise altering, or polluting the scenic and recreational rivers and streams of the commonwealth. The notice required by section two of chapter 30A as a condition precedent to the adoption or amendment of any regulation shall be given to each assessed owner of any land on the banks of any such river or stream. In this section, the term "scenic and recreational rivers and streams of the commonwealth" shall mean, rivers and streams of the commonwealth or portions thereof, and such contiguous land not to exceed one hundred yards on either side of the natural bank of such river as the commissioner reasonably deems it necessary to protect by any such order.

The commissioner, with the approval of said board, may, for the purpose of protecting the scenic and recreational rivers and streams of the commonwealth, provide for the restriction and classification of the waters of said rivers and streams for scenic or recreational purposes. Signs indicating such restriction or classification shall be posted by the department at reasonable intervals along the banks of said rivers and streams.

Upon adoption of any such order or any order amending, modifying or appealing the same, the commissioner shall cause a copy thereof, together with a plan of the river or stream or portion thereof affected and a list of the assessed owners of such lands, to be recorded in the registry of deeds for the county wherein said river or stream is located, and shall mail a copy of such order and plan to each assessed owner of such lands affected thereby. Such order shall not be subject to the provisions of chapter 184. Any person who violates any such order shall be punished by a fine of not less than ten dollars nor more than \$100, or by imprisonment for not more than 6 months, or both.

The superior court shall have jurisdiction in equity to restrain violations of such orders.

Any person having a recorded interest in land affected by any such order, may, within 90 days after receiving notice thereof, petition the superior court to determine whether such order unreasonably restricts the use of his property as to deprive him of the practical uses thereof and which constitutes an unreasonable exercise of the police power so as to become the equivalent of a taking without compensation. If the court finds the order to be unreasonable, the court shall enter a finding that such order shall not apply to the land of the petitioner; provided, however, that such finding shall not affect any other land than that of the petitioner. The commissioner shall cause a copy of such finding to be recorded forthwith in the proper registry of deeds or, if the land is registered, in the registry district of the land court. The method provided in this paragraph for the determination of the issue of whether

any such order constitutes a taking without compensation shall be exclusive, and such issue shall not be determined in any other proceeding, nor shall any person have a right to petition for the assessment of damages under chapter 79 by reason of the adoption of any such order.

The department may, after a finding has been entered that such order shall not apply to certain land as provided in the preceding paragraph, take the fee or any lesser interest in such land in the name of the commonwealth by eminent domain under the provisions of chapter 79 and hold the same for the purposes set forth in this section.

No action by the commissioner or the department under this section shall prohibit, restrict or impair the exercise or performance of the powers and duties conferred or imposed by law on the department of highways, the state reclamation board or any mosquito control or other project operating under or authorized by chapter 252. No order adopted under the provisions of this section shall be deemed to invalidate any order imposed prior thereto by the department of natural resources, the department of environmental management or the department of environmental protection pursuant to section 27A of chapter 130 or sections 40, 40A or 105 of chapter 131.

Costs incurred under this section including, but not limited to, the acquisition of lands or interests therein, awards of damages, surveying and mapping, the preparation of designation plans, printing of reports, conducting of public hearings, and expenses incidental thereto may be paid in accordance with the provisions of section 17 of chapter 21.

The superior court, upon a complaint in the nature of a civil action shall have the jurisdiction to determine whether an order promulgated under this section constitutes a taking without compensation. Such determination shall be independent of any determination by the court of the reasonableness of the exercise of the police power under this section. Said superior court is hereby authorized to hear a complaint of any person having a recorded interest in land or a class action under Rule 23 of the Massachusetts Rules of Civil Procedure and may award damages under the provisions of chapter 79 by reason of the adoption of the order, whether or not such order is determined to be unreasonable.

If the court determines that such order is unreasonable, and if the commissioner shall petition under the provisions of chapter 79 for a taking by eminent domain, the court shall have the power to award damages to the person having the recorded interest in land affected by such order or make such general award of damages relative to a class of land owners who qualify under said Rule 23.

SECTION 117. Said chapter 21A is hereby further amended by inserting after section 16, as so appearing, the following 4 sections:-

Section 16A. There shall be an office of administrative appeals in the executive office of environmental affairs. No administrative law judge of the office shall be removed for any reason other than just cause.

Section 16B. The conduct of proceedings before the board shall be governed chapter 30A of the General Laws and, in addition, by the standard rules promulgated pursuant to section 9 of said chapter 30A or by such substitute rules as the office shall promulgate pursuant to section 9 of said chapter 30A.

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Section 16C. A recommended final decision issues by one or more of the board's administrative law judges shall become the final decision of the agency, department, board, commission or program whose decision, determination or action was under review unless, within sixty days following the date of issuance of the recommended final decision, the commissioner or other head of said agency, department, board, commission or program, or a designee, issues a final decision that adopts, rejects or modifies the recommended final decision.

Section 16D. Every decision issued by a commissioner or other head of agency, or a designee, following the issuance of a recommended final decision by an administrative law judge of the board, shall be an agency decision subject to judicial review pursuant to chapter 30A.

SECTION 118. Section 2 of chapter 21D of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 11 and 18, the word "management" and inserting in place thereof, in each instance, the following word:- protection.

SECTION 119. Section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in line 1, the word "management" and inserting in place thereof the following word:- protection.

SECTION 120. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 60 and 61, the words "the department of environmental protection,".

SECTION 121. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 122. Section 7 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 45 and 46, the words "and upon consultation with the department of environmental protection,".

SECTION 123. The General Laws are hereby amended by inserting after chapter 21K the following chapter:-

CHAPTER 21L. ENVIRONMENTAL ENDANGERMENT ACT.

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

"Environmental violation", a violation of the following statutes or regulations promulgated thereunder: sections 26 to 53, inclusive, of chapter 21; chapter 21C, chapter 21E; sections 142A, 142B and 150A of chapter 111; and section 40 of chapter 131.

"Natural resources", land fish, wildlife, biota, air, water, groundwater and drinking water supplies belonging to, managed by, held in trust by, appertaining to or otherwise controlled by the commonwealth or any local government.

"Organization", a person other than an individual.

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"Person", an individual, public or private corporation or authority, trust, firm, joint stock company, partnership, association or other entity and any officer, employee, or agent of such person and any group of persons.

"Serious bodily injury", bodily injury which creates a substantial risk of death or which involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ or mental faculty, reproductive or genetic damage or a substantially increased risk of cancer or other chronic ailment.

Section 2. (a) A person who knowingly or recklessly commits an environmental violation and thereby causes serious bodily injury to another human being:-

(1) shall be punished by a fine of not more than \$100,000 or by imprisonment in the state prison for not more than 20 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$500,000 for a first offense and by a fine of not more than \$2,000,000 for any second or subsequent offense.

(b) A person who knowingly or recklessly commits an environmental violation and thereby causes a substantial risk of damage to natural resources or to the property of another person, in an amount exceeding \$25,000: (1) shall be punished by a fine of not more than \$100,000, or by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$250,000 for a first offense and by a fine of not more than \$500,000 for a second or subsequent offense.

Section 3. (a) The court: (1) shall, when sentencing an organization for an offense under clause (2) of subsection (a) of section 2 or for a second or subsequent offense under clause (2) of subsection (b) of said section 2; and (2) may, when sentencing an organization for a first offense under said clause (2) of said subsection (b) of said section (2) place the organization on probation and require as a condition of that probation that the organization pay for an environmental audit.

(b) The court shall appoint an independent expert with no prior involvement in the environmental management of the organization sentenced to conduct an environmental audit under this section. The prosecution and the defense may each submit names of suggested experts. The court shall consider any such submissions in making an appointment under this subsection.

(c) The environmental audit shall: (1) identify all causes of, and any factors that contributed to, the conduct that is the basis for the conviction and recommend specific measures to prevent a recurrence of such causes or factors; and (2) recommend a schedule for implementation of the recommendations under clause (1).

(d) The court shall order the defendant to implement each recommendation of the audit unless the court finds by clear and convincing evidence that: (1) the recommendation

will not achieve the result the recommendation seeks to bring about: (2) the adverse environmental effects of implementing the recommendation outweigh the environmental benefits of the recommendation: (3) the technology does not exist to carry out the recommendation: or (4) there are alternative means to achieve the equivalent result at significantly less cost to the defendant. Any such alternative means shall be incorporated into the audit in place of the relevant recommendation and the court shall order the defendant to implement the audit as modified.

(e) The court may impose for an offense under this chapter a term of probation that is longer than the term otherwise permitted by law, if the court determines that the longer term is necessary to implement the environmental audit.

(f) The prosecutor, the auditor appointed under clause 2 subsection (b) or governmental agency may suggest to the court that a failure to implement the audit has taken place. Whenever the alleged failure to implement an environmental audit is properly before the court, unless the defendant demonstrates that the failure did not take place, the court shall order appropriate sanctions.

(g) In addition to any other sanctions the court may impose for failure to implement an environmental audit, the court may: (1) hold any appropriate person in contempt; or (2) appoint a special master to conduct such affairs of the defendant as are necessary and relevant to implementation of the audit.

SECTION 124. The General Laws are hereby amended by inserting after chapter 22E the following chapter:-

CHAPTER 22F. THE DEPARTMENT OF FORENSIC SCIENCES.

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

"Commission", the commission on medico-legal investigation, established by section 184 of chapter 6.

"Department", the department of forensic sciences.

"Office", the office of the chief medical examiner.

Section 2. There shall be a department of forensic sciences within the executive office of public safety. The department shall oversee and coordinate all forensic science services performed by the commonwealth and work in conjunction with the attorney general, the district attorneys and state and local law enforcement authorities to improve the availability and timeliness of forensic science services as an effective tool for public safety. The office of the chief medical examiner and the state police crime laboratory shall be included within the department. The state police shall be responsible for the daily operations of the state police crime laboratory but shall coordinate operations within the department.

Section 3. There shall be a chief medical examiner in the department of forensic sciences within the executive office of public safety. Costs and expenses of the chief medical examiner and staff shall be paid by the commonwealth.

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(b) The chief medical examiner shall be a physician who is a diplomate of the American Board of Pathology in Forensic Pathology, a graduate of an approved fellowship program in forensic medicine, a diplomate of the American Board of Anatomic and Forensic Pathology and licensed to practice medicine in the commonwealth and shall reside within the commonwealth within 6 months after his appointment. The chief medical examiner shall be appointed by the governor for a term of 5 years from among a list of not less than 3 nominees recommended by the commission on medico-legal investigation. The governor may request additional nominees from the commission before making the appointment. The chief medical examiner's salary and the salary of the deputy chief medical examiner shall be set by the governor and shall be commensurate with those of similar positions in comparable jurisdictions.

In the case of the death, removal, resignation or permanent incapacity of the chief medical examiner, the governor shall appoint a new chief medical examiner within 6 months.

(c) The chief medical examiner, with the approval of the commission, shall establish a comprehensive system to deliver medico-legal investigative services in the commonwealth. The chief medical examiner shall appoint a deputy chief medical examiner who shall perform all of the duties of the chief medical examiner in case of incapacity or absence. The chief medical examiner may appoint such associate chief medical examiners as necessary.

(d) The chief medical examiner may, subject to the approval of the secretary of public safety, apply for and accept on behalf of the commonwealth any funds, including grants, bequests, gifts or contributions, from any person for the improvement of the system of medico-legal investigative services in the commonwealth. Such funds shall be deposited in a separate account with the state treasurer and received by him on behalf of the commonwealth. All such funds may be expended by the chief medical examiner, in accordance with law.

(e) District medical examiners shall be appointed by the chief medical examiner to conduct appropriate medico-legal investigations within the commonwealth. Such medical examiners shall serve in areas or districts as determined by the chief medical examiner and for terms of office at his discretion. Such medical examiners shall be responsible, under the direction of the chief medical examiner or the deputy medical examiner or an associate chief medical examiner, for the investigation and certification as to the cause of deaths under their jurisdiction. District medical examiners shall be licensed to practice medicine within the commonwealth and shall reside therein. In areas where such individuals are not available, the chief medical examiner or his representative may appoint other appropriately qualified individuals to conduct medico-legal investigations. Those medical examiners and associate medical examiners who are functioning under prior gubernatorial appointments shall continue to do so for the remainder of their term in their present districts.

(f) The office of the chief medical examiner shall have custody of all files, reports, photographs and other articles generated by all employees or vendors of the office.

(g) The chief medical examiner, with approval of the secretary of the executive office of public safety, shall promulgate rules for the disclosure of autopsy reports, which shall not

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be deemed to be public records, to those who are legally entitled to receive them. If a medical examiner conducts an autopsy on a body of a deceased person who within 6 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. The chief medical examiner, with the approval of said secretary, may establish fees for providing autopsy reports to those who are legally entitled to receive them. Neither the chief medical examiner, nor any employee of the office of the chief medical examiner, shall be subject to civil or criminal liability for lawfully disclosing an autopsy report or any part thereof, pursuant to the rules concerning the disclosure of autopsy reports promulgated under this section, to anyone legally entitled to receive it.

Section 4. (a) 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, and the office of child care service.

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"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;
 - (11A) the office of child care services;
 - (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 his 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.
 - (18) a forensic registered nurse selected by the Massachusetts Nurses Association;
- (b)(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:

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(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 4 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, from 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 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

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team or are maintained by a team.

(e) Nothing in this section shall be construed or interpreted to limit the powers and duties of the chief medical examiner or district attorneys.

Section 5. Any person having knowledge of a death which occurs under the circumstances enumerated in this paragraph shall immediately notify the office of the chief medical examiner, or the medical examiner designated, to the location where the death has occurred, of the known facts concerning the time, place, manner, circumstances and cause of such death:

(1) death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto;

(2) death by accident or unintentional injury, regardless of time interval between the incident and death, and regardless of whether such injury appears to have been the immediate cause of death, or a contributory factor thereto;

(3) suicide, regardless of the time interval between the incident and death;

(4) death under suspicious or unusual circumstances;

(5) death following an unlawful abortion;

(6) death related to occupational illness or injury;

(7) death in custody, in any jail or correctional facility or in any mental health or mental retardation institution;

(8) death where suspicion of abuse of a child, family or household member, elder person or disabled person exists;

(9) death due to poison or acute or chronic use of drugs or alcohol;

(10) skeletal remains;

(11) death associated with diagnostic or therapeutic procedures;

(12) sudden death when the decedent was in apparent good health;

(13) death within 24 hours of admission to a hospital or nursing home;

(14) death in any public or private conveyance;

(15) fetal death, as defined by section 202 of chapter 111, where the period of gestation has been 20 weeks or more, or where fetal weight is 350 grams or more;

(16) death of children under the age of 18 years from any cause;

(17) any person found dead;

(18) death in any emergency treatment facility, medical walk-in center, day care center or under foster care; or

(19) deaths occurring under such other circumstances as the chief medical examiner shall prescribe in regulations promulgated pursuant to the provisions of chapter 30A.

A physician, police officer, hospital administrator, licensed nurse, department of social services social worker or licensed funeral director who, having knowledge of such an unreported death within the commonwealth, fails to notify the office of the chief medical examiner of such death shall be punished by a fine of not more than \$500. Such failure shall also be reported to the appropriate board of registration, where applicable.

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Section 6. (a) Upon notification of a death in the circumstances enumerated in section 5, the chief medical examiner or his designee shall carefully inquire into the cause and circumstances of the death. If, as a result of such inquiry, the chief medical examiner or such designee is of the opinion that the death was due to violence or other unnatural means or to natural causes that require further investigation, he shall take jurisdiction. The body of the deceased shall not be moved, and the scene where the body is located shall not be disturbed, until either the medical examiner or the district attorney or his representative either arrives at the scene or gives directions as to what shall be done at the scene. In such cases of unnatural or suspicious death where the district attorney's office is to be notified, the medical examiner shall not disturb the body or the scene without permission from the district attorney or his representative.

(b) The medical examiner shall be responsible for making arrangements for transport of the body. The district attorney or his law enforcement representative shall direct and control the investigation of the death and shall coordinate the investigation with the office of the chief medical examiner and the police department within whose jurisdiction the death occurred. Either the medical examiner or the district attorney in the jurisdiction where death occurred may order an autopsy. Cases requiring autopsy shall be subject to the jurisdiction of the office for such purpose. As part of his investigation, the chief medical examiner or his designee may, in his discretion, notwithstanding any other provision of law, cause the body to be tested by the department of public health for the presence of any virus, disease, infection or syndrome which may pose a public health risk.

(c) If the medical examiner is unable to respond and take charge of the body of the deceased in an expeditious manner, the chief of police of the city or town wherein the body lies, or his representative, may, after conferring with the appropriate district attorney, move the body to another location until a medical examiner is able to respond. Before moving the body the police shall document all facts relevant to the appearance, condition and position of the body and every fact and circumstance tending to show the cause and circumstances of death.

(d) In carrying out the duties prescribed by this section, the chief medical examiner or his designee shall be entitled to review and receive copies of medical records, hospital records, or information which he deems relevant to establishing the cause and manner of death. No person or hospital shall be subject to liability of any nature for providing such records or information in good faith at the request of the office. 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 7. If, after making inquiry pursuant to section 6, the medical examiner is of the opinion that death may have resulted from injuries sustained in a motor vehicle accident, and that the death occurred within 4 hours of such accident, that the deceased was the operator and sole occupant of the motor vehicle, and that no other individuals were involved in the accident, the medical examiner shall submit to the state police crime laboratory a sample of blood from the deceased in an amount sufficient for chemical analysis if it is obtainable at

an autopsy. If such chemical analysis indicates the presence of a controlled substance or alcohol, such sample shall be preserved for no less than 120 days from the date the sample is taken to permit an independent analysis. Such independent analysis shall be done upon the written request and at the expense of the next of kin of the decedent. No independent analysis of blood performed after 60 days pursuant to this section shall be admissible as evidence of the level of alcohol or controlled substance in any legal proceeding. The medical examiner shall not be civilly or criminally liable for any action taken in compliance with this section.

Section 8. All law enforcement officers, district medical examiners, hospitals and other medical facilities and other state, county and local officials shall cooperate with the office of chief medical examiner in the investigation of medico-legal cases. The office of the chief medical examiner may use the services of the state police crime laboratory for the performance of tests, documentation of evidence, investigating procedures and consultation on special problems. The chief medical examiner, subject to appropriation, may establish and operate a pathology laboratory within the office of chief medical examiner to meet the needs of that office. If other services required by the office of chief medical examiner are not available in the state police crime laboratory, the chief medical examiner may employ the services of other appropriate laboratories.

Section 9. If skeletal remains are deemed likely to be Native American, the state archaeologist shall be informed and in turn shall notify the commission on Indian affairs, which shall cause a site evaluation to be made to determine if the place where said remains were found is a Native American burial site.

Section 10. If, during the course of investigation, the medical examiner is of the opinion that the death may have been caused by the act or negligence of another, he shall at once notify the district attorney within whose district the deceased was found or, if such act or negligence has occurred in a different district, the district attorney for such other district. He shall also make available to the district attorney any and all records pertaining to such investigation. He shall in all cases forthwith certify to the city or town clerk or registrar in the place where the deceased died, the name and address, if known, or otherwise a description as full as may be of the deceased, and the cause and manner of death. Notwithstanding any other provision of law, such certification may indicate that the death was caused by autoimmune deficiency syndrome.

In cases of homicide, after indictment and arraignment, and while the defendant is in custody or subject to the jurisdiction of the court, upon his request, a copy of the official autopsy report and a copy of the inquest report, if any, shall be made available to him by the district attorney in accordance with the provisions of the Massachusetts Rules of Criminal Procedure.

Section 11. (a) The chief medical examiner or his designee may request the attorney general or the district attorney to direct that an inquest be held. The attorney general or district attorney may, regardless of whether or not action has been taken by the office of the chief medical examiner, require an inquest to be held in case of any death. The district court

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that has jurisdiction over the matter shall thereupon hold an inquest. The court shall give seasonable notice of the time and place of the inquest to the department of telecommunications and energy, in any case of death by accident upon a public conveyance regulated by said department, and to the registry of motor vehicles in any case of death in which any motor vehicle is involved. Such notice shall also be given to any parent, spouse or other member of the deceased's immediate family or to the deceased's legal representative or legal guardian.

(b) Any person who has been identified by the attorney general or the district attorney, as the case may be, as the target of an investigation in connection with the death of the deceased may be present during the holding of such inquest and be represented by counsel, and may request leave of the court to present or examine witnesses, and shall at the completion of the court's report of said inquest have the right to examine said report; provided, however, that no indictment shall be dismissed nor shall any evidence be suppressed for violation of the provisions of this paragraph. All other persons not required by law to attend may be excluded from the inquest; provided, however, that the parents, guardian or next of kin of the person whose death is the subject of the inquest shall be deemed to be interested persons who may be present during the holding of such inquest. The court may order, as it deems appropriate, that witnesses to be examined during the inquest be sequestered.

Section 12. If the court determines that the inquest relates to an accidental death upon a conveyance regulated by the department of telecommunications and energy, the court shall cause a transcript of the inquest proceedings, after review and written approval by the court, and the bill for such transcript, to be forwarded to said department within 30 days after the closing of the inquest proceedings, and, when made, a copy of the court's report on the inquest.

Section 13. The court shall report in writing when, where and by what means the person met his death, the person's name, if known, and all material circumstances attending the death, and the name, if known, of any person whose unlawful act or negligence appears to have contributed thereto. The court shall file its report and a transcript of the inquest proceedings in the superior court for the county in which the inquest is held. Said transcript shall be impounded until the district attorney files a certificate with the superior court indicating that he will not present the case to a grand jury, or files notice with the superior court that the grand jury has returned a true bill or a no bill after presentment by the district attorney.

Section 14. If a person charged by an inquest report with the commission of a crime is at large, the district court, upon the request of the district attorney, shall forthwith issue process for such person's arrest, returnable before any court or magistrate having jurisdiction.

Section 15. No embalming fluid, or any substitute therefor, shall be injected into the body of any person whose death is being investigated by the office until authorization from a representative of the office has first been obtained.

Section 16. (a) After investigation or examination by the office, the body shall be released to the person with the proper legal authority to receive it, including the surviving spouse, the next of kin or any friend of the deceased, who shall have priority in the order named. If the body is unidentified or unclaimed after the investigation is completed, the medical examiner shall release it to the department of public welfare, which shall bury it in accordance with section 18 of chapter 117. Prior to the release of such unidentified or unclaimed body to the department of public welfare, the chief medical examiner or his designee shall certify to the city or town clerk in the municipality where the death occurred the facts of the death as required by section 9 of chapter 46. If further identifying information is developed, the chief medical examiner or his designee shall furnish a completed certificate of death, as required by said section 9, to the city or town clerk.

(b) In cases where jurisdiction is declined by the office, medical examiners shall have no responsibility for the pronouncement or certification of death. Immediately after pronouncement of death, a physician licensed in the commonwealth who attended the decedent during the decedent's last illness, or his covering physician, or the licensed physician who has declared such person dead, or, if the death occurred in a hospital, a hospital medical officer duly authorized by the administrator, shall, in the order named, furnish for registration a standard certificate of death as required by said section 9. The chief medical examiner or his designee may allow any body to be moved without pronouncement if excessive hardship to the family of the decedent would otherwise result. The office may promulgate regulations further defining the circumstances in which a body may be moved without pronouncement of death. Any physician described herein who refuses to pronounce and certify death in accordance with said section 9 when jurisdiction has been declined by the office shall be subject to a fine of not more than \$500. Such refusal shall also be reported to the board of registration in medicine. The chief medical examiner or his designee may waive the requirements of this paragraph and assume jurisdiction for the purpose of certifying the facts of the death as required by said section 9 in cases where excessive hardship would otherwise result due to travel or in other emergency situations as may be defined by regulations promulgated by the office.

Section 17. A medical examiner or forensic investigator designated by the chief medical examiner shall, on payment of a fee as determined from time to time by the secretary of public safety, which shall be not less than \$75, view the body and make personal inquiry concerning the cause and manner of death of any person whose body is intended for cremation or burial at sea and shall authorize such cremation or burial at sea only when no further examination or judicial inquiry concerning such death is necessary. Said fee shall be paid by the person to whom such authorization for cremation or burial at sea is given. Cremation fees collected by the office of the chief medical examiner shall be utilized to support the comprehensive system of medico-legal investigative services delivered by the agency. District medical examiners employed on a fee-for-service basis will be compensated for performance of cremation views at a rate set by the secretary of public safety. Other medical examiners or forensic investigators performing cremation views will not receive additional

compensation beyond their specified salaries.

Section 18. A medical examiner responding to the scene of a death shall take charge of any money or other personal property of the deceased found on or near the body, or may request the police department to do so. The medical examiner or police department shall, unless such money or property is required as evidence, deliver it to the person entitled to its custody or possession, or, if not claimed within 60 days, to a public administrator. A medical examiner or police officer who fraudulently refuses to deliver such property within 10 days after demand or who converts such property to his own use shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years.

SECTION 125. Chapter 28 of the General Laws is hereby repealed.

SECTION 126. Section 5A of chapter 28A of the General Laws is hereby repealed.

SECTION 127. Said section 1 of said chapter 29, as appearing in the 2000 Official Edition, is hereby further amended by striking out the definition of "Consolidated net surplus in the operating funds", and inserting in place thereof the following definition:-

"Consolidated net surplus in the budgetary funds", the sum of the undesignated balances in the budgetary funds, except funds established by section 2H and section 2I.

SECTION 128. Section 2C½ of said chapter 29 is hereby repealed.

SECTION 129. The second paragraph of section 2H of said chapter 29 as appearing in subsection A of section 13 of chapter 177 of the acts of 2001, is hereby amended by striking out, in line 2, the figure "10," and inserting in place thereof the following figure:- 15.

SECTION 130. Section 2J of said chapter 29 is hereby repealed.

SECTION 131. Section 2K of said chapter 29 is hereby repealed.

SECTION 132. Section 2P of said chapter 29 is hereby repealed.

SECTION 133. Section 2P½ of said chapter 29 is hereby repealed.

SECTION 134. Section 2R of said chapter 29 is hereby repealed.

SECTION 135. Section 2S of said chapter 29 is hereby repealed.

SECTION 136. Section 2T of said chapter 29 is hereby repealed.

SECTION 137. Section 2U of said chapter 29 is hereby repealed.

SECTION 138. Section 2Y of said chapter 29 is hereby repealed.

SECTION 139. Section 2AA of said chapter 29 is hereby repealed.

SECTION 140. Section 2BB of said chapter 29 is hereby repealed.

SECTION 141. Section 2CC of said chapter 29 is hereby repealed.

SECTION 142. Section 2EE of said chapter 29 is hereby repealed.

SECTION 143. Section 2FF of said chapter 29, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 53 and 54, the words "24G of chapter 111" and inserting in place thereof the following words:- 10E of chapter 118E.

SECTION 144. The first paragraph of said section 2FF of said chapter 29, as so appearing, is hereby further amended by striking out clause (f).

SECTION 145. Section 2GG of said chapter 29 is hereby repealed.

SECTION 146. Section 2II of said chapter 29 is hereby repealed.

SECTION 147. Section 2KK of said chapter 29 is hereby repealed.

SECTION 148. Section 2LL of said chapter 29 is hereby repealed.

SECTION 149. Section 2MM of said chapter 29 is hereby repealed.

SECTION 150. Section 2NN of said chapter 29 is hereby repealed.

SECTION 151. Section 2OO of said chapter 29 is hereby repealed.

SECTION 152. Section 2SS of said chapter 29 is hereby repealed.

SECTION 153. Section 2UU of said chapter 29 is hereby repealed.

SECTION 154. Section 2VV of said chapter 29 is hereby repealed.

SECTION 155. Section 2WW of said chapter 29 is hereby repealed.

SECTION 156. Section 2XX of said chapter 29 is hereby repealed.

SECTION 157. Section 2YY of said chapter 29 is hereby repealed.

SECTION 158. Section 2BBB of said chapter 29 is hereby repealed.

SECTION 159. Section 2CCC of said chapter 29 is hereby repealed.

SECTION 160. Section 2EEE of said chapter 29 is hereby repealed.

SECTION 161. Said chapter 29 is hereby further amended by striking out section 3A and inserting in place thereof the following section:-

Section 3A. Any officer having charge of any state agency which receives a periodic appropriation from the commonwealth, or any officer of a state authority or commission, shall upon the request of any standing committee of the house or senate, or of any joint standing committee of the general court, furnish in writing to such committee, in a format prescribed by such committee, any information requested by such committee that is necessary for the committee to perform its duties. The information shall include, but not be limited to, historical, current or proposed operational costs funded through any appropriation, capital accounts, federal grants, trust funds or other funding sources, the officer's estimate of the cost of proposed legislation affecting activities which are or would be under his supervision, estimates of and reasons for any supplemental funding that is projected to be needed during the fiscal year, estimates of revenue collections, estimates of proposed changes in fees or taxes, and any other such information as may be required by the committee. Such estimates shall be provided to such committee within 10 days of the receipt of such a request by the officer. If the officer fails to respond within 10 days, the matter shall be referred to the house or senate committee on post audit and oversight which shall, in conjunction with the committee that originally requested the information, determine if further action is necessary.

SECTION 162. Chapter 29 of the General Laws is hereby amended by inserting after section 2KKK, inserted by section 4 of chapter 4 of the acts of 2003, the following section:-

Section 2LLL. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Firearms Fingerprint Identity Verification Trust Fund. Amounts credited to such fund shall be available, without further appropriation, to the department of state police for the purposes of financing fingerprint identification verifications with the fingerprint records maintained by the Federal Bureau of Investigations

or any other federal agency for the verification of firearms license applicant identities. \$25 of the fee assessed under sections 122, 122B, 129B, 131, 131A, 131F, and 131H of chapter 140 of the General Laws shall be deposited into the fund. The funds shall be utilized for the sole purpose of making payments charged to the department by the Federal Bureau of Investigations or other entity for fingerprint identification verification.

SECTION 163. Section 5B of said chapter 29, is hereby further amended by striking out the last paragraph, as amended by section 42 of chapter 184 of the acts of 2002, and inserting in place thereof the following paragraph:-

On or before January 15, the commissioner shall meet with the house and senate committees on ways and means and shall jointly develop a consensus tax revenue forecast for the budget for the ensuing fiscal year which shall be agreed to by the commissioner and said committees. In developing such a consensus tax revenue forecast, the commissioner and said committees, or subcommittees of said committees, are hereby authorized to hold joint hearings on the economy of the commonwealth and its impact on tax revenue forecasts; provided, however, that in the first year of the term of office of a governor who has not served in the preceding year, said parties shall agree to the consensus tax revenue forecast not later than January 31 of said year. Said consensus tax estimate shall be net of the amount necessary to transfer, from the General Fund to the Commonwealth's Pension Liability Fund, to fully fund the system according to the schedule established pursuant to paragraph (1) of section 22C of chapter 32. Said consensus tax estimate shall also include an estimate of taxes collected pursuant to chapter 62 for capital gain income, as defined therein. The department of revenue shall report on a monthly basis to the house and senate committees on ways and means and the joint committee on taxation the amount of revenues estimated to be collected in that month from capital gains income. Said consensus tax revenue forecast shall be included in a joint resolution and placed before the members of the general court for their consideration. Such joint resolution, if passed by both branches of the general court, shall establish the maximum amount of tax revenue which may be considered for the general appropriation act for the ensuing fiscal year.

SECTION 164. Said chapter 29 is hereby further amended by striking out section 5C, as amended by section 13 of chapter 177 of the acts of 2001, and inserting in place thereof the following section:-

Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of administration the amount of the consolidated net surplus in the budgetary funds at the close of the preceding fiscal year. The amounts so certified shall be disposed as follows:

(a) an amount equal to $\frac{1}{2}$ of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year.

(b) any remaining amount of such consolidated net surplus after amounts made available in clause (a) shall be transferred to the Stabilization Fund; and

(c) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from said undesignated fund balances provid-

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ed that no such transfer shall cause a deficit in any of said funds.

SECTION 165. Section 5C of chapter 29 of the General Laws, as amended by section 164 of this act, is hereby further amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) an amount equal to $\frac{1}{2}$ of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year and $\frac{1}{2}$ of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund.

SECTION 166. Section 9A of said chapter 29 is hereby repealed.

SECTION 167. Said chapter 29 is hereby further amended by striking out section 9C, as amended by section 3 of chapter 1 of the acts of 2003, and inserting in place thereof the following section:-

Section 9C. Whenever, in the opinion of the commissioner of administration, available revenues as determined by him from time to time during any fiscal year under section 5B will be insufficient to meet all of the expenditures authorized to be made from any fund, whether by appropriation or distribution, he shall within 5 days notify in writing the governor and the house and senate committees on ways and means of the amount of such probable deficiency of revenue and the governor shall, within 15 days after such notification, reduce allotments under section 9B, and submit in writing a report stating the reason for and effect of such reductions, or submit to the general court specific proposals to raise additional revenues by a total amount equal to such deficiency. Any action challenging the legality of an allotment reduction pursuant to this section shall be commenced in the supreme judicial court for Suffolk county.

Whenever the governor reduces allotments under the preceding paragraph, the governor shall notify the house and senate committees on ways and means in writing 15 days before any alterations to the original allotment reduction plan. Any alterations to the original allotment reduction plan that would seek to increase an allotment must provide an equal reduction in other allotments or propose to raise additional revenues to total the amount of the allotment increase.

As an alternative to the submission of such proposals to raise additional revenues and to the extent funds are available, the governor may recommend an appropriation equal to such deficiency from the Commonwealth Stabilization Fund in the manner provided in section 2H.

SECTION 168. Chapter 119 of the General Laws is hereby amended by striking out section 29A, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 29A. The parents of an unemancipated minor shall be liable for such reasonable legal fees and expenses of an attorney representing the minor in criminal proceedings. Except where the parent is the alleged victim, the court shall determine whether the parent or guardian of an unemancipated minor is indigent. If the parent or guardian is not determined to be indigent, the court shall assess a \$300 fee against the parent

or guardian to pay for the cost of any attorney that is supplied by the committee for public counsel services or assigned to represent the minor by the court and paid out of public funds in the criminal proceedings. If the parent is determined to be indigent but is still able to contribute toward the payment of some of the costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel. This section shall not apply to a parent who, as a result of a decree of a court of competent jurisdiction, does not have custody of the minor.

SECTION 169. Section 39F of said chapter 119, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 3 sentences:- The court shall determine whether the parent or guardian of a child alleged to be in need of services is indigent. If the court determines that the parent or guardian is not indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of appointed counsel. If the parent is determined to be indigent but is still able to contribute toward the payment of some of said costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel.

SECTION 170. Section 29F of chapter 29 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "safety", in line 70, the following words:- ; or (ix) repeated or aggravated violation of any state or federal law protecting the environment.

SECTION 171. Said section 29F of said chapter 29, as so appearing, is hereby further amended by inserting after the word "safety", in line 82, the following words:- or environmental.

SECTION 172. Section 1 of chapter 30 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the words ", the metropolitan district commission,".

SECTION 173. Said chapter 30 is hereby further amended by adding the following section:-

Section 65. (a) A lawyer who is not a regular state employee or person who is compensated through the automated payroll system of the commonwealth shall not provide legal services for the commonwealth, or for any department, agency, board or commission thereof, unless and until:-

(1) the governor's chief legal counsel certifies in writing that no state employee can provide the legal services that the lawyer is to provide;

(2) a written request for the legal services that the lawyer is to provide is made publicly available for competitive bidding, in a manner provided by regulations of the state purchasing agent, and approved by the comptroller; provided, however, that this clause shall not apply if a department, agency, board or commission of the commonwealth is in a situation or condition that requires the immediate provision of legal services, and such a situation or condition is described and certified in writing by the governor's chief legal counsel in advance of the purchase of legal services by said department, agency, board or commission; and

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(3) the office of the attorney general has been consulted during the procurement process, in a manner provided by said regulations of the state purchasing agent, and has determined, following a review of the legal services contract, that any attorney hired by a department, agency, board or commission of the commonwealth is a member in good standing of the Massachusetts Bar or an out of state bar and has no apparent conflict of interests. If said attorney will be providing litigation services, the attorney general will ensure that said attorney will appear in court on behalf of the commonwealth only after his appointment as a special assistant attorney general.

(b) The secretary of administration and finance, with the comptroller's assistance, shall make a written semiannual report of expenditures for legal services for the commonwealth, or for any department, agency, board or commission thereof, provided other than by regular state employees. The report shall show the name of each lawyer, law firm if any, amount expended, the billing rate or fee arrangement and a brief statement of the legal services provided. The report shall be made to the house and senate committees on ways and means and the joint committee on state administration, not later than September 1 each year for the period from January 1 to June 30 of that year, and not later than March 1 each year for the period from July 1 to December 31 of the preceding year.

(c) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written request by the head of any department, agency, board or commission, assign a lawyer who is a state employee in another department, agency, board or commission, with the written approval of the head thereof, to provide specific legal services for the requesting department, agency, board or commission, for a period not exceeding 3 months but subject to renewal. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel.

(d) This section shall apply only to legal services provided under contract with the governor or with an officer, department, agency, board or commission serving under the governor or within one of the executive offices headed by a secretary appointed by the governor.

SECTION 174. Section 62 of chapter 31 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 33, the words "or the metropolitan district commission".

SECTION 175. Subsection (1) of section 5 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraph (e).

SECTION 176. The first paragraph of subsection (1) of section 22C of chapter 32 of the General Laws, as most recently amended by section 5 of chapter 46 of the acts of 2002, is hereby further amended by striking the first sentence and inserting in place thereof the following two sentences:- In each fiscal year, there shall be transferred from the General Fund by the comptroller, without further appropriation, to the Commonwealth's Pension Liability Fund the amount necessary to fully fund the system as determined by the schedule

set forth in this section, including, without limitation, the amounts required under section 104. The comptroller may make such transfer in increments during the fiscal year as he deems appropriate to meet the cash flow needs of the commonwealth.

SECTION 177. Said subsection (1) of said section 22C of said chapter 32, as most recently amended by section 5 of said chapter 46, is hereby further amended by inserting after the word "appropriations", in line 47, the following words:- or transfers.

SECTION 178. The second paragraph of said subsection (1) of said section 22C of said chapter 32, as amended by section 4 of chapter 118 of the acts of 2002, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- If said schedule is not so approved such payments or transfers shall be made in accordance with the most recent three year actuarial valuation which was so approved; provided, that such payments shall be an amount which is not less than the then previous year's appropriations, or transfers.

SECTION 179. The last paragraph of said subsection (1) of said section 22C of said chapter 32, added by section 17 of chapter 177 of the acts of 2001, is hereby amended by inserting after the word "appropriations", in line 2, the following words:- or transfers.

SECTION 180. Chapter 38 of the General Laws is hereby repealed.

SECTION 181. Section 20 of chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 41, the words "the metropolitan district commission".

SECTION 182. Section 24 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "the commissioner of environmental management,".

SECTION 183. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by adding the following subsection:-

(1) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, and subject to this paragraph, the board shall, upon the written request of the governor, to transfer moneys in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition precedent to any such transfer, the commonwealth, acting by and through the division of energy resources or any successor agency, shall enter into an agreement with the corporation under which the commonwealth, at the direction of the corporation, shall enter into 1 or more contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, or with wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The corporation shall determine the particular type or types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation

retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the corporation of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the division of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 20 will not be diverted from the fund and that the rates of the mandatory charges pursuant to said section 20 will not be reduced during the term, which shall not exceed twenty years, of any contract entered into by the corporation for the purchase of such electricity or certificates below a level which will enable the corporation to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 20 shall be expended by the corporation as provided in subsection (a) and, in the discretion of the corporation, in furtherance of the public purposes of the corporation and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.

SECTION 184. Section 8 of chapter 40N, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 69 and 70, the words "department or commission" and inserting in place thereof the following word:- departments.

SECTION 185. Chapter 41 of the General Laws, as so appearing, is hereby amended by striking out section 108L and inserting in place thereof the following section:-

Section 108L. There is hereby established a career incentive pay program offering base salary increases to regular full-time members of the various city and town police departments, uniformed members of the department of state police appointed under section 10 of chapter 22C and state police detectives appointed under said section 10, as a reward for furthering their education in the field of criminal justice.

Only graduates of criminal justice or law enforcement programs that meet or exceed the guidelines for criminal justice and law enforcement programs as set forth by the board of higher education shall be eligible for the police career incentive pay program. Any degree

programs pursued for police career incentive pay increases shall require the submission of a letter of intent to the chancellor of the board of higher education to seek approval as a police career incentive pay program. The president of a New England association of schools and colleges-accredited institution or a board of higher education-approved institution with an approved criminal justice or law enforcement program shall submit a letter of intent to the chancellor of the board of higher education indicating the institution's intent to seek approval of a criminal justice degree program during the first year of the implementation of the guidelines. The letter of intent shall include a statement of commitment to implement guidelines for criminal justice and law enforcement programs.

Any application to seek approval as a police career incentive pay program participating institution shall include the following: (1) a profile of the program, (2) a self-assessment of the program, and (3) an application fee to cover the evaluation costs of the review process.

Each institution shall pay an evaluation fee to the board of higher education's police career incentive pay program quality assurance trust fund to cover the costs of review of a program. In addition to the fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If the committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees will be determined by the total number of degrees awarded to all students enrolled in the criminal justice and law enforcement program being reviewed based on an average of the 3 years immediately before the submission of the application. Fees shall be set in the following manner: \$1000 for a degree program with an average enrollment of not more than 20 students per year, \$1500 for a degree program with an average enrollment between 20 and 50 students per year, \$2000 for a degree program with an average enrollment between 51 and 100 students per year, \$2500 for a degree program with an average enrollment between 101 and 150 students per year, \$3000 for a degree program with an average enrollment between 151 and 200 students per year, and \$3500 for a degree program with an average enrollment above 200 students per year.

Once an application is submitted, the following timetable shall apply: (1) not more than 30 business days after application submission, the board of higher education shall determine whether or not the application is complete and notify the institution; (2) not more than 30 business days after notification, the board of higher education shall appoint an external evaluation committee in accordance with the guidelines for criminal justice and law enforcement academic programs, set forth by the board; (3) not more than 30 business days after committee appointment, said committee shall submit a report to the board of higher education staff; (4) not more than 30 business days after receipt of the report by the board of higher education, the committee's final report shall be sent to the institution for a response; and (5) not more than 30 days after receiving the institution's response, the staff of the board of higher education shall evaluate materials submitted by the institution, the committee's written report, the written response by the institution and any additional information submitted by the institution, and based on its review, the board staff shall make a recommendation

to the board for deferral, approval or disapproval. If the board recommends disapproval, the board shall provide a statement of reasons for the decision.

Programs approved by the board of higher education shall be included on an approved program list for 5 years. The institutions shall annually submit a status report on their approved programs to the board. Programs receiving deferrals from the board shall be notified of specific conditions that must be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least 1 calendar year following the board's determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in conjunction with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) The committee shall review the materials submitted by the program, shall, under most circumstances, visit the institution and shall submit a report to the board containing recommendations regarding the program's request for approval. (2) The number of reviewers on the committee shall be determined by size, number and level of program being reviewed and shall in no instance include fewer than 2 academicians. (3) To be eligible to serve as an evaluator, individuals shall have earned at least a master's degree in criminal justice or a closely related discipline. Academic team members shall have professional experience in college-level teaching, research, administration or other relevant activities with institutions of higher education. Practitioners shall have at least 5 years of full-time supervisory or administrative experience as criminal justice practitioners, as well as specific knowledge of, or experience in, criminal justice education. (4) No person shall serve as an evaluator who is employed by an institution deemed by the board to be in direct competition with the institution under review. (5) No person shall serve as an evaluator who has a present official or unofficial connection with the institution under review or has had such a connection within the previous 4 years, or who the board has reason to believe has an independent or pecuniary interest in the outcome of the board's final action. External evaluators shall have a disinterested professional commitment to the task of rendering objective findings and recommendations based upon empirical evidence and informed judgments. (6) Each committee shall have a chair who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing the committee's report with the other committee members. (7) The committee shall submit a written report, including recommendations to the board. Board staff shall forward a copy of the report to the institution to correct factual errors and respond to the content and recommendations within said report. (8) Evaluators will be given an honorarium by the board of higher education in addition to the evaluation fee and the evaluators' expenses. (9) Evaluators will be provided an orientation prior to conducting reviews.

Annually, each approved institution shall submit two copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement programs. This report shall certify that the criminal justice program is being maintained and operated in accordance with the provisions and guidelines set forth by the board of higher education for

criminal justice and law enforcement programs. If, at any time, in the judgment of the board staff, there is a reasonable probability of noncompliance with the board's guidelines by a particular institution, the board may review said institution to determine if continued approval of said institution is proper.

An institution that objects to an adverse decision may appeal the board's determination. Said appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel will be received by the board.

With the implementation of the guidelines for criminal justice and law enforcement programs, as approved by the board of higher education, said board shall certify career incentive pay increases only for graduates of New England Association of School and Colleges-accredited or board-approved law schools who have passed the Massachusetts bar examination.

Career incentive bonuses authorized by this section for degrees attained from programs approved by the board of higher education shall be granted annually in the following manner: \$6,000 for an associate's degree; \$7,500 for a baccalaureate degree; and \$8,500 for a master's degree or a law degree.

Any city or town which accepts this section and provides annual career incentive bonus payments for police officers shall be reimbursed by the commonwealth for one-half the cost of such payments upon certification by the board of higher education. A city or town which accepts the provisions of this section after August 1, 2002, however, and provides annual career incentive bonus payments for police officers, shall not be reimbursed by the commonwealth for the Commonwealth's share of those payments for any fiscal year before 2006. The board of higher education shall certify the amount of such reimbursement to be paid to such city or town police department of similar rank. Said information shall be filed with said board on or before September first of each year, on a form furnished by said board. The board of higher education shall also certify the amount of annual career incentive bonus payments to be allocated to the members of the department of state police appointed under section 10 of chapter 22C from information filed with said board on or before September first of each year by the colonel of state police. This information shall be filed on a form to be furnished by the board of higher education.

Notwithstanding any provision of this section to the contrary, police officers and members of the department of state police appointed under section 10 of chapter 22C and state police detectives appointed under said section 10, who have attained their degree pursuant to this section before January 1, 2004, irrespective of the date of certification of their eligibility for annual career incentive bonus payments under this section by the board of higher education and including those who transfer to any other city or town that has accepted this section, shall upon certification be paid career incentive bonuses pursuant to the provisions of this section in effect before January 1, 2004.

SECTION 186. Section 72 of chapter 44 of the General Laws, as so appearing, is hereby amended by inserting after the word "commission", in line 59, the following words:-, charter school.

SECTION 187. Section 13 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

SECTION 188. Section 17C of said chapter 58, as so appearing, is hereby amended by striking out, in line 8, the words "the metropolitan district commission and".

SECTION 189. Section 18D of said chapter 58, as so appearing, is hereby amended by striking out, in line 6, the words "one quarter of one" and inserting in place thereof the following figure:- .35.

SECTION 190. Section 5 of chapter 59 of the General Laws is hereby amended by striking out, in lines 1191 to 1194, inclusive, as so appearing, the words "director of the division of water pollution control in the department of environmental management or the director of the air pollution control agency in the commonwealth, as the case may be," and inserting in place thereof the following words:- department of environmental protection.

SECTION 191. Section 5D of said chapter 59, as so appearing, is hereby amended by striking out, in lines 17 and 18, and in line 34, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

SECTION 192. Section 20A of said chapter 59, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "including the metropolitan district commission,".

SECTION 193. Section 26 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:

(c) In the case of an arithmetic or clerical error or other obvious error, including any exclusion of taxable unemployment compensation or Massachusetts state lottery winnings, apparent either upon the face of the return or from a comparison of the return with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner from any third party source, the commissioner may assess a deficiency attributable to such error without giving notice to the person being assessed. The commissioner may make such corrections to errors found upon a taxpayer's return and to the amount shown as the tax assessed thereon, including an increase in tax due or a reduction in a refund claimed, as will cause the return to conform with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner by any third-party. Concurrently with the making of such corrections, the commissioner shall notify the taxpayer in writing of the changes made to the return. If within 30 days after the date of such notice, or within any extended period permitted by the commissioner, the taxpayer fails to challenge the corrections, the return as corrected shall constitute the taxpayer's amended self-assessed return and the commissioner shall not be required to assess the corrected tax, nor to provide the taxpayer with a notice of intention to assess, nor otherwise to send any notice of the corrected tax liability to the taxpayer. Any taxpayer that disagrees with corrections made by the commissioner's corrections under this subsection shall challenge them in writing within

30 days after the date of the commissioner's notice, or within any extended period permitted by the commissioner. Once so challenged, the commissioner shall be required to assess any additional tax not shown on the original return in accordance with subsection (b) and shall comply with subsection (e) of section 32 if the commissioner's initial corrections to the return resulted in the reduction or elimination of a refund claimed on the return by the taxpayer.

SECTION 194. Section 37 of said chapter 62C, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The applicant shall, at the time of filing its abatement application, include and attach to it all supporting information, documents, explanations, arguments and authorities that will reasonably enable the commissioner to determine whether the applicant is entitled to the abatement requested. The applicant shall not be considered to have submitted a completed written abatement application until the date on which all such information reasonably requested from the applicant and reasonably necessary for a decision has been furnished to the commissioner. If the commissioner has made a written request to the applicant for additional information, not then contained in the taxpayer's pending abatement application, and the applicant fails to provide such information within 30 days after such request, or within any extended period allowed by the commissioner, that application shall be considered incomplete and shall be denied without prejudice to its timely renewal. The commissioner shall give such applicant written notice that the denial is based upon the lack of sufficient information to grant the taxpayer's abatement application. In a case in which the commissioner has denied an abatement application based upon incomplete supporting information, no interest under section 40 shall begin to accrue upon any such claim which is appealed to the appellate tax board or to a probate court under section 39 before the date on which a decision on such claim on the merits is rendered by the board or court in favor of the taxpayer.

SECTION 195. Said section 37 of said chapter 62C, as so appearing, is hereby further amended by inserting, after the word "application", in line 15, the following words:- if the applicant has not already had a pre-assessment hearing under subsection (b) of section 26; unless the applicant first establishes to the satisfaction of the commissioner that a further hearing is necessary either due to the availability of new factual information or new legal precedent not available to the applicant at the time of the conference permitted under said subsection (b) of said section 26.

SECTION 196. Section 40 of said chapter 62C is hereby amended by striking out, in lines 6 and 7, as so appearing, the words "established under section thirty-two of this chapter" and inserting in place thereof the following words:- of the federal short-term rate determined under section 6621(b) of the Internal Revenue Code, as amended and in effect for the taxable year, plus 2 percentage points, computed as simple interest.

SECTION 197. Subsection (a) of said section 40 of said chapter 62C, as so appearing, is hereby amended by adding the following paragraphs:-

For purposes of this section, the term 'date of overpayment' shall mean the later of the

date when the commissioner shall have received a properly completed return and full payment of the tax due thereon, or the date when the commissioner shall have received a completed and substantiated written application for abatement filed in accordance with this chapter, and any supplemental information requested by the department from the taxpayer in support of such application.

SECTION 198. Said section 40 of said chapter 62C is hereby further amended by inserting after the word "return", in lines 40 and 41, as so appearing, the following words:- as compared with the tax liability shown as a result of any corrections made to the return by the commissioner under subsection (c) of section 26 using any records regarding that liability or the payment thereof which are maintained by the commissioner or which are furnished to the commissioner by any third-party.

SECTION 199. Section 1 of chapter 62D of the General Laws, is hereby amended by striking out the definition of "Debt", as appearing in section 3 of chapter 9 of the acts of 2003, and inserting in place thereof the following definition:-

"Debt", an unpaid spousal or child support obligation which is being enforced by the claimant agency, or which is collected or ordered to be collected by a court, whether or not there is an outstanding judgment for the sum; an amount owed the division of medical assistance by a debtor; an amount owed the department of transitional assistance by recipients, or former recipients, of public assistance; any liquidated sum due and owing to the corporation on an education loan made under any of the programs administered by the corporation in behalf of the commonwealth whether or not there is an outstanding judgment for that sum or any liquidated sum, certified by the comptroller as due and owing to any state agency, as defined in section 1 of chapter 29, any overdue debt certified by the comptroller as due or owing to a city or town of the commonwealth or any agency of the city or town or any housing authority or any state authority as defined in said section 1 of said chapter 29, or an amount owed the division of health care finance and policy on behalf of the uncompensated care pool by a person or a guarantor of a person who received free care services paid for in whole or in part by the uncompensated care pool or on whose behalf the uncompensated care pool paid for emergency bad debt, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 200. Said section 1 of said chapter 62D is hereby further amended by striking out the definition of "debtor", as appearing in section 4 of said chapter 9, and inserting in place thereof the following definition:-

"Debtor", any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the division of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money

on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services or emergency bad debt paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 201. The definition of "Debt" in said section 1 of said chapter 62D, as appearing in section 3 of said chapter 9, is hereby further amended by adding the following sentence:- For the purpose of this section an agency of a city or town shall include a housing authority created pursuant to section 3 or 3A of chapter 121B.

SECTION 202. Clause (ix) of section 13 of said chapter 62D, as appearing in section 6 of said chapter 9 of the acts of 2003, is hereby amended by inserting after the words "agency of a city or town" the following words:- , to a housing authority.

SECTION 203. Section 6A of chapter 62F of the General Laws, inserted by section 71 of chapter 184 of the acts of 2002, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For any fiscal year when expenditure from the Commonwealth Stabilization Fund is required to pay expenses of the commonwealth, the comptroller shall reimburse the commonwealth Stabilization Fund from the temporary holding fund the amount of all such appropriations from the Commonwealth Stabilization Fund, provided that said reimbursement shall not exceed the balance in the temporary holding fund. Any funds remaining in the temporary holding fund at the end of the fiscal year shall be transferred to the General Fund and shall be part of the consolidated net surplus certified by the comptroller pursuant to section 5C of chapter 29.

SECTION 204. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as amended by section 13 of chapter 4 of the acts of 2003, and inserting in place thereof the following 2 paragraphs:-

1. "Domestic corporations", (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that the term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to paragraph 2. A limited liability company having as its sole member

a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; but any limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. "Foreign corporation", corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B or sections 19F to 19W, inclusive, of chapter 175 or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that the term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as a foreign S corporation.

SECTION 205. Section 31A of said chapter 63, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraph (k) and inserting in place thereof the following paragraph:-

(k) The provisions of paragraphs (a) and (f) shall not be available for the taxable years ending on or after December 31, 1993 but shall be available for the taxable years beginning on or after January 1, 2009.

SECTION 206. Said section 31A of said chapter 63, as so appearing, is hereby fur-

ther amended by striking our paragraph (l) and inserting in place thereof the following paragraph:-

(l) The provisions of paragraphs (i) and (j) shall be available only for the taxable years ending on or after December 31, 1993, but shall not be available for the taxable years beginning on or after January 1, 2009; provided, however, that a corporation shall not be eligible for said credit for more than nineteen taxable years.

SECTION 207. Section 17D of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- fish and game.

SECTION 208. The first sentence of section 13 of chapter 70B of the General Laws, as amended by section 80 of chapter 184 of the acts of 2002, is hereby further amended by striking out the words "shall not exceed 7 years" and inserting in place thereof the following words:- shall not exceed 10 years.

SECTION 209. Section 4 of chapter 71A of the General Laws, as appearing in section 1 of chapter 386 of the acts of 2002, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one school year, provided, however, that kindergarten English learners shall be educated either in sheltered English immersion or English language mainstream classrooms with assistance in English language acquisition, including, but not limited to, English as a second language, so-called.

SECTION 210. Said section 4 of said chapter 71A, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- Foreign language classes for children who already know English, 2-way bilingual programs for students in kindergarten through grade 12 and special education programs for physically or mentally impaired students shall be unaffected.

SECTION 211. Subsection (a) of section 5 of said chapter 71A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- If a parental waiver has been granted, the affected child may be transferred to classes teaching English and other subjects through bilingual education techniques or other generally-recognized educational methodologies permitted by law.

SECTION 212. Section 7 of said chapter 71A, as so appearing, is hereby amended by adding the following 2 paragraphs:-

English learners in any program shall be taught to the same academic standards and curriculum frameworks as all students, and shall be provided the same opportunities to master such standards and frameworks as other students. Districts shall regularly assess mastery of academic standards and curriculum frameworks.

The district shall send report cards and progress reports including, but not limited to, progress in becoming proficient in using the English language and other school communica-

tions to the parents or legal guardians of students in the English learners programs in the same manner and frequency as report cards and progress reports to other students enrolled in the district. The reports shall, to the maximum extent possible, be written in a language understandable to the parents and legal guardians of such students.

SECTION 213. Said chapter 71A is hereby amended by inserting after section 7 the following section:-

Section 7A. The office of educational quality and accountability shall conduct on-site visits to school districts at least once every 5 years for the purposes of evaluating the effectiveness of programs serving English learners and to validate evidence of educational outcomes. The evaluation shall include, but not be limited to, a review of individual student records of all English learners, a review of the programs and services provided to English learners and a review of the dropout rate of English learners formerly enrolled in the district within the prior 3 years.

In the event a review and evaluation undertaken under this section demonstrates that a district is failing to adequately improve educational outcomes for English learners, the commissioner may recommend to the board of education and any school within the district be declared underperforming under section 1J and 1K of chapter 69.

SECTION 214. Section 3 of chapter 71B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 135 and 136, the words "division of health care finance and policy established by section 2 of chapter 118G" and inserting in place thereof the following words:- secretary of health and human services under section 2A of chapter 118G.

SECTION 215. Subsection (b) of section 5A of said chapter 71B, as so appearing, is hereby further amended by striking out the definitions "In-district programs" and "Out-of-district programs".

SECTION 216. Said section 5A of said chapter 71B, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Instructional costs eligible for reimbursement under the program shall be reported by a school district to the department in a form and manner as prescribed by the commissioner. For each such school district, the department shall review the report and approve those per pupil instructional costs that are eligible for reimbursement pursuant to the program within 30 days of submission. Based upon the approved costs, the department shall calculate the reimbursement due a municipality. The costs of programs shall be reimbursed at 75 per cent of all the approved costs that exceed 4 times the state average per pupil foundation budget, as defined in said chapter 70, for the current fiscal year.

SECTION 217. Said subsection (c) of said section 5A of said chapter 71B, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding the foregoing, the reimbursement rate for students who have no father, mother, or guardian living in the commonwealth, and for any school age child placed in a school district other than a home town by, or under the auspices of, the department of

transitional assistance or the department of social services, shall be 100 per cent of all the approved costs that exceed 4 times the state average per pupil foundation budget.

SECTION 218. Section 22 of chapter 74A of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "and the payment of reasonable charges by said college for such use" and inserting in place thereof the following words:- ; provided, however, that the assets of the institute that are associated with the program shall be available at no cost to the college.

SECTION 219. Clause (n) of the fifth paragraph of section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence, the following 8 sentences:- In developing its mission statements for the board of higher education, the university shall provide a clear indication of the different missions of its campuses and shall provide national benchmarks that demonstrate each campus' success in competing with peer institutions. The chancellors of institutions with the potential to expand their mission, profile and orientation to a more regional or national focus may develop in consultation with the board of trustees of the university a 5-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projections for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to ensure continuing access to the institution by residents of the Commonwealth, and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students. The board of trustees shall vote to approve said plan, or to return it to the chancellor of the campus with recommended changes. Approval shall require a two-thirds vote. If the board recommends changes, the chancellor may submit a redrafted plan, which will be treated as a new plan under the provisions of this clause. As the flagship research campus of the University system, the Amherst campus shall structure any such proposal to demonstrate how its adoption will serve to support the institution's effort to achieve parity with its peer institutions and enhance its ability to compete with them for students, faculty, and research funding. All such plans shall include, but not be limited to, a 3-year retrospective description of performance and a 5-year plan for future goals.

SECTION 220. Section 4 of chapter 81A of the General Laws, as so appearing, is hereby amended by striking out clause (e) and inserting in place thereof the following clause:-

(e)(i) to own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the turnpike or any part thereof; (ii) consistent with agreements entered into with the highway department to the extent applicable, to own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the metropolitan highway system or any part thereof, as it may determine; and (iii) effective October 1, 2003, to maintain, repair, use police, administer and operate interstate highway route 395, interstate highway route 84 and interstate highway route 291;

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provided, however, that chapter 91 shall not apply to the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;.

SECTION 221. Section 10 of said chapter 81A, as so appearing, is hereby amended by inserting after the word "turnpike", in line 11, the following words:- as well as the costs of maintaining, repairing, using, policing, administering and operating interstate highway route 395, interstate highway route 84 and interstate highway route 291.

SECTION 222. Said chapter 81A is hereby amended by inserting after section 14 the following section:-

Section 14A. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Direct light", light emitting generally in a downward direction by a lamp, off a reflector or through a refractor of a luminaire.

"Full-cutoff luminaire", a luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire's lowest light-emitting part, in its mounted form.

"Glare", direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

"Lamp", the component of a luminaire that produces light.

"Light Pollution", general sky glow caused by the scattering of artificial light in the atmosphere.

"Light trespass", light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

"Lumen", a specific standard unit of measurement of luminous flux.

"Luminaire", a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

"Non-cutoff luminaire", a streetlight luminaire in which either the lamp and surrounding glass lens extends well below the horizontal plane of opaque shielding elements of the luminaire or the lamp is situated on top of a post or on a pivoting support on the side of a building, causing light to be cast as glare outward and upward, beyond its useful range.

"Outdoor light fixtures", outdoor artificial illuminating devices, permanently installed or portable, used for flood-lighting, roadway and area lighting, general illumination or advertisement.

"Permanent outdoor luminaire", any fixed luminaire or system of luminaires that is outdoors and that is intended to be used for 7 days or longer.

"Roadway lighting", permanent outdoor luminaires that are specifically intended to illuminate roadways for automotive vehicles.

"Semi-cutoff luminaire", a luminaire that allows no more than 6 per cent of the light from the lamp to be emitted above a horizontal plane passing through the luminaire's lowest light-emitting part.

(b) The lessee, user or occupant of real property of the authority leased, used or occupied in connection with a business conducted for profit, at its expense and at no cost to the authority, shall retrofit existing permanent outdoor luminaires or install new permanent outdoor luminaires that meet the following conditions:

(1) the new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens;

(2) if a lighting recommendation or regulation applies, the minimum illuminance specified by the recommendation or regulation is used;

(3) if no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards including, but not limited to, recommended practices adopted by the illuminating engineering society of North America;

(4) for roadway lighting unassociated with intersections of 2 or more streets or highways, a determination is made by the Massachusetts Turnpike Authority that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or information signs or other passive means; and

(5) adequate consideration has been given to the conservation of energy and to the minimization of glare, light pollution and light trespass.

(c) This section shall not apply in any of the following circumstances, settings or locations:

(1) a federal law, rule or regulation preempts state law;

(2) the outdoor lighting fixture is used on a temporary basis by emergency personnel requiring additional illumination for emergency procedures or used by repair personnel on a temporary basis for road repair;

(3) special events or situations that may require additional illumination including, but not limited to, the illumination of historic structures, monuments or flags, however, all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible and to minimize upward lighting and light trespass;

(4) when a compelling safety interest exists that cannot be addressed by any other method; and

(5) the lessee, user or occupant's permanent outdoor luminaires currently meet the above conditions.

(d) The division of energy resources, in consultation with the Massachusetts Turnpike Authority, shall promulgate regulations to implement and enforce this section which shall include, but not be limited to, a system to ensure that lessees, users and occupants of real property of the authority that is leased, used or occupied in connection with a business conducted for profit comply with the requirements set forth herein. Said regulations shall include the establishment of a waiver process, to be administered by the chairman of the turnpike authority or his designee, whereby said lessees, users and occupants may apply for and, upon proof satisfactory to the turnpike authority, receive a complete or partial exemption from the requirements of this section on the grounds that (1) a bona fide operational, safety

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or specific aesthetic need exists to an extent that warrants such an exemption or (2) the installation and use of the permanent outdoor luminaires required by this section will substantially impair the ability of said lessee, user or occupant to continue to comply with the financial terms of its lease or agreement with said authority. Said regulations shall be promulgated by said division on or before June 1, 2004.

(e) The lessee, user or occupant shall comply with this section by January 1, 2008 or by an alternative compliance date that may be established by the turnpike authority pursuant to a partial waiver granted by said authority pursuant to paragraph (d).

SECTION 223. Section 18 of said chapter 81A, as so appearing, is hereby amended by striking out, in line 6, the words "one million dollars" and inserting in place thereof the following words:- \$500,000 nor more than \$1,000,000.

SECTION 224. Section 2 of chapter 90 of the General Laws, as most recently amended by chapter 229 of the acts of 2002, is hereby further amended by adding the following paragraph:-

The registrar shall furnish, upon application, to owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design commemorating the Basketball Hall of Fame as the "Birthplace of Basketball". The registrar shall issue such plates at the direction of the Basketball Hall of Fame. There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be transferred within 90 days of receipt thereof to the Basketball Hall of Fame education program at the Basketball Hall of Fame in the city of Springfield.

SECTION 225. Section 10 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following 2 paragraphs:-

The court shall treat a first violation of the first paragraph of this section as a civil infraction. A person complained of for such a civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to a term of incarceration nor be entitled to appointed counsel pursuant to chapter 211D. A person convicted of a first offense under the first paragraph shall be punished by a fine of not less than \$500 nor more than \$1,000.

An adjudication of responsibility under the first paragraph shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 226. Section 20 of said chapter 90, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in its place the following paragraph:-

There shall be a surcharge of \$50. on a fine assessed against a person convicted or found responsible of a violation of section 17 or a violation of a special regulation lawfully made under the authority of section 18. The first \$25 of each surcharge shall be transferred

by the registrar of motor vehicles to the state treasurer for deposit into the Head Injury Treatment Services Trust Fund. The remaining amount shall be transferred by the registrar to the state treasurer for deposit in the General Fund.

SECTION 227. Section 22 of said chapter 90, as so appearing, is hereby amended by adding the following subsection:-

(j) Upon receipt of notice, as specified by the registrar, from the sex offender registry board, that a sex offender has failed to comply with the registration requirements of sections 178C to 178P, inclusive, of chapter 6, the registrar shall suspend or prohibit issuance or renewal of a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such sex offender. The sex offender shall receive notice that the registrar shall suspend or prohibit renewal of such a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration in 90 days due to his failure to comply with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6, unless the sex offender furnishes proof to the registrar that he has complied with his sex offender registration requirements. A sex offender whose license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration has been suspended due to his failure to comply with the registration requirements of said sections 178C to 178P, inclusive of said chapter 6 may petition for reinstatement of his license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration at any time if he produces sufficient proof, as determined by the registrar, that he is in compliance with his sex offender registration requirements. The registrar shall promulgate regulations to implement this subsection, which shall include the opportunity for a hearing to challenge the lack of sex offender registration compliance. If a hearing is requested, the sex offender registry board shall be notified of the time, place, date of hearing and the identity of the sex offender. An affidavit from the sex offender registry board may be introduced as prima facie evidence of the lack of sex offender registration compliance and members or employees of the sex offender registry board need not attend any hearings held under this subsection.

The registrar shall reinstate, issue or renew such license, learner's permit or right to operate a motor vehicle or the registration of a motor vehicle if the sex offender registry board provides to the registrar a notice, as specified by the registrar, stating that the sex offender is in compliance with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6 and such sex offender shall be assessed a \$100 sex offender registry reinstatement fee which shall be transmitted by the registrar to the treasurer for deposit into the general fund. Notices between the sex offender registry board and the registrar under this subsection may be made in any form, including electronic transmission.

SECTION 228. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of said chapter 90 is hereby amended by striking out the second paragraph, as so appearing, and inserting in place thereof the following paragraph:-

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for, or is granted a continuance without

a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances under this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. In the discretion of the court, an assessment under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

SECTION 229. Paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund and the remaining amount of said assessment shall be credited to the General Fund. At the discretion of the court, an assessment under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigence for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

SECTION 230. Section 33 of said chapter 90, as so appearing, is hereby amended by striking out paragraph (36) and inserting in place thereof the following paragraph:-

(36) For the reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under subsections (a), (e) and (f) of section 22, sections 22F, 23, 24, except as otherwise provided below, section 24B, 24D, 24G, 24L or section 34J, and section 28 of chapter 266, the fee shall be \$500. The fee for reinstatement following revocation under subparagraph (2) of paragraph (c) of subdivision (1) of said section 24 shall be \$700 and the fee for such reinstatement following a revocation under subparagraphs (3) and (3½) of said paragraph (c) of said subdivision (1) of said section 24 shall be \$1,200. The fee for reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under any general or special law shall be \$100, but the fee for reinstatement for suspensions and revocation under subsection (c) of section 22 shall be commensurate with the fee established for the corresponding Massachusetts offense resulting in the suspension or revocation under the General Laws.

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SECTION 231. Section 34J of said chapter 90, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "or by imprisonment for not more than one year in a house of correction, or both such fine and imprisonment".

SECTION 232. Said section 34J of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

The court shall treat a violation of the first paragraph as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to a term of incarceration nor entitled to appointed counsel pursuant to chapter 211D. An adjudication of responsibility under this section shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 233. Section 1 of chapter 90A of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "the chairman of the metropolitan district commission" and inserting in place thereof the following words:- the commissioner of conservation and recreation.

SECTION 234. Section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out the definitions of "District court" and "Division" and inserting in the place thereof the following two definitions:-

"District court", a division of the district court department or a session thereof for holding court or a division of the Boston municipal court department or a session thereof for holding court. It shall also include the divisions of the juvenile court department with respect to automobile law violations that are treated as a delinquency matter in such department and with respect to civil motor vehicle infractions that are recorded in conjunction with and that arise from the same occurrence as automobile law violations that are treated as a delinquency matter in such department.

"Division", a division of the district court department or juvenile court department or a division of the Boston municipal court department.

SECTION 235. Paragraph (4) of subsection (A) of section 3 of said chapter 90C, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

Upon his appearance before the clerk magistrate that is assigned to such a noncriminal hearing, the violator shall pay to said clerk magistrate a fee of \$10 prior to the commencement of said hearing.

SECTION 236. The fourth paragraph of said paragraph (4) of said section 3 of said chapter 90C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Any violator so appealing the decision of a magistrate shall be responsible for paying a fee of \$20 prior to the commencement of the appeal hearing before a justice.

SECTION 237. Said section 1 of said chapter 91, as so appearing, is hereby further

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amended by striking out, in lines 12 and 13, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

SECTION 238. Section 3 of said chapter 91, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words ", except lands under the control of the metropolitan district commission,".

SECTION 239. Section 10A½ of said chapter 91 is hereby repealed.

SECTION 240. Section 10C of said chapter 91, as so appearing, is hereby amended by striking out, in line 24, the word "division" and inserting in place thereof the following word:- office.

SECTION 241. Section 9A of chapter 92 of the General Laws is hereby repealed.

SECTION 242. Section 33 of chapter 92 of the General Laws, as so appearing, is hereby amended by striking out section 33, as so appearing, and inserting in place thereof the following section:-

Section 33. The division of urban parks and recreation, hereinafter referred to as the division, may maintain and make available to the inhabitants of Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester and Winthrop, which shall constitute the urban parks district, open spaces for exercise and recreation, in this chapter called reservations and, for the purposes set forth in this section, the powers of the division shall extend to, and be exercised in, said district.

The division may preserve, beautify and care for such public reservations, and also, in its discretion and upon such terms as it may approve, such other open spaces within said districts as may be intrusted, given or devised to the commonwealth for the general purposes of this section or for any one or more of such purposes as the donor may designate.

The division may, for the purpose of making the rivers and ponds within said district more available as open spaces for recreation and exercise, regulate the use of certain spaces along or near said rivers and ponds, and care for and maintain spaces so regulated, and plant, care for, maintain or remove trees, shrubs and growth of any kind within said regulated spaces.

The commissioner of conservation and recreation, hereinafter referred to as the commissioner, may enter into and issue agreements, licenses and permits for recreational and other uses which he deems compatible and consistent with this section and Article XCVII of the amendments to the Constitution, provided, however, that such agreements, licenses and permits shall be for periods not exceeding 5 years.

This section shall not limit existing rights of any town in relation to water supply purposes or in any way obstruct its taking advantage of such rights.

SECTION 243. Said chapter 92 is hereby amended by adding the following two sections:-

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Section 1A. The division of urban parks and recreation shall be under the administrative supervision of a director, who shall be called the director of urban parks and recreation. The director shall reside within the urban parks district defined in section 33.

Section 1B. The director of urban parks and recreation shall devote his whole time during business hours to the work of the division and shall be responsible for the performance of the functions of the division as specified by law. Each subdivision or section of the division shall be under his direction, control and supervision. The director may appoint and remove such officials and employees as the work of the division may require and may from time to time assign to such officials and employees such duties as the work of the division may require, subject to chapters 30 and 31, except as provided by chapter 583 of the acts of 1947.

SECTION 244. Said chapter 92 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. The state treasurer may, with the approval of the governor and council, receive and hold in trust for the commonwealth, exempt from taxation, any grant or devise of lands or rights in land, and any gift or bequest of money or other personal property, made for the purposes of the preceding section, and shall preserve and invest the proceeds thereof in notes or bonds secured by good and sufficient mortgage or other securities. Said trust property shall be known as the Division of Urban Parks Trust Fund and shall be used and expended under the direction of the division and subject to its orders. Subject to the terms of any such grant, gift, devise or bequest, the division may expend such funds, whether principal or income.

SECTION 245. Said chapter 92 is hereby further amended by striking out section 34A, as so appearing, and inserting in place thereof the following section:-

Section 34A. The director of urban parks and recreation, hereinafter referred to as the director, may receive and hold in trust for the commonwealth, exempt from taxation, any instrument of value, including but not limited to, any gift or bequest of money or other personal property, and any grant or devise of lands or rights in land for the purpose of fostering and advancing the MetroZoos zoological parks of the commonwealth and shall administer the same in such a manner as to carry out the terms of such bequests or gifts, grants, or devises. All money and securities received hereunder shall be transferred to the state treasurer, who shall preserve and invest the proceeds thereof, in notes or bonds secured by good and sufficient mortgage or other securities. Said trust property shall be known as the MetroZoos Zoological Trust, and shall be used and expended under the direction of the director after notification to the division. Subject to the terms of any such grant, gift, devise, or bequest, the division of urban parks and recreation may expend such funds, whether principal or income.

SECTION 246. Section 35 of said chapter 92, as so appearing, is hereby amended by striking out, in line 2, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 247. Said section 35 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 3, the words "under its jurisdiction".

SECTION 248. Said section 35 of said chapter 92, as so appearing, is hereby further amended by adding the following paragraph:-

Notwithstanding section 20 of chapter 21A, the division and department shall preserve and protect the scenic and historic integrity of its roadways and boulevards. Neither the department nor the division shall enter into an interagency or other agreement concerning the roadways and boulevards with a state or public agency or entity to transfer any lands, roadways or boulevards, bridges, facilities, personnel, equipment or material under its care, custody and control without the express prior approval of the legislature.

SECTION 249. Said chapter 92 is hereby further amended by striking out section 35A, as so appearing, and inserting in place thereof the following section:-

Section 35A. The division may authorize the removal to some convenient place, through the agency of a person in the employ of the division, or by an independent contractor selected on the basis of competitive bids, any vehicle, except a vehicle owned by the commonwealth or a political subdivision thereof or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, parked or standing on any part of a parkway, boulevard or roadway in such a manner as to impede in any way the removal or plowing of snow or ice, or parked or standing in violation of any rule or regulation adopted under section 37 which prohibits the parking or standing of all vehicles on such parkway, boulevard or roadway or portion thereof at such time and which recites that whoever violates such regulation shall be liable to charge for the removal and storage of the vehicle as well as subject to punishment by fine. Liability may be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle.

SECTION 250. Said chapter 92 is hereby further amended by inserting after section 35A the following section:-

Section 35B. No person shall operate a truck, bus, camper, trailer, or mobile home or any vehicle with a seating capacity of more than 12 persons on a road, driveway, parkway, boulevard or bridge under the control of the department of conservation and recreation within the urban parks district which is restricted to pleasure vehicles only; provided, however, that a pickup truck having a gross vehicle weight of 5,000 pounds or less and a maximum overall height of 7 feet or less shall be permitted. Those vehicles which are prohibited may gain access to a destination situated in, or only accessible by the use of a restricted roadway, by entering from the nearest unrestricted roadway and exiting in the same manner; provided, however, that no person shall operate a vehicle having a gross vehicle weight in excess of 10 tons upon any roadway under the control of the department of conservation and recreation in the urban parks district without the express consent of the department. Any person violating this section shall be punished for each offense by a fine of not less than \$100 and

not more than \$500.

SECTION 251. Section 36 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2 and 3, and in line 16, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 252. Said section 36 of said chapter 92, as so appearing, is hereby further amended by striking out the second and third sentences.

SECTION 253. Said chapter 92 is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. Except as provided in section 38, the commissioner, in consultation with the director, may make rules and regulations for the government and use of the reservations or boulevards under the division's care and to govern the public use of the Charles river, the Neponset river and the Mystic river, within the urban park district, and of the ponds and other waters along which it holds abutting lands for reservations in said district; provided, that no rule or regulation shall affect the water rights of any person, whether a mill owner or otherwise. No such rule or regulation shall prohibit the use of passenger or station wagon type motor vehicles whose gross weight is less than 5000 pounds and which are registered for commercial use, on ways, parkways or boulevards where non-commercial passenger-type motor vehicles are permitted to operate.

A police officer employed by a city or town in whose boundaries, reservations or boulevards are located shall have all the same powers they have as a police officer of the city or town to enforce the laws of the commonwealth and the rules and regulations of the department on any bikeway, pathway, park, reservation or other land under the care of the division.

The division shall cause such rules and regulations to be posted in the reservation or boulevard to which they apply, and shall also cause the same to be published at least once in a newspaper published in the county where said reservation or boulevard is in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of the director of such posting and publishing shall be prima facie evidence thereof.

Whoever violates any rule or regulation made hereunder shall be punished by fine not exceeding \$200.

SECTION 254. Section 38 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, the word "commission" and inserting in place thereof the following word:- department.

SECTION 255. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 7 and 14, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 256. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out in line 10, the words "any member of the commission or of its secretary", and inserting in place thereof the following words:- the director.

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SECTION 257. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 13, the words "any member of the commission or its secretary" and inserting in place thereof the following words:- the commissioner.

SECTION 258. Sections 39 and 40 of said chapter 92 are hereby repealed.

SECTION 259. Section 48 of said chapter 92 is hereby repealed.

SECTION 260. Section 53 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 5, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 261. Sections 54, 55, 59A, 60, 64, 65 and 66 of said chapter 92 are hereby repealed.

SECTION 262. Section 74 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the word "twenty-five" and inserting in place thereof the following figure:- 5.

SECTION 263. Section 74A of said chapter 92 is hereby repealed.

SECTION 264. Said chapter 92 is hereby further amended by striking out section 75, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 75. The division may appoint from the office of environmental law enforcement a harbor master and assistant harbor masters who shall respectively have and exercise within the Charles river basin all the powers and authority which now appertain by law to the offices of harbor master and assistant harbor masters for the port of Boston appointed by the police commissioner of the city of Boston. The division may require such further duties of these officers, consistent with law, as the commission may deem expedient. The harbor master and assistant harbor masters shall receive the pay which may be established for the grade or rank which they respectively hold in the office of environmental law enforcement.

SECTION 265. Section 76 of said chapter 92 is hereby repealed.

SECTION 266. Section 76A of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 17, and in lines 22 and 23, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 267. Said section 76A of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the word "commission's" and inserting in place thereof, in each instance, the following word:- division's.

SECTION 268. Said section 76A of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 28 and 30, the word "said" and inserting in place thereof, in each instance, the following word:- the.

SECTION 269. Said section 76A of said chapter 92, as so appearing, is hereby further amended by inserting after the word "department", in lines 28 and 30, in each instance, the following words:- of environmental protection.

SECTION 270. Section 79 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2 and 8, the word "commission" and inserting in place thereof the following words:- commissioner.

SECTION 271. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 5, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 272. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 10, the word "commission" and inserting in place thereof the following word:- division.

SECTION 273. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 16, the word "commission" and inserting in place thereof the following words:- stewardship council.

SECTION 274. Section 80 of said chapter 92, as so appearing, is hereby amended by striking out, in line 2, the word "commission" and inserting in place thereof the following words:- commissioner.

SECTION 275. Section 83 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1, 8 and 9, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

SECTION 276. Section 84 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

SECTION 277. Said section 84 of said chapter 92, as so appearing, is hereby further amended by inserting after the word "town", in line 2, the following words:- within the urban parks district.

SECTION 278. Section 85 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1, 15 and 20, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

SECTION 279. Said section 85 of said chapter 92, as so appearing, is hereby further amended by inserting after the word "town", in line 2, the following words:- within the urban parks district.

SECTION 280. Said section 85 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 15, the word "votes" and inserting in place thereof the following word:- decides.

SECTION 281. Said section 85 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 19, the word "vote" and inserting in place thereof the following word:- decision.

SECTION 282. Section 86 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 2, 9, 13 and 14, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

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SECTION 283. Said section 86 of said chapter 92, as so appearing, is hereby further amended by inserting after the word "purposes", in line 2, the following words:- under section 80.

SECTION 284. Section 87 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 1, 14, 16, 19 and 20, the word "commission" and inserting in place thereof, in each instance, the following word:- department.

SECTION 285. Said section 87 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 4 and 11, the word "metropolitan" and inserting in place thereof, in each instance, the following word:- urban.

SECTION 286. Said section 87 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 21, the word "commission" and inserting in place thereof the following word:- division.

SECTION 287. Section 88 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, and in lines 4 and 5, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 288. Section 93 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "and shall be credited and added to the special account provided for by section forty-eight".

SECTION 289. Sections 96 to 101, inclusive, and sections 103 to 120, inclusive, of said chapter 92 are hereby repealed.

SECTION 290. The General Laws are hereby amended by inserting after chapter 92 the following chapter:-

CHAPTER 92A½. WATERSHED MANAGEMENT.

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

"Advisory committee", the watershed system advisory committee for the appropriate watershed system.

"Alteration", draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or substantial expansion of any buildings or structures; the driving of pilings; the construction or reconstruction or paving of roads and other ways; the construction or reconstruction of utilities; the changing of run-off characteristics; the intercepting or diverting of ground waters, surface waters, reservoirs, tributaries, or aquifers; the installation or substantial expansion of drainage, sewage and water systems.

"Aquifer", a geological formation, group of formations, or part of a formation in the Wachusett watershed that is capable of yielding a significant amount of water to a well or spring, as determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases or

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any other source determined to be more accurate pursuant to subsection (m) of section 5. The land directly overlaying an aquifer shall be deemed to be a part of said aquifer.

"Authority", the Massachusetts Water Resources Authority.

"Bonds", any bonds, notes or other evidences of indebtedness.

"Bordering vegetated wetland", a wet meadow, except meadows used for the grazing of livestock, marsh, swamp, bog, or other area, hydrologically connected to and bordering on a tributary, reservoir, flood plain, or surface water, which supports at least 50 per cent wetland species.

"Department", the department of conservation and recreation.

"Division", the division of water supply protection.

"Flood plain", the land adjoining a tributary, reservoir or surface water, which is subject to inundation from a flood having a 1 per cent chance of being equalled or exceeded in any given year, commonly known as the 100 year flood plain, as determined by reference to the most recent edition of the flood hazard boundary maps issued by the Federal Emergency Management Agency or any other source determined to be more accurate pursuant to subsection (m) of section 107A.

"Ground water", water below the land surface in a saturated zone, including perched ground water.

"Hazardous material or waste", any material or waste, in whatever form, which because of its quantity, concentration, corrosivity, flammability, reactivity, toxicity, or infectious, chemical, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous material or waste shall include those materials listed in section 261 of title 40 of the code of federal regulations, or 310 CMR 40.900 Appendix I.

"Pollutant", any substance, man-made or resulting from human activities, that can alter the biological, chemical, physical, or radiological character of water.

"Quabbin watershed advisory committee", the committee established by section 13.

"Revenues", charges, reimbursements and other receipts derived by the division from operation of the watershed system and from all other activities or properties of the division including, without limiting the generality of the foregoing, proceeds of grants, gifts, investments, earnings and proceeds of insurance or condemnation.

"Surface water", water in the watersheds, including any lake, spring, impoundment, and pond, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey 1 to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 5. Surface water shall include the land located thereunder and the banks thereto. Surface water shall exclude all reservoirs, tributaries, aquifers, ground waters, and man-made farm ponds used for irrigation, as well as all so-called great ponds of the commonwealth which do not drain into a tributary or a reservoir.

"Tributary", a body of running water, including, a river, stream, brook and creek, which moves in a definite channel in the ground due to a hydraulic gradient and which flows ultimately into a reservoir in the watersheds or the Ware river above the Ware river intake, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey one to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 5. A tributary shall include the land over which the water therein runs and the banks thereto.

"Ware river watershed advisory committee", the committee established by section 14.

"Watershed system", (i) all real and personal property interests held by or on behalf of the commonwealth immediately prior to the effective date of this act in and for the former metropolitan district commission water system which were part of or appurtenant to the Quabbin watershed, Quabbin reservoir, Ware river watershed, Wachusett watershed, Wachusett reservoir, North and South Sudbury watersheds, Sudbury reservoir, Framingham reservoirs 1, 2 and 3, Blue Hills reservoir, Bear Hill reservoir, Spot Pond reservoir, Fells reservoir, Weston reservoir, Norumbega reservoir, Chestnut Hill reservoir, including land, easements, buildings, structures, all equipment, machinery, vehicles, and appliances, improvements, water rights and rights in source of water supply and (ii) all enlargements and additions to the former metropolitan district commission water system acquired or constructed by the division for the purposes of the watershed system, including land, easements, buildings, structures, equipment, machinery, vehicles, and appliances, improvements, reservoirs, dams, water rights and rights in sources of water supply, but excluding the waterworks system of the authority.

"Watersheds", the natural basin from within which water drains or in natural course would drain into the Quabbin reservoir, the Wachusett reservoir, or the Ware river upstream of the Ware river intake.

Section 2. There shall be within the department a division of water supply protection which shall be subject to chapter 737 of the acts of 1972. The division shall construct, maintain and operate a system of watersheds, reservoirs, water rights and rights in sources of water supply, shall supply thereby a sufficient supply of pure water to the Massachusetts Water Resources Authority, and shall utilize and conserve said water and other natural resources in order to protect, preserve and enhance the environment of the commonwealth and to assure the availability of pure water for future generations. The division shall maintain a visitors' informational center at the Quabbin reservation. All records pertaining to the history of the Swift River and Ware River Valleys, land takings therein, Quabbin Reservoir construction and matters regarding the 4 discontinued towns and extant adjacent communities shall remain accessible to the public at the Quabbin Reservoir administrative facilities in Belchertown, Massachusetts.

The division of water supply protection shall be under the administrative supervision of a director, who shall be called the director of water supply protection. The director shall be responsible for the watershed system formerly under the care, custody and control of the

division of watershed management of the metropolitan district commission, and the watershed system formerly under the care, custody and control of the division of water resources of the department of environmental management.

Section 3. The division shall keep all bridges built by it across the reservoir upon the Nashua river safe, and shall have charge of, use, maintain and operate the same, and the commonwealth shall be exclusively responsible for all damages caused thereby or by any defect or want of repair therein. The department shall have the exclusive right and control over all ponds, reservoirs and other property within the watershed system, and may order all persons to keep from entering in, upon or over the waters thereof and the lands of the commonwealth or towns surrounding the same.

Section 4. The division shall have the exclusive right to and interest in hydroelectricity developed, generated, transmitted, distributed and sold as an incident to the operation of the watershed and waterworks systems, may undertake such projects for such purposes and may authorize or contract with any other person otherwise lawfully qualified for such person to perform on reasonable terms and conditions such activities on behalf of or by arrangement with the division. The division may by lease, license or permit or on its own behalf provide for the installation and operation of electric and telecommunications transmission facilities within said systems, provided that such facilities shall not interfere with the proper operation of said systems and that no lease, license or permit for such purpose shall be made for a term of more than 40 years. Subject to contractual requirements or other legal obligations in force on the effective date of this act, the division shall permit use of water in reservoirs for hydroelectric generation only when and to the extent that water is otherwise subject to release for reasons of sound management of the reservoirs for watershed, waterworks and stream flow purposes. All revenues derived from the activities authorized herein shall annually be remitted by the division to the state treasurer who shall deposit said revenues into the general fund.

Section 5. (a) Any alteration, or the generation, storage, disposal, or discharge of pollutants is prohibited within those portions of the watersheds that lie within 200 feet of the bank of a tributary or surface waters or within 400 feet of the bank of a reservoir.

(b) (1) The uses and activities set forth in paragraph (2) are prohibited within those portions of the watersheds that lie:

(i) within the area between 200 and 400 feet of the bank of a tributary or surface waters;

(ii) within the flood plain of a tributary or waters, including that flood plain;

(iii) within bordering vegetated wetlands that border on tributaries or surface waters, or reservoirs;

(iv) within land that overlays an aquifer with a potential well yield of 100 gallons per minute or more as determined pursuant to subsection (m); or

(v) within land that overlays an aquifer with a potential well yield of one or more but less than 100 gallons per minute pursuant to a finding by the division, in consultation with the department of environmental protection, that regulation of the aquifer is necessary for the

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protection of the quality of the water in the surface waters, aquifers, reservoirs or the tributaries.

(2) The following uses are prohibited within the area regulated by paragraph (1):

(i) the disposal of pollutants from either private or publicly owned sewage treatment facilities;

(ii) the placement of the leaching field of a subsurface waste water disposal system less than 4 feet above the maximum water table level as measured at the time of annual high water;

(iii) the storage of liquid petroleum products of any kind; provided, however, that an end user of such product, such as a resident in connection with normal residential use or a person responsible for supplying heat to a residence, may store a reasonable volume of such material so long as such storage is in a free standing container inside of a structure, which structure shall include at a minimum a foundation thereof with a poured cement slab floor or a concrete reservoir of sufficient volume to hold 125 per cent of the tank's capacity;

(iv) the treatment, disposal, use, generation, or storage of hazardous material or waste, except a reasonable volume of hazardous material or waste, incidental to normal residential use;

(v) the storage and the disposal of solid waste other than a reasonable volume incidental to normal residential use;

(vi) the outdoor storage of road salt or other deicing chemicals; provided, however, that this section shall not prohibit the outdoor storage of sand, gravel, or materials used in road construction which are not hazardous materials or waste;

(vii) the outdoor storage of fertilizers, herbicides, and pesticides;

(viii) the use or storage of pesticides or herbicides which carry a mobility rating as provided for by the United States environmental protection agency or which have been determined by the commonwealth using environmental protection agency standards to pose a threat or potential threat to ground water;

(ix) the outdoor uncovered storage of manure;

(x) the servicing, washing, or repairing of boats or motor vehicles other than as reasonably incidental to normal residential use;

(xi) the operation of junk and salvage yards;(xii) the rendering impervious of more than ten percent of any lot or 2500 square feet, whichever is greater;

(xiii) the excavation of gravel and sand to a depth greater than 6 feet above the maximum water table, except where incidental to the construction of permitted structures;

(xiv) the altering of bordering vegetated wetlands;

(xv) any other activity which could degrade the quality of the water in the watersheds as determined by the division after consultation with the department of environmental protection; provided, however, that de-icing may be performed on a roadway under procedures approved by the secretary of environmental affairs.

(c) This section shall not apply to uses, structures or facilities lawfully in existence

or for which all applicable municipal, state and federal permits and approvals, other than building permits and permits for septic systems, have been obtained prior to July 1, 1992. This section shall not apply to any reconstruction, extension, or structural change to any structure in lawful existence as of said date; provided, however, that such reconstruction, extension, or structural change (i) does not constitute a substantial change to or enlargement of that lawfully existing structure, and (ii) does not degrade the quality of the water in the watershed.

(d) In addition to and without limiting subsection (a) or subsection (b), the construction of a dwelling on land set forth in subsection (b) which exceeds a density of 2 bedrooms per acre is prohibited. No use may generate more than 220 gallons of sanitary sewage per acre per day. In making such calculations all contiguous real property within the area regulated by said subsection (a) or said subsection (b) owned by the same person shall be used in the aggregate to determine the total acreage for density purposes; provided, however, that said area may be so used for determining area density for only 1 parcel.

(e) In addition to and without limiting subsection (a), (b) or (d), the construction of any dwelling which exceeds a density of 1 and 1/3 bedrooms per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of between 100 and 300 gallons per minute as determined pursuant to subsection (m) or land whose regulation has been determined to be necessary for the protection of the quality of the water in the surface waters, aquifers, reservoirs and tributaries pursuant to clause (v) of paragraph (1) of subsection (b). No use may generate more than 147 gallons of sanitary sewage per acre per day.

(f) In addition to and without limiting subsection (a), (b), (d) or (e), the construction of any dwelling which exceeds a density of 1 bedroom per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of over 300 gallons per minute as determined pursuant to subsection (m). No use may generate more than 110 gallons of sanitary sewage per acre per day.

(g) Nothing in subsection (d), (e) or (f) shall be deemed to limit such construction if a sewer system exists prior to July 1, 1992 to which a direct connection shall be made without expansion of capacity and the connection is used for all sanitary sewage of any dwelling or other structure resulting from the construction.

(h) Nothing in this section shall prevent the construction of 1 single family dwelling, on any lot existing as such prior to July 1, 1992 within the areas regulated by this section. Nothing in this section shall prevent any owner occupied lot existing as such on July 1, 1992 from being subdivided into 1 additional lot. Wherever possible there shall be no alterations within the area regulated by subsection (a).

(i) Subsequent to the issuance of regulations as provided for in this section, any person owning an interest in real property located in a community with land that lies within the watersheds, by written request may submit to the division the determination of a land surveyor registered with the board of registration of professional engineers and of land surveyors as to whether such owner's real property interests are located within areas regulated

by this section. The division shall have been deemed to have concurred with the determination unless within 60 days from the submission of the determination the division issues a written notice of denial to the owner. The division shall issue regulations pursuant to section 6 regarding such submissions and any requirements thereto. All surveys and additional materials or studies required to make a determination, whether or not requested by the division, shall be prepared and delivered at the sole cost of the person desiring the determination.

(j) A tributary or portions thereof may be exempted from the provisions of this section, if after taking into account the rate of flow, slope, soil characteristics, proximity to a reservoir or the Ware river above the Ware river intake, the current level of water quality and the current degree of development, the division, in consultation with the department of environmental protection, determines that such exemption poses no significant risk to the quality of the water.

(k) The division, after consultation with the department of environmental protection, shall issue regulations pursuant to section 6 for appealing the inclusion of a location in the areas regulated by this section. It shall be the responsibility of the appellant to prove that the location was improperly included. If the appeal is decided in the appellant's favor, a court of competent jurisdiction shall award to appellant reasonable attorney fees, costs and expenses incurred in the action.

(l) The division, in accordance with procedures for notice and a hearing as provided by chapter 30A, may grant upon appeal or petition with respect to particular uses or structures, and shall grant upon request with respect to crossings of tributaries and bordering vegetated wetlands a variance from the provisions of this section where the division specifically finds that owing to circumstances relating to the soil conditions, slope, or topography of the land affected by such uses or structures, desirable relief may be granted without substantial detriment to the public good and without impairing the quality of water in the watersheds. The division shall issue regulations pursuant to section 6 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record, are necessary to protect the water in the watersheds. The division shall issue regulations pursuant to section 6 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record are necessary to protect the water in the watersheds. The division shall record and index in the grantor index in the registry of deeds or register in the registry district of the land court for the county or district where the land lies, a notice of said variance, and conditions thereto, which notice shall describe the land by metes and bounds or by reference to a recorded or registered plan showing its boundaries.

(m) The location of tributaries and surface waters shall be determined by reference to maps generated by the Massachusetts geographic information service based on the most recent edition of the United States Geological Survey 1 to 25,000 thousand scale quadrangle

maps. The location of flood plains shall be determined by reference to the most recent edition of the flood hazard boundary maps issued by the director of the Federal Emergency Management Agency. The location and the potential well yield of aquifers shall be determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases. The division, in consultation with the department of environmental protection, may adopt more accurate maps pursuant to notice and a public hearing as provided in chapter 30A and shall file such more accurate maps with the clerks of the house of representatives and the senate 90 days prior to such maps taking effect.

(n) This section shall not apply to the division in the performance of its responsibilities and duties to protect the quality of the water in the watersheds, or to the Authority in the performance of its responsibilities and duties to maintain, operate and improve the waterworks system. The provisions of this section shall not apply to activities relating to normal maintenance or improvement of land in agricultural use as defined in section 40 of chapter 131, or regulations promulgated thereunder; provided, however, that such activities do not impair the quality of the water. Nothing in this section shall be construed to limit conversion of land for agricultural use, or preparation of land for agricultural use; provided, however, that such conversion shall be made under a plan approved by the United States Department of Agriculture Soil Conservation Service and the department in consultation with the department of agricultural resources. This section shall not apply to the maintenance, repair, replacement or reconstruction of public roadways existing as of September 1, 1989 or railroad track and rail bed existing as of September 1, 1990, including associated drainage systems, that are necessary to preserve or restore the facility's serviceability for the number of travel lanes and uses existing as of September 1, 1990; provided, however, that in the case of any replacement the design is substantially the functional equivalent of, and is of similar alignments to that which is being replaced; provided, further, that design plans and specifications for said work on roadways, or railroad track and rail beds are provided to the division prior to the work's commencement. This section shall not apply to the construction of public highways, railroad track and rail beds and facilities directly related to their operation; and provided, further, that the secretary of environmental affairs has determined that such highway or transportation service construction project requires direct access to or location in the lands set forth in this section and that said secretary and the division have determined that the construction does not materially impair the quality of the water in the watershed and does not otherwise materially impair the quality of the environment. This section shall not apply to the maintenance, repair or expansion of lawfully located structures or facilities used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services; provided, however, that such maintenance, repair or expansion activities, structures, or facilities do not materially impair the quality of water in the watersheds as determined by the division after consultation with the department of environmental protection. This section shall not apply to the maintaining, repairing or replacing but not substantially changing or

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enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services in bordering vegetated wetlands; provided, however, that such maintenance and repair activities do not materially impair the quality of water in the watersheds. Nothing herein shall limit the ability of a person, municipality, the United States government or the commonwealth to undertake temporary operations to clean up, prevent or mitigate releases of hazardous materials or wastes. This section shall not be construed to limit changes in agricultural crops produced. Nothing in this section shall be construed to limit the use of new or existing agricultural technologies that do not degrade the quality of the water in the watersheds more than the present agricultural technologies that such new or existing agricultural technologies replace.

(o) Upon written request by the division, the department of environmental protection shall have the authority, including the authority to render administrative penalties under section 16 of chapter 21A, to enforce the provisions of this section for violations thereof.

(p) The duties and obligations imposed by this chapter shall be in addition to all other duties and obligations imposed by any other general or special law or regulation.

(q) The division shall hold in at least $\frac{1}{2}$ of the communities in the affected watersheds an informational public hearing, giving notice thereof at least 30 days prior thereto by advertisement in newspapers of general circulation in each such community and by written notification to the boards of selectmen, city councils, or town councils, whichever is appropriate, in each such community. The division, at the time of such hearing, shall make available maps showing the areas affected by this section and shall explain the provisions of this section and the impact this section will have on the affected communities and landowners.

(r) Nothing in this section shall impede or prevent the construction of a new municipal sewer system or new municipal water system if the division determines that water quality will not be adversely impacted from the construction and provided that such new systems comply with all existing regulations and standards applicable to water pollution abatement projects.

Section 6. The division after consultation with the department of environmental protection, shall make rules and regulations by July 1, 1992 and from time to time thereafter for the protection of the watersheds and the watershed system. The regulations shall include provisions that require notice to the department and the division of applications for variances for uses or structures that affect the watersheds. Notice of hearings on the proposed regulations shall be sent to the chief executive officer of all cities and towns within the watersheds and any other cities and towns affected by such regulations. The division shall file copies of the regulations promulgated in accordance with this section with the clerk of the house of representatives and the clerk of the senate and send copies to the chief executive officer of all the cities and towns within the watersheds and any other cities and towns affected by such regulations. The regulations shall not take effect until 60 days have elapsed from the time of said filing. The division shall cause such rules and regulations to be posted

at or near the waters to which they respectively apply, and shall also cause the same to be published at least once in a newspaper published in the county where said waters are in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any senior member of the department of such posting and publication, or of the posting or publication of an order made by the department, shall be prima facie evidence of the posting and publication. A copy of any such rule, regulation or order, attested by any senior member of the department, shall be prima facie evidence that said rule, regulation or order was made by department or by the commissioner, as the case may be.

Section 7. No person shall take or divert any water of the watershed system of the division, and no person shall corrupt, render impure, waste or improperly use any such water.

Section 8. The department, and its employees designated for the purpose, shall enforce sections 1 to 7, inclusive, and the rules, regulations and orders made thereunder, and may enter into any building, and upon any land for the purpose of ascertaining whether sources of pollution there exist, and whether the sections and the rules, regulations and orders made as aforesaid are complied with.

Section 9. Any person who without lawful authority takes or diverts any water from any water supply within the watershed system of the division, or who corrupts or defiles any such water supply, or any source of such water supply, or who injures, destroys or interferes with any property held or used by the authority for the purpose of constructing, operating or maintaining the watershed system, or who violates or refuses to comply with any rule, regulation or order of the department shall be subject to a criminal fine of not more than 50,000 dollars or imprisonment for not more than 1 year; provided, however, that in cases of continuing violation, such maximum fine may be 10,000 dollars per day for each day such violation occurs or continues. Notwithstanding any limitation on criminal penalties set forth in the preceding sentence, any person convicted of the wanton or malicious destruction of or injury to any property used in the construction, operation or maintenance of the watershed system shall also be liable in tort to the department for triple the amount of damages thereby caused. Any such fine or tort judgment shall be payable to the treasury of the commonwealth.

Section 10. The supreme judicial or superior court or any justice of either court shall, on petition of the department or of any town or person interested, have jurisdiction in equity or otherwise to enforce sections 1 to 9, inclusive, and any rule, regulation or order made thereunder, and to prevent any violation of said sections, rules, regulations or orders.

Section 11. The department shall assess the Massachusetts Water Resources Authority for the fiscal year costs of operating the division and other authorized charges relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission, including 100 per cent of the amounts to be paid in that fiscal year in trust by the authority to the division for application to payments in lieu of taxes pursuant to chapter 59, less any and all revenues generated

by the division which shall include, but not be limited to, the sale of hydroelectricity, recreational or permit fees, revenues from the sale of wood products harvested on department watershed lands, and any access fees established pursuant to chapter 436 of the acts of 1990. The assessment shall be established annually by the commissioner of the department. The commissioner of the department shall certify to the executive director of the authority on or before September 15, the current fiscal year obligations due by the authority for the operations of said division relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission. The commissioner shall bill the treasurer of the authority on October 1, January 1, April 1 and June 30 of each fiscal year for said fiscal year's obligations. Within 30 days of receipt of the department bill, the treasurer of the authority shall remit the total billed amount to the commission. Revenues received from the June 30 billing shall be credited to that fiscal year. The commissioner of the department shall forward to the treasurer of the commonwealth the revenues generated by the division which shall be credited to the General Fund.

Section 12. The treasurer of the commonwealth shall charge the Massachusetts Water Resources Authority for the debt service costs of bonds issued pursuant to section 3 of chapter 564 of the acts of 1987 and sections 12 and 13 of chapter 36 of the acts of 1992 for the acquisition of fee simple, development and other rights or interests inland in the areas regulated by the division. The revenue shall be deposited into the general fund for the purposes of meeting said debt service costs, subject to appropriation, for said bonds.

Section 13. The commissioner shall establish the Quabbin watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding fishing, boating and other recreational activities and environmental, wildlife and habitat matters within the Quabbin watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Trout Unlimited, the Quabbin Fisherman's Association, the Worcester County League of Sportsmen, the North Worcester County Quabbin Anglers, the Massachusetts Audubon Society, the Swift River Valley Historical Society, the Massachusetts Wildlife Federation, the New England Sierra Club, and the Friends of Quabbin, Inc.

The commissioner shall also appoint 1 member from the general public. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 14. The commissioner shall establish a Ware river watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding recreational activities, land use and environmental, wildlife and habitat matters within the Ware river watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organi-

zations: the Massachusetts Council of Sportsmen, the Worcester County League of Sportsmen, Trout Unlimited, a rod and gun club located in the town of Barre, Hubbardston, Oakham or Rutland, a designee of the board of selectmen of each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the historical societies in each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the Massachusetts Wildlife Federation, a representative of the Massachusetts Audubon Society, a representative of the Sierra Club, and a representative of the Upper Ware river watershed association and 1 member from the general public.

The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 15. The commissioner shall establish a watershed system advisory committee to advise the division on its policies and regulations regarding fishing, boating, and recreational activities and other environmental and wildlife matters in all of the watershed system areas under the control of the division, exclusive of the Quabbin watershed and the Ware river watershed. The committee shall consist of 9 members, the qualifications of whom shall be determined by regulation by the commissioner. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 16. The commissioner shall at least once every 5 years, adopt after public hearing one or more periodic watershed management plans for the watershed system, which shall have been prepared with the participation of a professionally qualified forester and the appropriate watershed advisory committee. Any watershed management plan shall provide for, but need not be limited to, forestry, water yield enhancement and recreational activities. All forestry activities shall be subject to sections 40 to 46, inclusive, of chapter 132.

Section 17. The department, on behalf of the commonwealth, may take by eminent domain under chapter 79, or acquire by purchase or otherwise, lands in fee, easements, rights and other property that it deems necessary or desirable for carrying out the powers and duties conferred upon it by this chapter relative to the construction, maintenance and operation of the watershed system.

Section 18. The division shall be deemed to be a public entity under section 26A of chapter 21 and shall be eligible for grants and other assistance under the Massachusetts Clean Water Act and other program of federal or state assistance for water supply, or related purposes.

Section 19. The department shall have over the property of the watershed system all the general power and authority, which it has over reservations so far as the same may be exercised consistently with the purposes for which the watershed system is maintained.

Section 20. The division shall not contract for services exclusive of contracts pursuant to any general or special act relating to forest cutting practices and for consultants performing only those services for the division which regular employees of the division are

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unable to perform, to accomplish any of its duties nor shall it enter into any interagency agreement for such purpose. Only officers and employees of the division shall perform its duties.

SECTION 291. Section 1 of chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definitions of "Commission" and "Commissioner".

SECTION 291A. Said section 1 of said chapter 92B, as so appearing, is hereby further amended by inserting after the definition of "Corporation" the following 2 definitions:-

"Director", the director of the division of urban parks and recreation.

"Division", the division of urban parks and recreation.

SECTION 292. Section 2 of said chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in lines 6, 17 and 26, the word "commissioner" and inserting in place thereof, in each instance, the following word:- director.

SECTION 293. Section 5 of said chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in lines 52 and 57, the word "commissioner" and inserting in place thereof, in each instance, the following word:- director.

SECTION 294. Section 8 of said chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word "commissioner" and inserting in place thereof the following word:- director.

SECTION 295. Section 14 of chapter 93 of the General Laws is hereby repealed.

SECTION 296. Section 323F of chapter 94 of the General Laws is hereby repealed.

SECTION 297. The last sentence of paragraph (F) of section 5K of said chapter 111, as appearing in section 1 of chapter 425 of the acts of 2002 is hereby amended by striking out the words "retained revenue account established by the department and used for nuclear power plant environmental monitoring activities" and inserting in place thereof the following words:- "the Radiation Control Trust account".

SECTION 298. Section 20 of said chapter 111, as so appearing, is hereby amended by striking out, in line 5, the words "the metropolitan district commission or".

SECTION 299. Section 24C of chapter 111 of the General Laws is hereby repealed.

SECTION 300. Section 24D of said chapter 111 is hereby repealed.

SECTION 301. Section 24G of said chapter 111 is hereby repealed.

SECTION 302. Section 72N of said chapter 111, as so appearing, is hereby amended by striking out, in line 33, the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office of health and human services.

SECTION 303. The fifth paragraph of section 72Y of said chapter 111, as appearing in section 91 of chapter 184 of the acts of 2002, is hereby amended by striking out, in line 1, the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office of health and human services.

SECTION 304. Section 174A of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- fish and game.

SECTION 305. Section 175 of said chapter 111, as so appearing, is hereby amended by striking out the last sentence.

SECTION 306. Chapter 112 of the General Laws is hereby amended by inserting after section 39B the following section:-

Section 39C. The board may, upon application, made in such manner and form as it shall determine, register an establishment for transacting business as a long-term care pharmacy or home fusionist pharmacy, and issue to such entity as it deems qualified to conduct long-term care pharmacy or home fusionist, a permit to operate. The board may deny such registration and refuse to issue such permit, if, in its reasonable discretion, such entity would be inconsistent with or opposed to the best interests of the public health, welfare or safety, but no such registration shall be made or permit issued in the case of a corporation, as defined in section 30 of chapter 63 unless it shall appear to the satisfaction of the board that the management of such entity is controlled solely by a registered pharmacist. Such permit shall expire on December 31 of each uneven numbered year following the date of its issue, and the fee therefore, shall be determined annually by the commissioner of administration under section 3B of chapter 7. The board, in consultation with the department of public health shall promulgate regulations pertaining to the operation of long-term care and home fusionist pharmacies in the commonwealth subject to section 2 of chapter 30A. Said board shall determine which regulations, applicable to a retail drug business under section 39 shall apply to long-term care or home fusionist pharmacies. The board shall, within 150 days after the filing of an application, render a final decision denying or allowing registration. Failure to render such decision, except when such failure to act is caused by the delay of the applicant, shall constitute an approval of the application and permit shall be issued. For the purposes of this section, the term long-term care pharmacy shall mean a pharmacy which dispenses pharmaceuticals, sterile intravenous drugs and nutritional products ordered by physicians to patients in nursing homes, assisted living facilities, hospice programs and similar institutional sites of care. For the purposes of this section, the term home fusionist pharmacy shall mean a pharmacy which dispenses sterile intravenous drugs ordered by physicians to patients in their homes.

SECTION 307. Section 5 of chapter 115A of the General Laws, as so appearing, is hereby amended by inserting after the words "hospitalization in," in line 5, the following words:- including an increase in any charges, subject to the approval of the secretary of health and human services in.

SECTION 308. Chapter 118E of the General Laws is hereby amended by striking out sections 1 to 5, inclusive, as so appearing, and inserting in place thereof the following 2 sections:-

Section 1. The executive office for health and human services shall be the single state

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agency responsible for the administration of programs of medical assistance and medical benefits established pursuant to this chapter. All actions of the executive office of health and human services shall be taken by the secretary acting as the single state agency, through the division of medical assistance and the secretary of elder affairs, as appropriate.

Section 2. All powers and duties established pursuant to this chapter shall be exercised by the secretary of health and human services, through the division of medical assistance and the secretary of elder affairs, as appropriate.

SECTION 309. Section 6 of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 2 and 13, the word "division" and inserting in place thereof, in each instance, the following words:- "executive office".

SECTION 310. Said section 6 of said chapter 118E, as so appearing, is hereby further amended by striking out, in lines 4 and 6, the word "commissioner" and inserting in place thereof, in each instance, the words:- secretary of health and human services.

SECTION 311. Section 7 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "division", in line 2, the following words:- or the department of elder affairs, as appropriate.

SECTION 312. Section 8 of said chapter 118E, as so appearing, is hereby amended by striking out the clauses a. and b. and inserting in place thereof the following 5 clauses:-

a. "Commissioner", the commissioner of medical assistance or the secretary of elder affairs, as appropriate.

a½. "Department", the department of elder affairs.

a¾. "Division", the division of medical assistance within the executive office of health and human services; but for the purposes of sections 9 to 52, inclusive, a reference to the word "division" shall mean the department of elder affairs, whenever appropriate.

b. "Executive office", the executive office of health and human services.

b½. "Institution", a licensed hospital, nursing home or public medical institution that meets the requirements of the secretary.

SECTION 313. Section 9 of said chapter 118E, as so appearing, is hereby amended by adding the following sentence:- The division may charge premiums to eligible persons as a condition of receiving benefits, to the extent permitted by Title XIX. The division shall establish the premiums based on a sliding scale commensurate with beneficiary income levels.

SECTION 314. Section 9A of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 66 and 67, the words "and who fall within the definition of traditional beneficiaries, including those individuals who received medical assistance".

SECTION 315. Said section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out, in line 109, the figure "200" and inserting in place thereof the following figure:- 133.

SECTION 316. Subsection (3) of said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out, in line 117, the letter "(g)" and inserting in place

thereof the following letter:- (i).

SECTION 317. Said chapter 118E is hereby further amended by inserting after section 9D the following:-

Section 9E. The secretary of health and human services may apply for authority from the secretary of the United States Department of Health and Human Services, pursuant to section 1115 of the Social Security Act that authorizes the secretary to waive provisions of Title XIX of the Social Security Act, to implement measures that: (1) change to a later date the time currently provided by federal law for starting the penalty periods for persons who transfer assets for less than fair market value; (2) require excess assets to be spent on health care or other necessary living expenses; (3) to treat annuities similarly to trusts and require the commonwealth to be a beneficiary to the extent of MassHealth benefits provided; and (4) increase look-back periods, for real estate transfers and transfers into irrevocable trusts; provided that any changes implemented as a result of a waiver authorized by this section shall not apply to new applications submitted before the effective date of this section or the effective date of any waiver granted, whichever is later; and provided further, that transfers of assets up to \$300,000 from a primary residence shall not be affected by such waiver. The division or the department of elder affairs, as appropriate, may by regulation implement one or more of such measures under the terms and conditions approved by the secretary, provided that the division or the department, as appropriate, shall waive such measures to address hardships as determined by the division or department.

SECTION 318. Said chapter 118E is hereby further amended by inserting after section 10D, the following section:-

Section 10E. The division shall establish a program of medical care and assistance for pregnant women and infants who are not otherwise eligible for medical assistance under chapter 118E and who lack private health insurance coverage or have health insurance coverage which does not cover all medically necessary care covered by the program established by this section. The division shall furnish such medical assistance to each such pregnant woman and infant residing in the commonwealth in accordance with standards of eligibility established by the division; provided, however, that the income eligibility standards shall not be more than 200 per cent of the non-farm income poverty guidelines defined by the United States Office of Management and Budget.

Assistance furnished pursuant to this section shall be limited to the following care and services; provided, however, that unless otherwise specified to the contrary no payment shall be allowed for inpatient hospitalization:

- (i) all medically necessary care to maintain health during the course of the pregnancy and delivery, including newborn hospital care;
- (ii) all medically necessary postpartum obstetric and gynecological care;
- (iii) newborn care, including one postpartum pediatric ambulatory visit; and
- (iv) outreach services designed to identify and encourage the participation of pregnant women and infants in this program.

The division shall ensure that all women who appear to be eligible for medical assistance under said chapter 118E are assisted in enrolling for such coverage.

The division shall promulgate and, from time to time, amend regulations detailing eligibility criteria, services to be covered in conformity with appropriate standards of care, and reimbursement policies.

Notwithstanding section 3 of chapter 6B or any other law to the contrary, no acute hospital shall deny access to care and services to recipients of the healthy start program established by this section; provided, however, that such recipients shall be exempt from any collection action, pre-admission deposit or any other form of billing or collection procedures arising from treatment by an acute care hospital provided under the healthy start program; and provided further, that a healthy start card shall constitute sole verification of application and eligibility for free care for inpatient hospital services. The program established herein shall be known as the healthy start program.

SECTION 319. Said chapter 118E is hereby further amended by inserting after section 10E the following section:-

Section 10F. (a) There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age eighteen; provided, however, that only said youths who are ineligible for medical benefits pursuant to this chapter shall be eligible for the services defined in this section. Said program shall be administered by the division subject to appropriation from the Children's and Seniors' Health Care Assistance Fund established pursuant to the provisions of section 2FF of chapter 29 and other appropriated funds. The comptroller shall transfer amounts appropriated from the General Fund or any other fiscal resource of the commonwealth designated for health care services provided to said youths from birth to age 12, inclusive, to said Children's and Seniors' Health Care Assistance Fund. Services available from the program shall include the following:-

(1) preventive pediatric care in a participating doctor's office, community health center, health maintenance organization or school-based clinic, including not less than one well-child visit a year, immunizations, tuberculin testing, hematocrit, hemoglobin and other appropriate blood testing, urinalysis, and routine tests to screen for lead poisoning, and such services as are periodically recommended by the American Academy of Pediatrics; provided that services provided by a participating independent laboratory for diagnostic laboratory tests shall be reimbursed by said program;

(2) unlimited sick visits in a participating doctor's office, community health center, health maintenance organization, school-based clinic or a patient's home;

(3) first-aid treatment and follow up care, including the changing or removal of casts, burn dressings or structures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;

(4) the provision of smoking prevention educational information and materials to the parent, guardian or person with whom an enrollee resides.

(b) Services made optionally available under said program may include the following:

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(1) prescription drugs up to \$200 per year; provided, however, that enrollees shall be responsible for a copayment of \$3 for each interchangeable drug prescription and \$4 for each brand name drug prescription; provided, further, that the division may authorize a higher prescription benefit level for any person enrolled in said program for which said higher benefit will prevent hospitalization.

(2) urgent care visits in the outpatient department of a participating hospital when an enrollee's primary care practitioner is not available to provide such services, and emergency care in the outpatient department or emergency department of a participating hospital of up to \$1,000 per year, including related laboratory and diagnostic radiology services for said urgent and emergency care, provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the department or its designated vendor;

(3) outpatient surgery and anesthesia which is medically necessary for the treatment of inguinal hernia and ear tubes, but not including the professional component for related radiology or pathology services; provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the division or its designated vendor;

(4) annual and medically necessary eye examinations;

(5) medically necessary outpatient mental health services not to exceed 13 visits per year; provided, however, an additional 7 outpatient visits may be approved by the division when clinically necessary according to program guidelines; provided further, that no such mental health services shall be provided by the division that would substitute for mental health services required pursuant to chapter 71B;

(6) dental health services, including preventive dental care; provided, however, that no funds shall be expended for cosmetic or surgical dentistry;

(7) durable medical equipment up to \$200 per year; provided, however, the division may authorize up to \$500 per year to prevent unnecessary hospitalization for children with chronic medical conditions, so-called, when clinically necessary according to program guidelines; and

(8) auditory screening.

(c) The division shall establish cost-containment measures designed to ensure that only medically necessary services are reimbursed by said program. Should costs of said program exceed the appropriated funds, the division shall limit enrollment rather than reducing benefits.

(d) The cost of said program shall be funded in part by premiums contributed by enrollees according to the following eligibility categories: households ineligible for medical benefits pursuant to chapter 118E earning less than 150 per cent of the federal poverty level shall not be responsible for contributing to program premium costs; households earning between 150 and 200 per cent of the federal poverty level, inclusive, shall contribute not less than 20 per cent and not more than 30 per cent of the monthly premium cost according to a sliding scale established by the division; provided, that additional contributions shall not be

required for any enrollee after the third enrollee in such a household; households earning between 200 and 400 per cent of the federal poverty level shall pay a monthly premium of \$45.32, provided that premium amounts in this category may be adjusted from time to time by the division; provided, that enrollees in households earning more than 400 per cent of the federal poverty level shall pay the full premium cost of said program. Household earnings may be defined on the basis of gross earnings, or on an adjusted basis according to criteria deemed appropriate by the division. The department shall base premium costs on an actuarially sound methodology.

(e) Notwithstanding the premium contribution requirements established by this section, no enrollee shall be exempt from the co-payment requirements established herein or by the division. Said co-payments shall be designed to encourage the cost-effective and cost conscious use of said services.

(f) The division shall promulgate regulations necessary to implement the requirements of this section and shall maximize federal financial participation for state expenditures made on behalf of program enrollees.

(g) The division shall report quarterly to the house and senate committees on ways and means and to the joint committee on health care on enrollment demographics, claims expenditures and the annualized costs of said program. The division shall file notice with said committees and the secretary of the executive office of administration not less than thirty days before modifying program benefits and eligibility standards that are intended to ensure that program costs are limited to the funds appropriated therefore.

(h) The program established by this section shall not give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein and nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement.

SECTION 320. The first paragraph of section 12 of chapter 118E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following two sentences:- The division or department, as appropriate, shall adopt and amend regulations, in accordance with chapter 30A, for the administration of its duties and powers and to effectuate the provisions and purposes of this chapter. Regulations which restrict coverage or covered services shall be adopted only after public notice and hearing.

SECTION 321. Subsection (2) of section 16D of said chapter 118E, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 10 to 12, inclusive, the words "which shall not be less than the same benefits provided on July 1, 1997 to the eligibility group described in clause (g) of subsection (2) of section 9A,".

SECTION 322. Said section 16D of said chapter 118E, as so appearing, is hereby further amended by adding the following 4 subsections:-

(3) Benefits for aliens under this section shall not be provided to persons age 19 or older; but the benefits shall not be terminated for persons described in clauses (i), (ii), (iii) and (iv) of subsection (2).

(4) Before termination of eligibility under the authority of subsection (3), the division

shall review eligibility to assure that all federally eligible aliens are identified and their costs of coverage reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law.

(5) The division shall review all claims for services to aliens to assure that all emergency services are reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law, including coverage for chronic medical conditions, which, if left untreated, could reasonably be expected to place the persons' health in serious jeopardy, cause serious impairment to bodily functions or cause serious dysfunction of any bodily organ or part.

(6) Notwithstanding subsection (3), if appropriations permit, the division shall determine eligibility in accordance with subsection (1) and (2).

SECTION 323. Section 21A of said chapter 118E, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) In making determinations under this section, the division shall revise the community spouse resource allowance as permitted or required by federal law. Either spouse shall have the right to request a fair hearing at which, if it is shown that the income of the community spouse is less than the minimum monthly maintenance needs allowance of the community spouse, the referee shall revise the community spouse resource allowance, using methods permitted or required by federal law, to a level sufficient to generate the shortfall in income. The division shall calculate interest income on the investment of the community spouse resource allowance using the rates reported in the Bank Rate Monitor Index on the date of the hearing.

SECTION 324. Section 22 of said chapter 118E, as most recently amended by section 25 of chapter 177 of the acts of 2001, is hereby further amended by adding the following paragraph:-

Notwithstanding any general or special law or rule or regulation to the contrary, all insurers doing business in the commonwealth, shall provide information requested by the department of transitional assistance and the division of medical assistance for use by those agencies for the purpose of recovering public assistance benefits under this section and section 5G of chapter 18.

SECTION 325. The sixth paragraph of section 23 of said chapter 118E of the General Laws, as amended by section 26 of chapter 117 of the acts of 2001, is hereby amended by adding the following sentence:- All public and private entities who employ individuals in the commonwealth shall provide, when requested by any employee applying for or receiving benefits provided by the division, written information to the employee describing the availability of health insurance, if any, provided by or through the employer. The failure of an employer to provide an employee with the information shall not be grounds for denial of benefits by the division.

SECTION 326. The last paragraph of section 25 of said chapter 118E of the General Laws, as amended by said section 98 of said chapter 184 of the acts of 2002, is hereby further

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amended by striking out the last sentence and inserting in place thereof the following sentence:- The division may also require, to the extent permitted by federal law, that recipients be liable for a co-payment of up to \$3 for all other covered services with the exception of mental health and substance abuse services. The division shall establish a per member out-of-pocket cap for all co-payments.

SECTION 327. The second sentence of the last paragraph of section 25 of said chapter 118E, as amended by section 98 of chapter 184 of the acts of 2002, is hereby further amended by striking out the figure "\$2" and inserting in place thereof the following:- up to \$3.

SECTION 328. Said section 25 of said chapter 118E is hereby further amended by adding the following paragraph:-

Nothing in this chapter shall preclude the division from using asset standards in determining the financial eligibility for any benefit; but the division shall submit to the house and senate committees on ways and means and the joint committee on health care a report of changes in asset standards within 30 days of implementation, and shall submit 4 quarterly reports, beginning 3 months after any new asset standards are implemented, detailing the effect the standards on the number of people applying for or terminated from MassHealth.

SECTION 329. Section 31 of said chapter 118E, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following two subsections:-

(c) This subsection shall apply to the estates of individuals dying prior to July 1, 2003. For purposes of this section, "estate" shall mean all real and personal property and other assets includable in the decedent's probate estate under the General Laws.

(c½) This subsection shall apply to the estates of individuals dying on or after July 1, 2003. For purposes of this section, "estate" shall mean any interest in real and personal property and other assets in which the individual immediately prior to death had any legal title or interest, to the extent of such interest. This includes interests in real and personal property and other assets that would pass to a survivor, heir, or assignee of the decedent through joint tenancy, tenancy by the entirety, life estate, living trust, right of survivorship, beneficiary designation, or other arrangement.

SECTION 330. Said chapter 118E is hereby further amended by striking out section 32, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 32. (a) Notwithstanding any general or special law to the contrary, a petition for admission to probate of a decedent's will or for administration of a decedent's estate shall include a sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within 30 days of a request by the division, or upon their own initiative, an executor or administrator of the probate estate, or the family, guardian, conservator, or heirs of a decedent shall complete and send to the division by certified mail on a form prescribed by the division information about all real and personal property and other assets in which the decedent immediately prior to death held any legal title or interest,

including the identity and addresses of all persons and entities to whom legal title or interest passed, and shall provide such further information as the division may require.

In the event a petitioner fails to send copies of the petition and death certificate to the division, or the executor or administrator or the family, guardian, conservator, or heirs of a decedent fail to complete and send the form prescribed by the division, and the decedent received medical assistance for which the division is authorized to recover under section 31, any person receiving a distribution of assets from the decedent's estate or any person or entity to whom the decedent's legal title or interest passed, shall be liable to the division to the extent of such distribution. Further, in the case of real and personal property and other assets not includable in the decedent's probate estate under the General Laws, if the form received by the division fails to disclose the existence of any assets or property in which the decedent immediately prior to death held any legal interest or title, and the identity and address of the person or entity to whom legal title or interest passed, said form shall not be considered a completed form and the time period for the division to present its claim against said assets and property shall not begin to run under clause (2) of subsection (b) until such information is received by the division.

(b) The division may present claims after an individual's death as follows:

(1) With respect to claims against all real and personal property and other assets includable in the decedent's probate estate under the General Laws, the division may:

(i) within 4 months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or

(ii) within 1 year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(2) With respect to claims filed against any real and personal property and other assets not includable in the decedent's probate estate under the General Laws, but in which the decedent immediately prior to death had any legal title or interest, the division may within 1 year of date of death, or within 4 months of receipt of the completed form prescribed under (a), whichever is later, deliver or mail a written statement of the amount claimed to the last known address of the person or entity to whom the decedent's legal title or interest passed, and in the case of real property, file written notice of the claim with the registry of deeds where the property lies. The claim shall be deemed presented upon the delivery or mailing of the written statement to the last known address of the person or entity to whom the decedent's legal title or interest passed, or in the case of real property, the date notice is filed with the registry of deeds. Notice filed with the registry of deeds shall include the name and social security number of the decedent, the amount of the claim, the name of the then current record owner or owners, and the book and page number or certificate number of the instrument of title. No claim or lien under this section shall be valid against any bona fide purchaser for value taking title prior to the date said notice referring to the affected real property has been recorded in the registry of deed in the county or registry district where the

real property is located, or against any successor to such purchaser, nor shall it affect the interest of any person for whom a mortgage or other lien has been recorded prior thereto, or of any successor to said person; and there shall be no right of recovery against such purchaser or the holder of such interest, or their successors. In the case of annuities and life insurance policies held on the life of a decedent age 55 or older, the company or institution holding the asset shall prior to making payment to a survivor, designated beneficiary or other person or entity notify the division to determine whether the decedent had received medical assistance subject to recovery under section 31. The notice shall include the name, address, date of birth, and social security number of the decedent, the name and address of the survivor, designated beneficiary, or other person or entity seeking payment, and such other information appearing in the company's or institution's files as the division may require. The division shall respond to such notice within 10 days of receipt. If the division had provided assistance subject to recovery under section 31, the division's response shall operate as a lien to secure repayment of its claim. If the company or institution disburses funds prior to 14 days after sending notice to the division, or at anytime while the division has a lien against such funds, the company or institution shall be liable to the division to the extent of the value of the asset or the amount of the division's claim, whichever is less. Notwithstanding the foregoing, the company or institution may disburse funds prior to 14 days if it receives notice from the division that no assistance subject to recovery under section 31 was provided. If the individual or entity to whom the decedent's legal title or interest passed transfers or sells said property or asset prior to the division presenting its claim, that individual or entity shall be held personally liable to the division to the extent of the value of the decedent's legal title or interest, and in the case of real property, no written notice of the claim need be filed with the registry of deeds.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator, or the person or entity to whom legal title or interest passed, if the property or asset is not includable in the probate estate of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom the notice was sent, shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31

do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom notice was sent, shall have an additional 60 days to mail notice to the division under clause (1) of subsection (d).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery while the circumstances and conditions for undue hardship continue to exist or as provided for under its regulations.

(g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing as follows:

(1) In the case of a claim against the probate estate, four months plus 60 days after approval of the official bond of the executor or administrator.

(2) In the case of a claim against property or assets not includable in the probate estate, 60 days after (i) the written statement was mailed to the person or entity to whom the decedent's legal title or interest passed, or (ii) in the case of real property, the date notice is filed with the registry of deeds, whichever is later.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) or (3) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division cease to exist. The executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom legal title or interest passed, shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) or (3) notice, and upon request by the division, shall provide updated documentation verifying that the circumstances or conditions continue to exist.

If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required. Where the claim is against property or assets not includable in the probate estate, the division may commence

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such action against the person or entity to whom legal title or interest passed.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:

(1) the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than 1 year has passed from the decedent's date of death, the division may designate a public administrator to be appointed and to serve pursuant to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator, or the person or entity to whom legal title or interest passed, wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator, or the person or entity to whom legal title or interest passed, agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim.

(k) If there are probate assets includable in the decedent's probate estate under the General Laws, as well as other real and personal property and assets, not includable in the decedent's probate estate, the division's claim to the extent possible shall be satisfied from the probate estate. Notwithstanding the foregoing, the division's right to recover against the decedent's interest in property or assets not includable in the probate estate shall not be delayed. To the extent recovery is later received from the probate estate, any excess amount recovered shall be distributed on a pro rata basis to any individuals or entities to whom the decedent's legal title or interest title passed outside the probate estate and from whom the division has already recovered.

SECTION 331. Section 51 of said chapter 118E, as so appearing, is hereby amended by striking out, in line 15, the word "review" and inserting in place thereof the following words:- related activities.

SECTION 332. Section 1 of chapter 118G of the General Laws is hereby amended by inserting after the definition of "Comprehensive cancer center" the following definition:-

"Critical access services", those medically necessary health care services which are generally provided only by acute hospitals, as further defined in regulations promulgated by the division.

SECTION 333. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Eligible person" the following three definitions:-

"Emergency bad debt", bad debt related to emergency services provided by an acute hospital to an uninsured individual.

"Emergency medical condition", a medical condition, whether physical or mental, manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of prompt medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine, to result in placing the health of the person or another person in serious jeopardy, serious impairment to body function, or serious dysfunction of any body organ or part, or, with respect to a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. section 1395dd(e)(1)(B).

"Emergency services", medically necessary health care services provided to an individual with an emergency medical condition.

SECTION 334. Said section 1 of chapter 118G of the General Laws, as so appearing, is hereby further amended by inserting after the definition of "Enrollee" the following definition:-

"Executive office", executive office of health and human services.

SECTION 335. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by striking out the definition of "Free care" and inserting in place thereof the following definition:-

"Free care", the following medically necessary services provided to individuals determined to be financially unable to pay for their care, in whole or in part, pursuant to applicable regulations of the division: (1) emergency, urgent, and critical access services provided by acute hospitals; (2) services provided by community health centers; and (3) patients in situations of medical hardship in which major expenditures for health care have depleted or can reasonably be expected to deplete the financial resources of the individual to the extent that medical services cannot be paid, as determined by regulations of the division.

SECTION 336. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by striking out the definition of "Private sector charges" and inserting in place thereof the following definition:-

"Private sector charges", gross patient service revenue attributable to all patients less gross patient service revenue attributable to Titles XVIII and XIX, other publicly aided patients, free care and bad debt. For the purposes of determining a hospital's liability to the

Uncompensated Care Trust Fund under this Chapter, regardless of actual Title XVIII gross patient service revenue, Title XVIII gross patient service revenue will be attributed to any free standing pediatric hospital before determining private sector charges. Such attributed revenue will equal the average Title XVIII gross patient service revenue as a percent of total gross patient service revenue for all hospitals in the state excluding free standing pediatric hospitals. This average percent is to be applied against a free standing pediatric hospital's total gross patient service revenue to determine the attributed Title XVIII gross patient service revenue at such hospital before determining private sector charges.

SECTION 337. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Resident" the following definition:-

"Secretary", the secretary of health and human services.

SECTION 338. The second paragraph of section 2 of said chapter 118G, as so appearing, is hereby amended by striking out clause (b).

SECTION 339. Said chapter 118G is hereby further amended by inserting after section 2 the following section:-

Section 2A. The secretary shall establish rates of payment for health care services. The secretary shall have the sole responsibility for establishing rates to be paid to providers for health care services by governmental units, including the division of industrial accidents. The rates shall be adequate to meet the costs incurred by efficiently and economically operated facilities providing care and services in conformity with applicable state and federal laws and regulations and quality and safety standards and which are within the financial capacity of the commonwealth. The secretary shall have the sole responsibility for establishing fair and adequate charges to be used by state institutions for general health supplies, care and rehabilitative services and accommodations, which charges shall be based on the actual costs of the state institution reasonably related, in the circumstances of each institution, to the efficient production of the services in the institution and shall also have sole responsibility for determining rates paid for educational assessments conducted or performed by psychologists and trained, certified educational personnel pursuant to the tenth paragraph of section 3 of chapter 71B, notwithstanding any general or special law or rule or regulation to the contrary.

SECTION 340. Section 7 of said chapter 118G, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1, 17, 25, 40, 41, 58, 74, 89, 90, 91, 97, 109, 111, 115, 121, 124, 126, 127, 135, 137 and 138, 153, 160, 164, 168, 171, 173, 176, 179, 181, 182, 183, 194 and 197 the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

SECTION 341. The tenth paragraph of said section 7 of said chapter 118G, as appearing in section 100 of chapter 184 of the acts of 2002, is hereby amended by striking out the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:- executive office.

SECTION 342. Said section 7 of said chapter 118G, as appearing in the 2000 Official Edition, is hereby further amended by striking out, in line 177 the word "division's" and inserting in place thereof the following words:- executive office's.

SECTION 343. Said section 7 of said chapter 118G of the General Laws, as most recently amended by section 100 of chapter 184 of the acts of 2002, is hereby further amended by striking the twelfth paragraph.

SECTION 344. Section 8 of said chapter 118G, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7, 10 and 17, the word "division" and inserting in place thereof the following word:- secretary.

SECTION 345. Section 9 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 3, 21, 31, 35, 41 and 42 the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:- executive office.

SECTION 346. Section 10 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 10 and 17, the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

SECTION 347. Said section 10 of said chapter 118G, as so appearing, is hereby further amended by inserting after the word "division", in line 19, the following words:- or executive office.

SECTION 348. Section 11 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 54 and 80, the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office.

SECTION 349. Said section 11 of said chapter 118G, as so appearing, is hereby further amended by striking out, in lines 57, 80 and 107, the word "division" and inserting in place thereof the following words:- executive office.

SECTION 350. Section 12 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 1 and 19, the word "division" and inserting in place thereof, in each instance, the following words:- executive office.

SECTION 351. Section 15 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "division of health care finance and policy" and inserting in place thereof the following words:- executive office.

SECTION 352. Section 17 of said chapter 118G, as so appearing, is hereby amended by striking out, in line 2, the word "division" and inserting in place thereof the following words:- executive office.

SECTION 353. Subsection (a) of section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The purpose of said fund is to reimburse hospitals and community health centers for care provided to low-income, uninsured and underinsured residents of the commonwealth.

SECTION 354. Subsection (i) of said section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the fifth sentence and inserting the place thereof

the following sentence:- The division shall implement a utilization review program designed to monitor the appropriateness of services paid for by said pool and to promote the delivery of care in the most appropriate setting; provided, further, that the division may deny payment from the pool for services which it determines are not medically necessary.

SECTION 355. Subsection (k) of said section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences:- The division, in conjunction with the division of medical assistance, shall promulgate regulations to develop and implement procedures to verify the eligibility of individuals for free care and to ensure that other coverage options are utilized fully before free care is granted. Said regulations shall require that the division of medical assistance review all applications for free care to determine whether the applicant is eligible for medical assistance pursuant to chapter 118E and whether any third party is financially responsible for the costs of care provided to the applicant.

SECTION 356. Subsection (l) of said section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The division shall enter into interagency agreements with the department of revenue to verify income data for recipients of free care and to recover payments made by the pool on behalf of individuals who are ineligible for free care or on whose behalf the pool has paid for emergency bad debt.

SECTION 357. Said subsection (l) of said section 18 of said chapter 118G, as so appearing, is hereby further amended by adding the following paragraph:-

The division shall promulgate regulations requiring acute hospitals to submit data that will enable the department of revenue to pursue recoveries from individuals who are ineligible for free care payments and on whose behalf the pool has made payments to acute hospitals for emergency bad debt.

SECTION 358. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out subsection (m) and inserting in place thereof the following subsection:-

(m) The division shall deposit any amounts received pursuant to chapter 62D in the Uncompensated Care Trust Fund to reimburse the uncompensated care pool for expenditures made for persons who received free care through said pool or on whose behalf the pool paid emergency bad debt and who, upon review, were determined to be ineligible for free care based upon applicable income standards.

SECTION 359. Subsection (n) of said section 18 of said chapter 118G, as so appearing, is hereby amended by adding the following paragraph:-

The division shall establish fines or penalties not to exceed \$10,000 per diversion for any hospital which diverts a free care patient from care at the hospital without the consent of the hospital to which the patient is being diverted. Any amount collected shall be deposited into the Uncompensated Care Trust Fund.

SECTION 360. Subsection (c) of section 25 of said chapter 118G, as appearing in chapter 184 of the acts of 2002, is hereby amended by adding the following sentence:- The division may require additional reports, including but not limited to monthly census data, as it considers necessary to monitor collections and compliance.

SECTION 361. (A) Subsection (a) of section 26 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the definition of "Pharmacy" and inserting in place thereof the following definition:-

"Pharmacy," any provider of "outpatient prescription drugs" within the class of providers of such services under 42 U.S.C. section 1396b(w)(7)(A)(vii) that dispenses drugs to individuals pursuant to a prescription, including any pharmacy or retail drug business as defined in section 1 of chapter 94C, hospital outpatient pharmacies, community health center pharmacies, clinic pharmacies, and any other providers that the division determines must be included for the assessment to qualify as a broad-based health care related fee under 42 U.S.C. 1396b(w)(3)(B).

(B) Section 186 of chapter 184 of the acts of 2002 is hereby repealed.

(C) By the enactment of subsection (A), the general court clarifies its original intention that the assessment established in section 26 of chapter 118G shall be imposed on all providers of outpatient prescription drugs necessary to satisfy the requirements for a broad-based health care related fee under 42 U.S.C. section 1396b(w)(3)(B). By the enactment of subsection (B), the general court clarifies its original intention that federal financial participation be available for MassHealth expenditures funded in part or in whole by revenues collected from the assessments established in sections 25 and 26 of chapter 118G, but that there be no procedural barriers to collecting such assessments and making such expenditures.

(D) This section shall take effect as of July 1, 2002.

SECTION 362. Subsection (c) of said section 26 of said chapter 118G, as so appearing, is hereby amended by adding the following sentence:- The division may require additional reports as it considers necessary to monitor collections and compliance.

SECTION 363. The third sentence of subsection (d) of said section 26 of said chapter 118G, as so appearing, is hereby amended by striking out the words "nursing home" and inserting in place thereof the following word:- pharmacy.

SECTION 364. Section 2 of chapter 119A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) In carrying out said responsibilities, the IV-D agency may expend such funds necessary for public information, including paid advertisements and outreach programs to advise the public of the services available through the agency to establish, modify, or enforce orders of child support, and to publicize the availability and to encourage the use of procedures for voluntary acknowledgment of paternity and of other IV-D services. Any penalty, fee or interest that this chapter authorizes to be assessed by the IV-D agency shall be collected and enforced by any means authorized under this chapter for the enforcement

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and collection of child support. Upon collection, a penalty or fee shall be retained by the IV-D agency; but the penalties or fees may only be expended subject to appropriation. Upon collection, interest shall be distributed to the obligee.

SECTION 365. Section 11 of chapter 120 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, and in line 17, the words "commissioner of environmental management" and inserting in place thereof, in each instance, the following words:- commissioner of conservation and recreation.

SECTION 366. The first paragraph of section 32 of said chapter 121B, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 5 sentences:- To this end, an authority shall fix the rents for dwelling units in its projects in accordance with regulations issued by the department, so that no tenant shall be required to pay a rental of more than 32 percent of his income if heat, cooking fuel and electricity are provided by the authority, 30 percent of his income if one or more utility is provided, or 27 percent of his income if such utilities are not provided; provided however, that in calculating the amount of such rental, an authority may round the amount of such rental payment to the nearest whole dollar. Notwithstanding the provisions of section 49 of chapter 271, the authority may impose a late penalty of \$25 for failure to pay rent due. For the purpose of determining continued eligibility, pursuant to regulations of the department, the authority shall determine the appropriate unit size based on the composition of each tenant household. If a tenant is determined to be overhoused, such tenant shall be subject to transfer to a unit of appropriate size, as required by the lease. If an overhoused tenant household refuses a transfer to an available unit of appropriate size, the tenant shall be subject to a minimum rental fee of 150 percent of the tenant's rent.

SECTION 367. Section 1 of chapter 124 of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(u) adopt policies and procedures establishing reasonable fees for maintenance and administration of inmate accounts maintained at any state correctional facility. The commissioner may charge each inmate reasonable fees for the maintenance and administration of inmate accounts and may deduct such fees from each inmate's accounts.

SECTION 368. The parole board shall assess upon every person granted a parole permit a monthly parole supervision fee of \$50, hereinafter referred to as a "parole fee". Said, person shall pay said parole fee once each month during such time as said person remains on parole. The parole board shall develop a schedule for the monthly payment of said fee for each parolee that is assessed. The parole board may waive payment of said parole fee only if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during, the period of time that said person is determined to be unable to pay the monthly parole fee. The parole board shall establish procedures relative to the collection and waiver of such fee by regulation. Said parole fee shall be collected by the parole board and shall be transmitted to the treasurer for deposit into

the General Fund. The parole board shall account for all such fees assessed, received and waived and shall report such data annually to the secretary of administration and finance and the house and senate committees on ways and means.

The parole board shall also assess upon every such person granted a parole permit a monthly parolee victim services surcharge of \$5, hereinafter referred to as a "parolee victim services surcharge". Said person shall pay said parolee victim services surcharge once each month at such time as said person pays the \$50 parole fee required by this section. The parole board may waive payment of said surcharge only if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that said person is determined to be unable to pay the monthly parolee victim services surcharge. The parole board shall establish procedures relative to the collection and waiver of such fee by regulation. Said parolee victim services surcharge shall be collected by the parole board and shall be transmitted to the treasurer for deposit into the General Fund. The parole board shall account for all such fees assessed, received and waived and shall report such data annually to the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 369. Section 83A of chapter 127 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 4 and 5, lines 8 to 10, inclusive, and in lines 16 to 18, inclusive the words "commissioner of environmental management or the metropolitan district commission, as the case may be" and inserting in place thereof, in each instance, the following words:- commissioner of conservation and recreation.

SECTION 370. Said section 83A of said chapter 127, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "under the control of the metropolitan district commission" and inserting in place thereof the following words:- within the urban parks district.

SECTION 371. Section 1 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3, 4 and 6, each time they appear, the words "food and agriculture" and inserting in place thereof, in each instance, the following words:- agricultural resources.

SECTION 372. Said section 1 of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words "sixteen to thirty-one" and inserting in place thereof the following words:- 16 to 31A.

SECTION 373. Section 2A of said chapter 128, as so appearing, is hereby amended by striking out, in line 5, the word "ten" and inserting in place thereof the following figure:- 20.

SECTION 374. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 8 and 10, the word "fifteen" and inserting in place thereof, in each instance, the following figure:- 30.

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SECTION 375. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out, in line 16, the word "two" and inserting in place thereof the following figure:- 4.

SECTION 376. Section 2B of said chapter 128, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "fifty dollars" and inserting in place thereof the following figure:- \$100.

SECTION 377. Said chapter 128 is hereby further amended by inserting after section 7, as so appearing, the following 5 sections:-

Section 7A. As used in this chapter the following words shall, unless the context otherwise requires, have the following meanings:-

"Agriculture" and "'farming", as defined in section 1A of chapter 128.

"Arbor", an area of land devoted to the propagation and cultivation of fruitbearing trees and shrubs, and nut trees.

"Bureau", the bureau of land use in the division of agricultural development.

"Chief", the chief of the bureau of land use.

"Elderly persons of low income", persons who are age 65 or over and whose annual income is less than the amount necessary to enable them to maintain a decent standard of living, except that where there exists a surplus of land appropriate for garden use, the age requirement may be reduced by the director to age 62; but the oldest of the applicants between 62 and 65 shall be given preference.

"Families of low income", families and persons whose net annual income is less than the amount necessary to enable them to maintain a decent standard of living.

"Farm", a body of land devoted to agriculture.

"Garden", a piece of land appropriate for the cultivation of herbs, fruits, flowers, or vegetables.

"Use", when applied to gardening; to make use of, without conveyance of title or any other ownership.

"Vacant public land", any land owned by the commonwealth, or any county or municipality therein, that is not in use for public purpose.

Section 7B. Any person may make application to the bureau of land use on a form to be furnished by the bureau for a permit to use available vacant public land for garden, arbor, or farm purposes. Applicants shall submit a plan for said use and shall agree to maintain the land in a condition consistent with said land use plan, and shall agree to abide by the rules and regulations promulgated by said bureau. Failure to carry out the conditions of agreement shall result in the forfeiture of the garden, arbor or farm permit. Any person who is granted the use of garden, arbor, or farm land shall indemnify and save harmless the commonwealth, the department of agricultural resources and all of its officers, agents and employees against suits and claims of liability of each name and nature arising out of, or in consequence of the use of vacant public land.

Section 7C. Priority in the allotment of vacant public land for garden and arbor purposes shall be given to elderly persons of low income, families of low income and children

between the ages of 7 and 16. Products grown in gardens and arbors shall not be sold.

Section 7D. The bureau shall, with the cooperation of other state agencies and cities and towns, compile a list of all vacant land, that in the opinion of the agencies and cities and towns, can be feasibly used for gardening, arbor culture or farming. The bureau shall, by letters of agreement, contract with such agencies or cities and towns for the use of said vacant land. Contracts may contain a termination date. If no date is determined, either party may terminate the contract by written notice given within 60 days; but no contract shall be terminated until the end of the harvest season. The bureau shall notify the gardeners or farmers of the notice of termination.

Section 7E. Owners of land may make available to the bureau parcels of land for the purposes set forth in section 7B under terms and conditions agreed upon between the owners and the bureau, and the commonwealth, the department and all of its officers, agents and employees shall be saved harmless as provided in section 7B.

Section 7F. The commissioner after a public hearing shall adopt and promulgate rules and regulations in accordance with chapter 30A and consistent with sections 7A to 7E, inclusive of this chapter.

SECTION 378. Section 8B of said chapter 128, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 14, the words "three dollars" and inserting in place thereof the following figure:- \$25.

SECTION 379. Said chapter 128 is hereby further amended by inserting after section 13 the following 2 sections:-

Section 13A. The Milk Producers Security Fund, established by section 48 of chapter 10, shall be for the purpose of reimbursing Massachusetts producers who sold milk to a dealer when the dealer has defaulted in the timely payment for the milk under chapter 94A, or orders, rules or regulations issued under the authority thereof, or of a federal milk marketing order. Each producer shall notify the commissioner in writing of any default in the payment within 90 days after the date on which payment of milk is regularly due. If there is reason to believe that the dealer is in arrears in his payments to producers for milk received by him, the commissioner shall give notice to all producers so affected to file verified claims with the commissioner. The commissioner shall examine all claims so filed and shall certify the amounts determined to be due thereon, and transmit the same for payment to the state treasurer under section 48 of chapter 10.

Section 13B. The dealer of milk in the commonwealth who first received milk from Massachusetts producers, shall pay on or before the due date of payment to the producers, the amount of 5 cents per 100 weight on the volume of all the milk purchased from the producers and the payments shall be deposited with the state treasurer in the Milk Producers Security Fund established by section 48 of chapter 10. Payment as provided in this section shall be made for all milk shipped to a dealer by a producer who is not a member of a cooperative association which guarantees payment where there is a default in the payment for milk. Payment shall be deducted by the dealer from monies owed by the dealer to the producers in the amount of 5 cents per 100 weight.

The commissioner may suspend the requirements of the previous paragraph from time to time for such a length of time he considers necessary, but not exceeding 2 years, upon determination that the interests of the producers would be best served by a suspension. The commissioner shall not suspend these requirements if the balance of the fund does not exceed \$1,000,000. The commissioner shall provide 30 days' written notice of any suspension or reinstatement of payments into the fund to the house and senate committees on ways and means and to all dealers and producers affected.

SECTION 380. Chapter 130 of the General Laws is hereby amended by inserting after section 1 the following 2 sections:-

Section 1A. The division of marine fisheries shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of marine fisheries. The director of the division of marine fisheries shall be appointed and may be removed by the commissioner of the department of fish and game with the approval of the marine fisheries advisory commission. The said division of marine fisheries shall administer all the laws relating to marine fisheries as appearing in chapter one hundred and thirty and any other general or special laws, except as pertain to the enforcement thereof. It shall be responsible for the biological development of marine fish and fisheries. Said division shall co-operate with all departments, boards, officials and institutions of the commonwealth or its subdivisions that may be concerned in any way with matters under its supervision. It shall co-operate with adjoining states and with the United States of America, or any agency thereof, with foreign countries, and any other agency, as may be authorized by the general court, and receive and dispense such funds from any of such agencies, states or governments as may be authorized by the general court.

Section 1B. There shall be in the division of marine fisheries a commission to be known as the marine fisheries advisory commission hereinafter called the commission, which shall consist of nine members, qualified in the field of marine fisheries by training and experience, to be appointed by the governor with the approval of the council. As the term of a member expires, his successor shall be appointed for a term of three years, except that initially three members shall be appointed for terms of two years and three members shall be appointed for terms of one year. The governor may also, with the like approval, fill any vacancy in an unexpired term. No member of the commission shall hold any other position in the department while serving as such, nor for a period of two years thereafter.

The commission shall annually elect its own chairman and clerk and shall keep accurate records of its meetings and hearings and shall meet at least quarterly and at the call of the chairman. A quorum to conduct business shall consist of five members. The commission shall hold public hearings relative to matters within the jurisdiction of the division and shall make recommendations to the director for the proper management and development of the marine fisheries of the commonwealth. The director or his designee shall attend all meetings and hearings of the commission and may present evidence thereat and shall include

in his annual report a report of the commission. The members of the commission shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their official duties.

SECTION 381. Section 2B of said chapter 130 is hereby repealed.

SECTION 382. Section 1 of chapter 131 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 26 and 30, the words "section six of chapter twenty-one" and inserting in place thereof, in each instance, the following words:- section 10A of chapter 21A.

SECTION 383. Said chapter 131 is hereby further amended by inserting, after section 1 the following 9 sections:-

Section 1A. The division of fisheries and wildlife shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the supervision and control of the fisheries and wildlife board, hereinafter called the board, which shall consist of seven members to be appointed by the governor for terms of five years. Five board members shall be appointed from one of each of the five fish and game districts, at least one of whom shall have been actively engaged in farming on land owned by him for a period of not less than five years. Two board members shall be appointed at large, shall be particularly interested in the propagation, protection, research and management of wild birds and mammals and any, so-called, endangered species and one of whom shall be a wildlife biologist.

Section 1B. Board members may be removed by the governor, with the advice and consent of the council, after due notice and a hearing before the governor, for inefficiency, neglect of duty, misconduct in office or other cause. A copy of the charge against a board member shall be delivered to him not less than twenty-one days prior to the hearing, and he shall have the right to a public hearing and to appear in person and be represented by counsel at the hearing. Upon removal of any board member, the governor shall thereupon cause to be filed in the office of the state secretary a complete statement of all charges made against such board member, the findings thereon, and a complete record of the proceedings thereunder. The absence of a board member from three consecutive meetings, except for sickness supported by the certificate of a physician, shall be termed neglect of duty, and shall be a cause for removal as provided herein. In case of resignation, removal or death of a board member, his successor shall be appointed to fill the remainder of the unexpired term in the same manner and subject to the same qualifications as his predecessor.

Prior to removal for absences, however, the chairperson of the board shall certify the unexcused absence of the board member from 3 consecutive meetings by filing a certificate to that effect with the commissioner of the department of conservation and recreation and the secretary of the commonwealth. Upon the filing of such certificates, such a member's position shall be deemed vacant and the governor shall appoint a successor.

Section 1C. No board member shall hold any other position in the department of fisheries, wildlife and environmental law enforcement while serving as such, nor for a period of one year thereafter.

Section 1D. The board members shall serve without compensation, but shall be entitled to be reimbursed out of any funds available for the purpose, for their actual traveling and other expenses necessarily incurred in the performance of their official duties, but such reimbursement shall not in any fiscal year exceed three thousand dollars for the total aggregate expenses of all of the board members.

Section 1E. The members of the board shall meet in the commonwealth, within thirty days after their appointment, and once a month thereafter at such times and places in the commonwealth as they may from time to time determine. They shall at least annually choose a chairman and a secretary from among their members, and shall make the appointments required to be made by them in the manner herein provided. Four board members shall constitute a quorum for the transaction of business, except in the case of the appointment or removal of the director of the division or the approval of the appointment or removal of the superintendent of the bureau of wildlife research and management as hereinafter provided for.

No appointment or removal of any person as director or superintendent shall be valid unless written notice of the meeting for such appointment or removal or approval thereof, setting forth the business to be transacted thereat, shall have been sent by registered mail, to each board member, at least twenty-one days prior to such meeting, and then only by the affirmative vote of three or more members present and voting.

Section 1F. The director of the division of fisheries and wildlife shall be appointed and may be removed by the board of the division of fisheries and wildlife and the position of director shall not be subject to the provisions of chapter thirty-one. The director, subject to the approval of the fisheries and wildlife board, may appoint, without regard for the provisions of chapter thirty-one, an assistant director for natural heritage and endangered species and may assign to such assistant director appropriate duties related to the area of natural heritage and endangered species protection and management. The director and assistant director shall be qualified by training and experience to conduct the duties assigned to them. The director, with the approval of the board, may employ such experts, clerks and other employees from time to time, and for such periods as he may determine to be necessary for its operations.

Section 1G. The director shall, under the control of the board, have charge of, direct and supervise all matters relative to the division and the employees therein. He shall carry out the policies promulgated from time to time by the board, shall prepare the annual budget of the division, and shall file the same pursuant to section three of chapter twenty-nine, and within ninety days after the end of each fiscal year, he shall render a complete detailed report of all activities, revenue and expenditures of the division to the board, the general court and the governor and council.

Section 1H. There shall be in the division of fisheries and wildlife, under the control of a director, a bureau of wildlife research and management headed by a superintendent, who shall not be subject to the provisions of chapter thirty-one and who shall be appointed by the director, with the approval of the board, and may be removed by him with like approval. He

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shall be qualified by training and experience to conduct the duties of his office. The superintendent shall, with the approval of the director, provide for all beneficial forms of wildlife; he shall co-operate with the University of Massachusetts and with federal agencies in all matters pertaining to wildlife research and management, and shall supervise and manage all wildlife sanctuaries which are under the management or control of the division. For the purposes of this section, the word "wildlife" means birds, mammals and inland fish.

The superintendent, subject to the approval of the director, shall conduct such scientific studies as he may deem necessary in the work of the bureau, and, subject to like approval, shall collect, classify and designate such studies, data and information as in his opinion will tend to promote the objects of said bureau.

There shall be a state ornithologist in the bureau of wildlife research and management appointed by the director with the approval of the board. He shall advise and consult with the superintendent concerning the avifauna of the commonwealth.

Section 11. It shall be the responsibility of the division to provide technical assistance and advice regarding the control or elimination of damage by moose or deer to property which is deemed to be actively devoted to agricultural or horticultural uses as defined by sections one and two of chapter sixty-one A. The director of the division, or his designee, shall respond to all requests for assistance made under the provisions of this section within fifteen days of the receipt of such requests.

SECTION 384. Section 2 of said chapter 131 is hereby repealed.

NO SECTION 385.

SECTION 386. Section 40A of said chapter 131, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 25 and 26, and in line 94, the words "metropolitan district commission,".

SECTION 387. Section 12A of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words ", including in such terms of the metropolitan district commission,".

SECTION 388. Section 30 of said chapter 132, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "board of environmental management," and inserting in place thereof the following words:- stewardship council.

SECTION 389. Section 31 of said chapter 132, as so appearing, is hereby amended by striking out, in line 13, the words "and the board of environmental management".

SECTION 390. Section 32 of said chapter 132, as so appearing, is hereby amended by striking out, in line 2, the words "and the board of environmental management".

SECTION 391. Sections 33, 36 and 36A of said chapter 132 are hereby repealed.

SECTION 392. Section 1 of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 393. Said chapter 132A is hereby further amended by inserting after section 1 the following 7 new sections:-

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Section 1B. The division of state parks and recreation shall be under the administrative supervision of a director, who shall be called the director of state parks and recreation. The director shall reside outside the urban parks district defined in the section 33 of chapter 92.

Section 1C. There shall be in the division of forests and parks a bureau of forest fire control under the direction and control of a chief fire warden, a bureau of forestry under the direction and control of a chief forester and a bureau of recreation under the direction and control of a chief of recreation. The director of the division of forests and parks shall, subject to the approval of the commissioner, appoint for a term of five years, outside the provisions of chapter thirty-one, the chief of recreation, who shall be qualified by training and experience to administer the duties of his office. With like approval he may remove the chiefs of the several bureaus.

Section 1D. The bureau of forest fire control shall perform such duties as the director, with the approval of the commissioner, may require, in addition to such other duties as may be required by any general or special laws.

Section 1E. The bureau of recreation shall perform such duties as the director, with the approval of the commissioner, may require, and shall be responsible for such other duties pertaining to administration and management of recreation areas as are now vested in the division of parks and recreation by the general laws or any special laws.

Expenses incurred by the bureau relating to the improvement, development and operation of recreation areas and appurtenant facilities shall be construed as chargeable under the provisions of chapter one hundred and thirty-two A.

Section 1F. The bureau of forestry shall, under the supervision of the director, with the approval of the commissioner perform such duties as respects forest management practices, reforestation, development of forest or wooded areas under the control of the department, making them in perpetuity income producing and improving such wooded areas. It shall be responsible for such other duties as are now vested in the division of forestry by the general laws or any special laws and shall be responsible for shade tree management, arboricultural service and insect suppression of public nuisances as defined in section eleven of chapter one hundred and thirty-two, subject to the approval of the director and, notwithstanding the provisions of any general or special law to the contrary, the bureau may require all tree spraying or other treatment performed by other departments, agencies or political subdivisions to be carried out under its direction. The bureau may promulgate rules and regulations to carry out its duties and powers. It shall assume the responsibilities of section one A of chapter one hundred and thirty-two and shall be responsible for such other duties as are not otherwise vested in the division of forestry; provided, however, that all personnel of the forest, fire, shade tree and pest control units in their respective collective bargaining units at the time of this consolidation to the bureau of forestry shall remain in their respective collective bargaining units.

Section 1G. The director may designate any employee of the division to supervise any of the bureaus during the absence or disability of the chief thereof, and they shall have all the

powers required to administer such bureaus, provisions in the general laws to the contrary notwithstanding.

Section 1H. The director of the division of state parks and recreation shall devote his whole time during business hours to the work of the division and shall be responsible for the performance of the functions of the division as specified by law. Each subdivision or section of the division shall be under his direction, control and supervision. The director may appoint and remove such officials and employees as the work of the division may require and may from time to time assign to such officials and employees such duties as the work of the division may require, subject to chapters 30 and 31, except as provided by chapter 583 of the acts of 1947.

SECTION 394. Section 2 of said chapter 132A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 3, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 395. Said section 2 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "forests and parks in the department of environmental management" and inserting in place thereof the following words:- state parks and recreation in the department of conservation and recreation.

SECTION 396. Section 2C of said chapter 132A, as so appearing, is hereby amended by striking out, in line 5, the words "metropolitan district commission,".

SECTION 397. Section 3 of said chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 398. Said section 3 of chapter 132A, as so appearing, is hereby further amended by inserting after the word "department", in line 14, the following words:- and outside the urban parks district.

SECTION 399. Said section 3 of said chapter 132A, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 400. Section 3A of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "board of environmental management, the governor and council" and inserting in place thereof the following words:- stewardship council.

SECTION 401. Said chapter 132A is hereby further amended by inserting after section 3A the following section:-

Section 3B. A person shall not acquire any rights by prescription or adverse possession in any lands or rights in lands of the commonwealth under the control of the department of conservation and recreation.

SECTION 402. Said chapter 132A is hereby amended by striking out section 7, as appearing in the 2000 Official Edition, and inserting place thereof the following section:-

Section 7. The commissioner, in consultation with the director of the division, may

make rules and regulations for the government and use of all property under the control of the division, including all roads and highways wholly or in part within the boundaries of such property, including rules and regulations relative to hunting and fishing, except in great ponds not inconsistent with the laws protecting fish, birds and mammals. Such rules and regulations may also provide for the payment of fees and other charges for the parking of vehicles and for the enjoyment of other special privileges within the territory under such control. The commissioner shall cause such rules and regulations to be posted in the territory to which they apply. The sworn certificate of the director of the division that the same have so been posted shall be prima facie evidence thereof. Violation of such a rule or regulation shall be punished by a fine not exceeding twenty dollars. The commissioner may grant concessions for the sale of refreshments and other articles and the furnishing of services within any such territory.

Forest supervisors, park superintendents and laborers employed by the division, while employed in state forests, state parks or reservations, including roads and highways, shall, within the limits of said forests, parks or reservations, except great ponds, have and exercise all the powers and duties of constables, except service of civil process, and of police officers, if so authorized in writing by the commissioner.

The enforcement officers of the office of law enforcement shall, within the limits of such forests, parks or reservations, including roads and highways, except great ponds, have and exercise all the powers and duties of constables and of police officers except service of civil process.

SECTION 403. Section 7A of said chapter 132A, as so appearing, is hereby amended by inserting after the word "regulation", in line 46, the following words:- , except a vehicle owned by the commonwealth or a political subdivision or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered.

SECTION 404. Said section 7A of said chapter 132A as so appearing, is hereby further amended by adding the following sentence:- Liability may be imposed for the reasonable cost of the removal, and for the storage charges, if any, resulting upon the owner of the vehicle.

SECTION 405. Said chapter 132A is hereby further amended by inserting after said section 7A the following 6 sections:-

Section 7B. If money, goods or other property which has been stolen, lost, abandoned or taken from a person under arrest comes into the possession of an employee of the division by virtue of his office or employment, he shall deliver the same to the person designated by the division to receive the same, and he shall then be relieved from further responsibility.

Section 7C. If no person proves ownership of such money, goods or other property within 6 months, the division may cause the goods or other property excepting money unclaimed, to be sold at public auction at a place and time and by a person as the division may designate.

Section 7D. Notice of the time and place of the sale, with a description of the property, shall be given by publishing the same once in a newspaper published in Boston.

Section 7E. The property, if perishable or liable to deteriorate greatly in value by keeping, or the value of which will probably be less than the expense of keeping, may be sold at public auction at a place and at a time within 6 months and by a person as the division may designate, notice of the time and place of sale as the division may consider reasonable and proper first being given.

Section 7F. The proceeds of the sale, together with the unclaimed money, after deducting all reasonable charges and expenses incurred on account of the property, shall be accounted for and paid to the commonwealth.

Section 7G. If within 2 years after the sale the owner claims the property and proves ownership to the satisfaction of the division, the amount of the unclaimed money or the proceeds of the sale of the property, after deducting reasonable expenses, shall be paid to him by the state treasurer out of the special account, without appropriation.

SECTION 406. Section 8 of said chapter 132A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 3, the word "metropolitan" and inserting in place thereof the following word:- urban.

SECTION 407. Section 10 of said chapter 132A is hereby repealed.

SECTION 408. Sections 11A to 11D, inclusive, of said chapter 132A are hereby repealed.

SECTION 409. Section 3A of chapter 132B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "food and agriculture" and inserting in place thereof the following words:- agricultural resources.

SECTION 410. Said section 3A of said chapter 132B, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

SECTION 411. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words "forty-three of chapter six" and inserting in place thereof the following words:- 70 of chapter 10.

SECTION 412. Said chapter 138 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. A railroad or car corporation operating any line of railroad or furnishing refreshments upon railroad cars within the commonwealth may sell, in any dining, club, buffet or lounge car, alcoholic beverages to be drunk in the cars, if the commission sees fit to issue a license to the railroad or car corporation. The fee for each license under this section shall be \$500 and for each certified copy thereof \$50. An airline corporation operating within the commonwealth may sell in any aircraft alcoholic beverages to be consumed thereon, if duly licensed by the commission. The annual license fee for each airline corporation shall be \$500 and for each certified copy thereof \$50. The commission

may also issue licenses to sell alcoholic beverages to the owner or operator of any vessel or shipping company carrying passengers and operating out of any port of the commonwealth. Sales of alcoholic beverages by licensees under this section shall be made only under regulations as the commission may prescribe. The annual license fee for each vessel shall be \$500. Retail sales by ship chandlers of all alcoholic beverages not to be drunk on the premises, may be authorized by the commission, but the sales shall not be for purposes other than provisioning a vessel or shipping company using any port of the commonwealth. The fee for a license to a ship chandler for the sales shall be not less than \$500 nor more than \$1,000. No other license shall be required under this chapter for sales as authorized under this section.

SECTION 413. The first paragraph of section 18 of said chapter 138 is hereby amended by striking out the last two sentences, as so appearing, and inserting in place thereof the following 2 sentences:-

The license fee for a license issued under this section to sell and import all alcoholic beverages shall be \$10,000. The license fee for a license issued under this section to sell and import wines and malt beverages only shall be \$5,000; but the license fee for a license issued under this section to sell wines for sacramental use shall be \$3,000.

SECTION 414. Section 18A of said chapter 138, as so appearing, is hereby amended by striking out, in line 23, the words "one thousand dollars" and inserting in place thereof the following figure:- \$5,000.

SECTION 415. Section 18B of said chapter 138, as so appearing, is hereby amended by striking out, in line 16, the words "shall not exceed ten dollars" and inserting in place thereof the following words:- shall be no less than \$200.

SECTION 416. Section 19 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 41 and 42, the words "not less than two thousand nor more than five thousand dollars" and inserting in place thereof the following words:- not less than \$6,000 nor more than \$10,000.

SECTION 417. Section 19A of said chapter 138, as so appearing, is hereby amended by striking out, in line 9, the words "fifteen dollars" and inserting in place thereof the following figure:- \$200.

SECTION 418. Section 20 of said chapter 138, as so appearing, is hereby amended by striking out the first three paragraphs and inserting in place thereof the following 3 paragraphs:-

The commission may grant to any holder of a manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license under this chapter a permit to store in any city or town those alcoholic beverages which the licensees are authorized to manufacture, produce or sell; but there shall not be granted to the manufacturer, farmer-winery, farmer-brewery, or wholesaler and importer, in the aggregate, more than 3 permits in the commonwealth, not more than 1 permit in any city or town. A permit so granted to the holder of the license shall authorize him to deliver the beverages from any place of storage

for which he has a permit upon orders, which need not be in writing, received by him at the premises covered by his manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license and transmitted to the place of storage covered by the permit. The commission may establish annual fees thereof not exceeding \$2,000 for any 1 permit.

Special warehouse permits may be granted by the commission for the storage of alcoholic beverages in a duly licensed bonded warehouse. A special permit so granted shall authorize the holder thereof to transfer the beverages between any premises for which he has such special permit and any premises covered by his manufacturer's, farmer-winery, farmer-brewery or wholesaler's and importer's license. The fee for a special permit shall be not less than \$125 nor more than \$1,000.

Special seasonal permits may be granted by the commission upon payment of a fee of \$500 for each such permit, which shall authorize any licensee under section 18 or 19 to store malt beverages in the same city or town in which their licensed premises are located; but the storage shall be in a place properly equipped for the refrigeration of malt beverages and that the authorization shall be effective only for the period between April first and October thirty-first in any year.

SECTION 419. Section 20A of said chapter 138, as so appearing, is hereby amended by striking out, in line 10, the words "ten dollars" and inserting in place thereof the following figure:- \$500.

SECTION 420. Section 22 of said chapter 138, as so appearing, is hereby amended by striking out, in line 20, the words "thirty dollars" and inserting in place thereof the following figure:- \$150.

SECTION 421. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 25, the words "three hundred dollars" and inserting in place thereof the following figure:- \$1,500.

SECTION 422. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 31, the words "twenty-five dollars" and inserting in place thereof the following figure:- \$150.

SECTION 423. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 34, the words "five dollars" and inserting in place thereof the following figure:- \$50.

SECTION 424. Section 35 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "metropolitan district commission" and inserting in place thereof the following words:- commissioner of conservation and recreation.

SECTION 425. Said section 35 of said chapter 138, as so appearing, is hereby further amended by inserting after the word "care", in line 3, the following words:- within the urban parks district.

SECTION 426. Section 122 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the seventh sentence and inserting in place thereof the following 2 sentences:- The fee for an application for a license issued under this section shall

be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 427. Section 122B of said chapter 140, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following 2 sentences:- The fee for an application for a license to sell ammunition shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 428. Clause (9) of section 129B of said chapter 140, as so appearing, is hereby amended by striking out the fifth and sixth sentences and inserting in place thereof the following 3 sentences:- The fee for the application shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund; but any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to the application fee.

SECTION 429. Subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following 4 sentences:- The fee for the application shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For law enforcement officials, or local, state, or federal government entities acting on their behalf, the fee for the application shall be set at \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$12.50 of the fee, and \$12.50 of the fee shall be deposited into the general fund of the commonwealth.

SECTION 430. Section 131A of said chapter 140, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The fee for the permits shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 431. The fourth paragraph of section 131F of said chapter 140, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 2 sentences:- The fee for an application for the license shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 432. Section 131H of said chapter 140, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 2 sentences:- The fee for the permit shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 433. Section 38 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "or the metropolitan district commission".

SECTION 434. Section 44 of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the words ", or of the metropolitan district commission".

SECTION 435. Said section 44 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words "by the metropolitan district commission or".

SECTION 436. Said section 44 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 8, the words "by the said commissioner or".

SECTION 437. The first paragraph of section 3 of chapter 151B of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

15. To set, charge and retain fees and costs, subject to section 3B of chapter 7, including, but not limited to, training fees and costs incurred responding to requests under the commonwealth's public records law; provided, that the commission may, where appropriate, provide for the waiver of the fees; to retain reasonable attorney's fees and costs awarded to a prevailing complainant, under section 5, when one of its attorneys presents the charge of discrimination before the commission on behalf of the prevailing complainant. All amounts received under this clause shall be deposited to the General Fund.

SECTION 438. Section 5 of said chapter 151B is hereby amended by striking out the last paragraph, as so appearing, and inserting in place thereof the following paragraph:-

If, upon all the evidence at any such hearing, the commission shall find that a respondent has engaged in any such unlawful practice, it may, in addition to any other action which it may take under this section, assess a civil penalty against the respondent:

(a) in an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice;

(b) in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory practice during the 5-year period ending on the date of the filing of the complaint; and

(c) in an amount not to exceed \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory practices during the 7-year period ending on the date of the filing of the complaint. Notwithstanding the aforesaid provisions, if the acts constituting the discriminatory practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory practice, then the civil penalties set forth in clauses (b) and (c) may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred.

SECTION 439. Said section 10 of said chapter 152 is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) In order to increase the marketability of any special obligation bonds described in section 11 and any other bonds issued by the commonwealth which are payable from amounts held in the Convention Center Fund, and thereby ensure the issuance of such bonds at the lowest possible cost to the commonwealth, the special receipts deposited in the Convention Center Fund in accordance with this subsection are hereby impressed with a trust for the benefit of the owners from time to time of such bonds and special receipts shall be applied by the state treasurer without further appropriation to the payment of principal, including sinking fund payments and premium, if any, and interest on such bonds, to the maintenance of, or provisions for, the Capital Reserve Fund described in said section 11, to the payment of the costs of issuance of such bonds and to the payment of the cost of, and the satisfaction of the obligations of the commonwealth under, any surety bond, insurance policy or other form of credit enhancement required or provided for in any trust of security agreement or credit enhancement agreement entered into pursuant to this act to secure such bonds. The state treasurer with the concurrence of the secretary of administration and finance shall determine that sufficient amounts are or will be held in the Convention Center Fund to meet debt service payments and compliance with any applicable restrictions relating thereto including, without limitation, any coverage requirements, contained in any such trust or security agreement or credit enhancement agreement. If the state treasurer and the secretary of administration and finance determine that the balance of the Convention Center Fund exceeds the amount necessary to satisfy the requirement of sufficiency, then the Authority may make expenditures from the Convention Center Fund, in an amount not to exceed such surplus, for the following purposes: (i) to pay costs, not exceeding \$50,000,000, of the heating, ventilating and air conditioning systems for the project if the Authority deems it in the best interest of the Authority to fund such costs in whole or in part from amounts held in the Convention Center Fund rather than through a lease or lease-purchase agreement for such systems; (ii) to pay start-up costs, not exceeding \$2,000,000, of the project; (iii) to pay costs, not exceeding \$2,000,000, of a feasibility study and preliminary engineering program in accordance with section 38N of chapter 190 of the acts of 1982 for a parking garage

for the project; (iv) to provide for, and maintain, any reserve for capital and current expenses of the project and other facilities of the Authority as the Authority shall deem necessary to appropriate, provided that the Authority receives written approval from the secretary of administration and finance; (v) to defray the net cost of operations, at an amount not to exceed \$17,000,000 in FY04 and that same amount in each fiscal year thereafter, of the Authority as defined in section 35 of said chapter 190; Notwithstanding any general or special law to the contrary, the Authority and the secretary of administration and finance shall deposit in the Pension Reserve Investment Trust, pursuant to this act, any of the revenues of the Boston common parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and cost of debt service on bonds issued to finance the restoration of the Boston common parking garage.

SECTION 440. Section 16 of chapter 159A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The court shall treat a violation of this section as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to a term of incarceration nor be entitled to appointed counsel pursuant to chapter 211D. An adjudication of responsibility under this section may include an order of restitution. An adjudication of responsibility under this section shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 441. Chapter 161B is hereby amended by adding the following new section:-

Section 26. The regional transit authorities shall establish a stabilization fund into which the authorities shall deposit revenues in excess of expenditures. Said stabilization fund shall have a fund balance no greater than 15% of total revenues for all regional transit authorities for the fiscal year most recently ended. Monies from said fund shall be subject to appropriation and used for capital improvements and expenditures, to offset the unforeseen and dramatic loss of revenues within a fiscal year, and to pay current expenses after implementing all efficiencies and savings possible. The authorities may not assume draws from said stabilization fund in preparing their annual budgets. In the event that an authority requires a draw from said fund, it shall file with the secretary of administration and finance, secretary of transportation and construction, joint committee on transportation and the house and senate committees on ways and means a financial plan that projects to produce in the following fiscal year an excess of revenues over expenses, all measures taken to implement efficiencies and savings, the amount necessary to offset operating losses, and any other information that said secretaries or committees may require.

SECTION 442. Section 6 of chapter 161D of the General Laws is hereby repealed.

SECTION 443. Section 69H½ of chapter 164 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 17 and 18, the words "fisheries, wildlife and recreational vehicles" and inserting in place thereof the following words:- fish and game.

SECTION 444. The first paragraph of section 14 of chapter 175 of the General Laws, as most recently amended by section 2 of chapter 106 of the acts of 2002, is hereby further amended by adding the following clause:-

For each insurance agent appointment or renewal thereof under section 162S;.

SECTION 445. Chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 24D the following section:-

Section 24E. (a) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, 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 division of medical assistance and the department of transitional assistance for use by said agencies for the purpose of the recovery of public assistance benefits. The company shall either provide the division of medical assistance and the department of transitional assistance with information about the claimant or examine information made available by said agencies and updated not more than once a month. If the company elects to provide the division of medical assistance and the department of transitional assistance with information about a claimant, the company shall provide to said agencies, 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 said agencies may require. The company shall use a method and format prescribed by the division of medical assistance and the department of transitional assistance but if the company is unable to use a method and format prescribed by said agencies, such company shall cooperate with said agencies to identify another method or format, including submission of written materials. If the company elects to examine information made available by the division of medical assistance and/or the department of transitional assistance concerning individuals who have received public assistance benefits and are subject to a lien to secure repayment, the company shall notify the division of medical assistance and/or the department of transitional assistance, not less than ten business days prior to making payment to a claimant who has received public assistance benefits and is subject to a lien to secure repayment, 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 said agencies may require. A company shall not share information with the agencies if doing so would require the companies to violate the claimant's right to privacy under state or federal law.

For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured party under a liability insurance policy issued in the Commonwealth or under the liability coverage portion of a multiperil policy issued in the Commonwealth, a beneficiary under a life insurance contract issued in the Commonwealth, or a beneficiary living in the Commonwealth who is designated to receive payment under a life insurance contract issued by a company licensed in the Commonwealth. For the purposes

of this section, the term "non-recurring payment" does not include fines paid by companies to claimants pursuant to subsection (e).

(b) An individual making a claim governed by this section shall provide his current address, date of birth and social security number to the insurance company, upon the request of the company. Such company may inform the claimant that such request is being made in accordance with this section for the purpose of assisting the division of medical assistance and the department of transitional assistance in the recovery of public assistance benefits. Any such individual who refuses to provide the information required by this section shall not receive payment on the claim, and the company that declines payment on this basis shall be exempt from suit and immune from liability under this chapter or any other chapter or in any common law action in law or equity.

(c) Pursuant to regulations issued by the secretary of the executive office of health and human services in consultation with the commissioner of insurance, a company that knowingly fails to accurately exchange information regarding a claim to which this section applies shall be subject to a penalty assessed by the division of medical assistance and the department of transitional assistance. A company that fails or refuses to surrender property subject to a lien to the agency shall be liable in the same manner as provided in paragraph (7) of subsection (b) of section 6 of said chapter 119A. A company that makes a payment to the agency pursuant to this section and an insured individual on whose behalf the company makes a payment shall be immune from any obligation or liability to the claimant or other interested party arising from the payment, notwithstanding the provisions of this chapter or any other law.

(d) The division of medical assistance, the department of transitional assistance and the agency shall use their best efforts to make mutually satisfactory arrangements so companies have a single point of entry for accessing and transmitting information electronically pursuant to this section and section 24D. The division of medical assistance and the department of transitional assistance shall provide the agency with access to information regarding individuals receiving assistance under their programs for that purpose and so that a company can be informed if the claimant or the claimant's heirs or legal representative may owe monies to the division or the department.

(e) Information provided by the agency to a company under this section may only be used for the purpose of assisting the agency in collecting past due public assistance benefits. Any individual or company who uses such information for any other purpose shall be liable in a civil action to both the agency and the claimant in the amount of \$1,000 each, for each violation.

(f) In the event of a state of emergency declared by the governor or the president of the United States, the commissioner of insurance may temporarily suspend the application of this section to claims made due to the conditions resulting in such state of emergency.

SECTION 446. Chapter 185C of the General Laws is hereby amended by striking out section 19, as most recently amended by section 112 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:-

Section 19. Proceedings shall be commenced in the housing court department as follows: a criminal case by complaint in like manner as in the district court department, a civil action in accordance with the Massachusetts Rules of Civil Procedure; provided, however, that a summary process action and a small claims action shall be commenced and administered in accordance with rules promulgated with the approval of the supreme judicial court. Clerks of the housing court department shall charge a fee of \$120 for the entry of an action, for the filing of a third-party complaint, and for the filing of a motion to intervene as plaintiff, which shall be paid by the party entering or filing the same; and no other fee shall be charged for taxing costs, for issuing any subpoena or execution or for issuing any order of notice or other mesne, interlocutory or final order, rule, decree of process authorized by law, except a temporary restraining order or preliminary injunction for the issuance of which the clerk shall charge \$90; provided, however, that no fee for the entry of an action or for the issuance of a temporary restraining order or preliminary injunction shall be charged to the commonwealth or political subdivision thereof.

Notwithstanding that a proceeding under this chapter is commenced by complaint, if it is found that the offense charged was not willful, intentional, reckless or repeated, the proceeding shall not be deemed criminal and no record of the case shall be entered in the probation records.

SECTION 447. Section 9 of chapter 197 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) If a deceased received medical assistance under chapter 118E when such deceased was 55 years of age or older or while an inpatient in a nursing facility or other medical institution, section 32 of chapter 118E shall govern the notice to be given to the division of medical assistance and such division's claim for recovery under section 31 of said chapter 118E if the division so chooses.

SECTION 448. The fifth paragraph of section 7 of chapter 209A of the General Laws, as amended by section 114 of chapter 184 of the acts of 2002, is hereby further amended by inserting after the first sentence the following sentence:- In addition to, but not in lieu of, the forgoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a crime under this statute to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund.

SECTION 449. Section 2 of chapter 211B of the General Laws, is hereby amended by striking out the first sentence, as recently amended by section 38 of chapter 177 of the acts of 2001, and inserting in place thereof the following sentence:- There shall be 82 justices appointed to the superior court department, 10 justices appointed to the housing court department, 6 justices appointed to the land court department, 51 justices appointed to the probate and family court department, 30 justices appointed to the Boston municipal court department, 41 justices appointed to the juvenile court department and 158 justices and special justices appointed to the district court department.

SECTION 450. Said chapter 211B of the General Laws is hereby amended by inserting after section 6 the following section:-

Section 6A. There shall be an advisory board to assist the justices of the supreme judicial court and the chief justice for administration and management in their management of the judicial department. The board shall consist of the attorney general, or his designee, the executive director of the Massachusetts office of victim assistance and the following additional members appointed by the supreme judicial court: 2 persons who have significant experience in public administration, 2 persons who have significant experience in business administration, 1 lawyer with significant experience in the practice of criminal law, 1 lawyer with significant experience in the practice of civil law, 1 lawyer with significant experience in the practice of probate and family law, 1 lawyer with significant experience in the representation of juveniles in the courts, 1 lawyer with significant judicial experience but not a current justice of the commonwealth or a retired justice serving the commonwealth pursuant to judicial recall, and 1 person who has significant experience in information technology. The board shall choose its chair. The appointed members of said board shall serve for a term of 3 years. The maximum amount of time that said members may serve on said board shall be 2 such terms. The chief justice for administration and management shall be the executive secretary of the board.

The board shall advise the justices of the supreme judicial court and the chief justice for administration and management on all matters of judicial reform including, but not limited to, a proposal for the allocation of resources based on the demonstrated workload of each court.

SECTION 451. Section 9A of said chapter 211B, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in the place thereof the following paragraph:-

In the Roxbury and Dorchester divisions of the Boston municipal court department 1 court officer shall be designated by the first justice of each said court with the approval of the chief justice for administration and management as chief court officer and one as assistant chief court officer. In the district court of Chelsea, in the Brighton, West Roxbury, East Boston and South Boston divisions of Boston municipal court department one court officer shall be designated by the first justice of each said court as chief court officer, with the approval of the chief justice for administration and management. In the Boston juvenile court, 1 court officer shall be designated by the first justice of said court as chief court officer and two as assistant chief court officers with the approval of the chief justice for administration and management. In the central division of the Boston municipal court department, the chief justice of the Boston municipal court department, with the approval of the chief justice for administration and management, shall designate one court officer as chief court officer and two as assistant chief court officers of said court for criminal business and one court officer as chief court officer and one as assistant chief court officer of said court for civil business. In the district court of Brockton one court officer shall be designated by the justice of said court as chief court officer. Such court officers shall, while on duty, wear

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uniforms approved by the chief justice for administration and management, which shall be furnished at the expense of the commonwealth.

SECTION 452. Chapter 211D of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2½. Notwithstanding any other law to the contrary, a criminal defendant seeking appointment of counsel shall execute an affidavit stating under the pains and penalties of perjury that he meets the definition of indigency promulgated under section 2. A criminal defendant claiming indigency shall also execute a waiver authorizing the court's chief probation officer to obtain the defendant's wage and tax information from the department of revenue and any relevant information from the department of transitional assistance that the court may find useful in verifying the defendant's claim of indigency.

SECTION 453. Chapter 218 of the General Laws is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 1. The district court department, established under section one of chapter two hundred and eleven B, shall consist of divisions, one for each of the judicial districts hereinafter enumerated, and whenever the words "district court", "municipal court" or "court" are used in this chapter, unless the context refers exclusively to the Boston municipal court department or a juvenile court, or some other clearly contrary intent, such words shall refer to a division of the district court department. Unless the context refers only to a person appointed to the Boston municipal court department or to a juvenile court, the words "justice" and "special justice" shall mean, respectively, an associate justice and a special justice of the trial court appointed to a division of the district, court department; and the words "clerk" or "clerk of court" shall mean the clerk of such court; and the words "assistant clerk," "deputy assistant clerk," "temporary clerk" or "temporary assistant clerk" shall mean, respectively, an assistant clerk, deputy assistant clerk, temporary clerk or temporary assistant clerk of such court.

The several divisions of the Boston municipal court department and of the several divisions of the district court department shall continue to comprise the following cities, towns, wards and territory, in the following counties, respectively.

Barnstable

The first district court of Barnstable, held at Barnstable; Barnstable, Sandwich and Yarmouth. The second district court of Barnstable, held at Orleans; Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Harwich and Dennis. The third district court of Barnstable, held at Falmouth; Mashpee, Falmouth and Bourne. Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Berkshire

The district court of northern Berkshire, held at Adams, North Adams and William-

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stown; Adams, North Adams, Williamstown, Clarksburg, Florida, New Ashford, Cheshire, Savoy, Hancock, and Windsor; the district court of central Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of central Berkshire, held at Pittsfield; Pittsfield, Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, Lenox, Becket and Windsor; the district court of southern Berkshire exercising concurrent jurisdiction in Lenox and Becket and the district court of northern Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of southern Berkshire, held at Great Barrington and Lee; Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox, Becket; the district court of central Berkshire exercising concurrent jurisdiction in Lenox and Becket.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Bristol

The first district court of Bristol, held at Taunton; Taunton, Rehoboth, Berkley, Dighton, Seekonk, Easton and Raynham.

The second district court of Bristol, held at Fall River; Fall River, Somerset, Swansea, Freetown and Westport; the third district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The third district court of Bristol, held at New Bedford; New Bedford, Fairhaven, Acushnet, Dartmouth, Freetown and Westport; the second district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The fourth district court of Bristol, held at Attleboro; Attleboro, North Attleborough, Mansfield and Norton. Cases of delinquent children under sections fifty-two to eighty four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Dukes County

The district court of Dukes County, held at Oak Bluffs, Edgartown and Tisbury; Dukes County.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of the above court of this county.

Essex

The first district court of Essex, held at Salem; Salem, Beverly, Danvers, Middleton and Manchester-by-the-Sea.

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The second district of Essex, held at Ipswich; Ipswich, Hamilton, Topsfield and Wenham.

The central district court of northern Essex, held at Haverhill; Haverhill, Groveland, Georgetown, Boxford, and West Newbury; the district court of Newburyport exercising concurrent jurisdiction in West Newbury.

The district court of eastern Essex, held at Gloucester; Gloucester, Rockport, and Essex.

The district court of southern Essex, held at Lynn; Lynn, Swampscott, Saugus, Marblehead and Nahant.

The district court of Lawrence, held at Lawrence and Methuen; Lawrence, Andover, North Andover and Methuen.

The district court of Newburyport, held at Newburyport; Amesbury, Merrimac, Newbury, Newburyport, Rowley, Salisbury and West Newbury; the central district court of northern Essex exercising concurrent jurisdiction in West Newbury.

The district court of Peabody, held at Peabody; Peabody, and Lynnfield.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Franklin

The district court of Franklin, held at Greenfield, Franklin county, except Orange, Erving; Warwick, Wendell; Leverett, Shutesbury, and New Salem. Sessions may also be held at Shelburne Falls in Shelburne and Buckland at such times and places as the justice of said court may determine.

The district court of eastern Franklin, held at Orange; Athol, Orange, Erving, Warwick, Wendell, Leverett, Shutesbury, and New Salem. Said court shall be held in Athol at least one day each week of the year. Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Hampden

The district court of eastern Hampden held at Palmer; Palmer, Brimfield, Hampden, Monson, Holland, Wales, Wilbraham, Ludlow and East Longmeadow.

The district court of western Hampden, held at Westfield and Chester; Westfield, Chester, Granville, Southwick, Russell, Blandford, Tolland, Montgomery and Agawam.

The district court of Chicopee, held at Chicopee; Chicopee. The district court of Holyoke, held at Holyoke; Holyoke.

The district court of Springfield held at Springfield; Springfield, West Springfield and Longmeadow.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thir-

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ty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Hampshire

The district court of Hampshire, held at Northampton, Cummington, Huntington, and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Middlesex

The district court of central Middlesex held at Concord; Concord, Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, and Lexington.

The first district court of northern Middlesex, held at Ayer; Ayer, Dunstable, Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton and Boxborough, and the Devens Regional Enterprise Zone.

The first district court of eastern Middlesex, held at Malden; Malden, Wakefield, Melrose and Everett.

The second district court of eastern Middlesex, held at Waltham; Waltham, Watertown and Weston.

The third district court of eastern Middlesex, held at Cambridge; Cambridge, Arlington and Belmont.

The fourth district court of eastern Middlesex, held at Woburn; Woburn, Winchester, Burlington, Wilmington, Stoneham, Reading and North Reading.

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston, and Hopkinton.

The district court of Lowell, held at Lowell; Lowell, Billerica, Tewksbury, Dracut, Chelmsford and Tyngsborough.

The district court of Marlborough, held at Marlborough; Marlborough and Hudson. The district court of Natick, held at Natick; Natick, Sherborn, Wayland, and Sudbury. The district court of Newton, held at Newton; Newton.

The district court of Somerville, held at Somerville; Somerville and Medford.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of

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all of the above courts of this county.

Nantucket

The district court of Nantucket, held at Nantucket; Nantucket county.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of the above court of this county.

Norfolk

The district court of northern Norfolk, held at Dedham; Dedham, Dover, Norwood, Westwood, Medfield, Wellesley and Needham.

The district court of East Norfolk, held at Quincy; Quincy, Braintree, Cohasset, Weymouth, Holbrook, Randolph and Milton; and, in criminal cases, concurrently with the second district court of Plymouth, that part of Scituate described in chapter three hundred and ninety-four of the acts of nineteen hundred and twelve. Arrests and service of process in such cases may be made by an officer qualified to serve criminal process in Cohasset. This provision shall not increase the judicial district of said court of the purposes of section seventy-eight.

The district court of southern Norfolk, held at Stoughton; Stoughton, Avon, Canton and Sharon.

The district court of Western Norfolk, held at Wrentham; Franklin, Walpole, Foxborough, Medway, Millis, Norfolk, Wrentham and Plainville.

The municipal court of Brookline, held at Brookline; Brookline.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Plymouth

The second district court of Plymouth, held at Hingham; Hingham, Rockland, Hull, Hanover, Scituate and Norwell.

The third district court of Plymouth, held at Plymouth; Plymouth, Kingston, Plympton, Pembroke, Duxbury, Halifax, Hanson and Marshfield.

The fourth district court of Plymouth, held at Wareham; Middleborough, Wareham, Lakeville, Marion, Mattapoisett, Rochester and Carver.

The district court of Brockton, held at Brockton; Brockton, Bridgewater, East Bridgewater, Whitman, Abington and West Bridgewater. Said court may adjourn to the Massachusetts correction institution at Bridgewater, whenever the public convenience seems to the first justice to render such adjournment expedient.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Suffolk

The central division of the Boston municipal court department, held at Boston; wards six, seven, eight, nine, ten, eleven, twelve, sixteen, seventeen and eighteen of Boston as they existed on February first, eighteen hundred and eighty-two; and in criminal cases, concurrently with the Roxbury and Brighton divisions of the Boston municipal court department, the second and third district courts of eastern Middlesex, and the district court of Newton, respectively, so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine, as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the districts of said courts.

The Brighton division of the Boston Municipal court department, held at Brighton in Boston; ward twenty-five of Boston as it existed on February first, eighteen hundred and eighty-two.

The Charlestown division of the Boston municipal court held at Charlestown in Boston: wards three, four and five of Boston as they existed on February first, eighteen hundred and eighty-two; provided that in criminal matters said court shall have exclusive jurisdiction in that part of said wards which is under the care, custody and control of the lower basin division of the metropolitan district commission and in so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the district of said court.

The district court of Chelsea, held at Chelsea; Chelsea, and Revere.

The Dorchester division of the Boston municipal court department, held at Dorchester in Boston; ward twenty-four of Boston as it existed on February first, eighteen hundred and eighty-two, and the territory comprised within the limits of precinct twelve of ward thirteen of Boston as it existed on November second, nineteen hundred and forty-eight.

The East Boston division of the Boston municipal court department, held at East Boston in Boston; Winthrop and wards one and two of Boston as they existed on March first, eighteen hundred and eighty-six; provided that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel, so-called, and Lieutenant William F. Callahan, Jr. tunnel, including any property, toll plazas and approach roads thereto under the ownership, care, custody and control to the Massachusetts Turnpike Authority as provided by chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight.

The Roxbury division of the Boston municipal court, held at Roxbury in Boston; wards nineteen, twenty, twenty-one and twenty-two of Boston as they existed on February first, eighteen hundred and eighty-two, excepting ward ten, save as hereinafter provided, as it existed on February first, nineteen hundred and seventy-six; provided, however, that, notwithstanding any other provision of law, said court shall have jurisdiction over matters arising in precincts one, six and seven of ward ten.

The South Boston division of the Boston municipal court held at South Boston in

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Boston; wards thirteen, fourteen and fifteen of Boston as they existed on February first, eighteen hundred and eighty-two.

The West Roxbury division of the Boston municipal court, held at West Roxbury in Boston; ward twenty-three of Boston as it existed on February first, eighteen hundred and eighty-two, the territory comprised within the limits of the former town of Hyde Park which was annexed to Boston by chapters four hundred and sixty-nine and five hundred and eighty-three of the acts of nineteen hundred and eleven, and ward ten, except precincts one, six and seven of said ward ten, as existing on February first, nineteen hundred and seventy-six.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county. The juvenile court located in the city of Boston, heretofore known as the Boston juvenile court, shall have territorial jurisdiction provided in section fifty-seven, and with respect to children in Suffolk county, shall have exclusive jurisdiction of petitions brought under said sections twenty-four and thirty-nine E of said chapter one hundred and nineteen.

Worcester

The central district court of Worcester, held at Worcester; Worcester and Auburn.

The first district court of northern Worcester, held at Gardner; Gardner, Petersham, Hubbardston and Westminster.

The first district court of eastern Worcester, held at Westborough and Grafton; Westborough, Grafton, Southborough, Northborough and Shrewsbury.

The second district court of eastern Worcester, held at Clinton; Clinton, Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling, and West Boylston.

The first district court of southern Worcester, held at Southbridge and Webster; Southbridge, Webster, Sturbridge, Charlton, Dudley and Oxford.

The second district court of southern Worcester, held at Uxbridge; Uxbridge, Blackstone, Douglas, Northbridge, Millville, Sutton and Millbury.

The third district court of Southern Worcester, held at Milford; Milford, Mendon, Upton, Bellingham and Hopedale.

The district court of western Worcester, held at North Brookfield; East Brookfield, Brookfield, Spencer, North Brookfield, West Brookfield, Warren, Hardwick, Leicester, New Braintree, Barre, Oakham, Paxton and Rutland. Said court may adjourn to any town within its district other than North Brookfield whenever the public convenience seems to the presiding justice to render such adjournment expedient.

The district court of Fitchburg, held at Fitchburg; Fitchburg and Lunenburg.

The district court of Leominster, held at Leominster; Leominster, Holden and Princeton.

The district court at Winchendon, held at Winchendon; Winchendon, Ashburham, Phillipston, Royalston and Templeton.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Each division of the district court department may be referred to by the name of the principal place for the holding of said court.

SECTION 454. Section 3 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "municipal court of the city of Boston, the municipal court of the Charlestown district and the municipal court of the South Boston district, and the East Boston district court" and inserting in the place thereof the following words:- central, Charlestown, South Boston, and East Boston divisions of the Boston municipal court department.

SECTION 455. Section 6 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words ", the municipal court of the Dorchester district".

SECTION 456. Said section 6 of said chapter 218, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words "the municipal court of the Roxbury district,".

SECTION 457. Said section 6 of said chapter 218, as so appearing, is further amended by striking out the figure "177", inserted by section 44 of chapter 177 of the acts of 2001, and inserting in the place thereof the following figure:- 158.

SECTION 458. Section 8 of said chapter 218, as so appearing, is hereby amended by striking out the first sentence and inserting in the place thereof the following sentence:- Each district court and each division of the Boston municipal court department shall have a clerk, except that the central division of the Boston municipal court department shall have two clerks as provided in section 53.

SECTION 459. Section 9 of said chapter 218, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

In the case of the absence, death or removal of a clerk of a court of the Boston municipal court department, the chief justice of the Boston municipal department may appoint a temporary clerk, to act until the clerk resumes his duties or until the vacancy is filled.

SECTION 460. The fourth paragraph of section 10 of said chapter 218, as so appearing, is hereby amended by striking out the lines reading "municipal court of the Brighton district;" "East Boston district court;" "municipal court of South Boston district;" and "the municipal court of the Charlestown district;".

SECTION 461. The eighth paragraph of said section 10 of said chapter 218, as so appearing, is hereby amended by striking out the line reading "municipal court of the Dorchester district;".

SECTION 462. Said eighth paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading "district court of West

Roxbury district;".

SECTION 463. Said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the eleventh and twelfth paragraphs.

SECTION 464. The Fifteenth paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading "municipal court of the Dorchester district;".

SECTION 465. Said fifteenth paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading "district court of Brighton;".

SECTION 466. Section 10A of said chapter 218, as so appearing, is hereby amended by striking, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 467. Section 11 of said chapter 218, as so appearing, is hereby amended by inserting after the word "department", in line 2, the following words:- and the Boston municipal court department.

SECTION 468. Section 22 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "ten dollars for claims of five hundred dollars or less and fifteen dollars for claims of greater than five hundred dollars," and inserting in place thereof the following words:- \$20 for claims of \$500 or less and \$30 for claims of greater than \$500.

SECTION 469. Section 26 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "the municipal court of the city of Boston" and inserting in the place thereof the following words:- divisions of the Boston municipal court department.

SECTION 470. Section 38 of said chapter 218, as so appearing, is hereby amended by inserting after the word "courts", in line 1, the following words:- and Boston municipal court divisions.

SECTION 471. Said section 38 of said chapter 218, as so appearing, is hereby further amended by inserting after the word "courts", in line 10, the following words:- and Boston municipal court divisions.

SECTION 472. Section 39 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 473. Section 40 of said chapter 218, as so appearing, is hereby amended by striking out, in line 3, the words "municipal court of the city of Boston" and inserting in place thereof the following words:- Boston municipal court department.

SECTION 474. Said section 40 of said section 218, as so appearing, is hereby further amended by striking out, in line 10, the words "municipal court of the city of Boston"

and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 475. Section 47 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "the municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 476. Section 48 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "or the East Boston district court".

SECTION 477. Section 49 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "the municipal court of the city of Boston, and in the East Boston district court" and inserting in the place thereof the following words:- central division of the Boston municipal court department, and in the East Boston division of the Boston municipal court department.

SECTION 478. Section 50 of said chapter 218, as so appearing, is hereby amended by striking out, in line 2, the word "eleven" and inserting in the place thereof the following figure:- 30.

SECTION 479. Section 51A of said chapter 218, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The chief justice of the Boston municipal court department shall have the power to appoint the first justice of each of the various divisions within the Boston municipal court department, subject to the approval of the chief justice for administration and management, and to define his duties; provided, however, that appropriate consideration shall be given to seniority, length of service at that particular division, and managerial ability. Each first justice so appointed shall serve as the first justice of that court for a five-year term and shall be eligible to be reappointed for additional five-year terms at that particular court. Any first justice may be removed from his position as first justice, when it is determined by the chief justice of the district court department to be in the best interests of the administration of justice. Any first justice who is removed from his position as first justice by the chief justice of the district court department may appeal such removal to the chief justice for administration and management.

SECTION 480. Section 53 of said chapter 218, as so appearing, is hereby amended by inserting after the word "the", in line 1, the following words:- central division of the.

SECTION 481. Said section 53 of said chapter 218, as so appearing, is hereby further amended by adding the following five paragraphs:-

Four assistant clerks with salaries payable by the commonwealth may be appointed in: Brighton division of the Boston municipal court department; East Boston division of the Boston municipal court department; South Boston division of the Boston municipal court department; Charlestown division of the Boston municipal court department.

Eight assistant clerks with salaries payable by the commonwealth may be appointed in: Dorchester division of the Boston municipal court department; West Roxbury division of the Boston municipal court department.

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Twelve assistant clerks with salaries payable by the commonwealth may be appointed in: Roxbury division of the Boston municipal court department.

One of the 12 assistant clerks for the Roxbury division of the Boston municipal court department shall be appointed for juvenile sessions.

In the following courts, one of the assistant clerks shall be designated in charge of six-person jury sessions and shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation, by the chief justice of administration and management: Dorchester division of the Boston municipal court department.

SECTION 482. Said chapter 218 is hereby further amended by striking out section 53A, as so appearing, and inserting in the place thereof the following section:-

Section 53A. In case of the absence, death or removal of a salaried assistant clerk of any of the 8 divisions of the Boston municipal court department, the clerk of said court, may, subject to the approval of the chief justice, appoint a temporary assistant clerk, to act until such assistant clerk resumes his duties or until the vacancy is filled.

SECTION 483. Section 54 of said chapter 218, as so appearing, is hereby amended by striking out, in line 2, the words "said court" and inserting in the place thereof the following words:- the central division of the Boston municipal court department.

SECTION 484. Section 54 of said chapter 218, as so appearing, is hereby further amended by inserting after the words "Suffolk county" in lines 5 and 8 the following:- , excluding Chelsea and Revere,.

SECTION 485. Section 57 of said chapter 218, as so appearing, is hereby amended by striking out the paragraphs under the caption "*Suffolk County*", and inserting in the place thereof the following 3 paragraphs:-

held at the Dorchester division of the Boston municipal court department, within the same territorial limits as are prescribed for the criminal jurisdiction of the Dorchester division of the Boston municipal court, as the chief justice of the juvenile court department may determine.

held at the West Roxbury division of the Boston municipal court, within the same territorial limits as are prescribed for the criminal jurisdiction of the West Roxbury division of the Boston municipal court department, as the chief justice of the juvenile court department may determine.

held at Boston, within the same territorial limits as are prescribed for the criminal jurisdiction of the central division of the Boston municipal court department, the Roxbury division of the Boston municipal court department, as the chief justice of the juvenile court department may determine, the Brighton division of the Boston municipal court department, the Charlestown division of the Boston municipal court department, the East Boston division of the Boston municipal court department, the Chelsea division of the district court department; and the South Boston division of the Boston municipal court department, as the chief justice of the juvenile court department may determine.

SECTION 486. Section 66 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 487. Section 68 of said chapter 218, as so appearing, is hereby amended by striking out, in line 1, the words "district court" and inserting in the place thereof the following words:- division of the Boston municipal court department.

SECTION 488. Section 70 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "for civil business and for criminal business".

SECTION 489. Said chapter 218 is hereby further amended by striking out section 75B, as so appearing, and inserting in the place thereof the following section:-

Section 75B. The salaries of the first assistant clerks of the central division of the Boston municipal court department and the first assistant clerk designated in charge of twelve man jury sessions of said court for criminal business shall be equal to eighty-three and one-half percent of the salary of the clerks of said court as provided for in section 53.

SECTION 490. Said chapter 218 is hereby further amended by striking out section 80A, as so appearing, and inserting in place thereof the following section:-

Section 80A. The secretary and assistant secretary to the justices of the Boston municipal court department shall receive from the commonwealth in full for all services performed by them such salaries as shall be fixed by the justices of said department.

SECTION 491. Section 37 of said chapter 221, as most recently amended by section 122 of chapter 184 of the acts of 2002, is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:- A petitioner to be examined for admission shall pay to the clerk of the court in which his petition is filed a fee of \$800 upon the entry of his petition and a further fee of \$800 upon the entry of any subsequent petition. A member of the bar of any other state who applies to be admitted without examination shall pay to the clerk of the court in which his petition is filed a fee of \$1,000. Any person who requests to have their bar examination scores transferred to another jurisdiction shall pay a fee of \$25 for each transfer. If the board determines to allow petitioners for examination to use approved computers in connection with any portion of the examination, petitioners who use such computers shall pay a fee of \$75 for such use; provided, that such a fee shall not be assessed against any petitioner who is granted permission to use such a computer by reason of any physical or mental impairment or other disability that substantially and mentally limits the individual's ability to complete the bar examination.

SECTION 492. Section 62B of said chapter 221, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 5, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 493. Section 8 of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "the metropolitan district commission".

SECTION 494. Section 4A of chapter 252 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words, ", or through the metropolitan district commission in respect to the metropolitan parks or water district or either metropolitan sewerage district".

SECTION 495. Section 4 of chapter 260 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words ", of the metropolitan district commission".

SECTION 496. Chapter 262 of the General Laws is hereby amended by striking out section 2, as most recently amended by section 131 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:-

Section 2. The fees of the clerks of the district and Boston municipal court departments of the trial court in civil actions, shall be as follows:

for the entry of a complaint, third-party complaint, petition or other action, and for the filing of a motion to intervene as plaintiff, \$180;

for the entry of supplementary proceedings under chapter 224, \$30, which, together with the fees of witnesses and officers in such proceedings, shall be allowed the creditor as costs;

for the entry of a claim of trial by the superior court under section 104 of chapter 231, \$180;

for approving or disapproving by the court of sureties on bonds or recognizances, except bonds given for removal of actions to the superior court, \$60; and

for the entry of a civil appeal in the appellate division of the district court department, \$180.

Notwithstanding the foregoing, no fee shall be paid for the entry of a complaint, petition, appeal or other action or removal from the district court by the commonwealth, but if the commonwealth prevails in the action, the fee shall be taxed against the other party.

SECTION 497. Said chapter 262 is hereby further amended by inserting after section 2 the following section:-

Section 2A. The clerks of the district and Boston municipal court departments shall assess a \$90 fee on each civil suit or petition that is without final disposition one year following the commencement of said suit or petition and in each year thereafter that such suit or petition remains without such final disposition. Said fee shall be assessed on the anniversary date of said suit or petition's original filing and shall be paid to the court no later than 45 days following said anniversary. Failure to pay said fee in such a timely fashion shall subject said suit or petition to the assessment of an additional late fee of \$10 that shall be assessed each month until said \$120 is paid to the court. Said clerks shall post a notice of the requirement to pay such a fee in a place of high visibility within their respective courts. Failure to pay the fees established by this section within the time period established by this section shall also subject the suit or petition to an order of dismissal nisi entered by the appropriate justice of the district court or Boston municipal court department following the provision of 30 days notice of such impending dismissal to the parties who initiated such suit

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or petition.

SECTION 498. Said chapter 262 is hereby further amended by striking out section 4, as most recently amended by section 134 of said chapter 184, and inserting in place thereof the following section:-

Section 4. The fees of the clerks of the supreme judicial court for the commonwealth and for each of the counties and for the appeals court shall be as follows:

for the entry of a complaint, petition, appeal or other action, \$300;

for the filing of an application for further appellate review, \$270; and

for the issuance of an injunction or restraining order, \$90.

Notwithstanding the foregoing, no fee shall be paid for the entry of an appeal, petition, complaint or other action and for the filing of an application for further appellate review by the commonwealth and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order, but if the commonwealth prevails in the action, the fees shall be taxed against the other party.

SECTION 499. Said chapter 262 is hereby further amended by striking out section 4A, as most recently amended by section 137 of said chapter 184, and inserting in place thereof the following section:-

Section 4A. The fees of clerks of court of the superior court department of the trial court shall be as follows:

for the entry in the superior court department of the trial court of a complaint, third-party complaint, petition or other action and for the filing of a motion to intervene as plaintiff, \$240;

for the filing of a petition to the county commissioners, \$30, except that no fee shall be required from a municipality filing a petition to the county commissioners for the county in which it is located; and

for the issuance of an injunction or restraining order, \$90.

The clerk shall collect, for every civil case, a \$20 security fee.

Notwithstanding the foregoing, no fee shall be paid for the entry of a complaint, petition or other action by the commonwealth and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order, but if the commonwealth prevails in the action, the fees shall be taxed against the other party.

SECTION 500. Section 4C of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "ten dollars" and inserting in place thereof the following figure:- \$15.

SECTION 501. Said section 4C of said chapter 262, as so appearing, is hereby further amended by striking out, in line 6, the words "four dollars" and inserting in place thereof the following figure:- \$10.

SECTION 502. Said chapter 262 is hereby further amended by inserting after section 4C the following section:-

Section 4D. The clerks of court of the superior court department of the trial court shall assess a \$120 fee on each civil suit or petition that is without final disposition one year

following the commencement of said suit or petition and in each year thereafter that such suit or petition remains without such final disposition. Said fee shall be assessed on the anniversary date of said suit or petition's original filing and shall be paid to the court no later than 45 days following said anniversary. Failure to pay said fee in such a timely fashion shall subject said suit or petition to the assessment of an additional late fee of \$10 that shall be assessed each month until said \$120 is paid to the court. Said clerks shall post a notice of the requirement to pay such a fee in a place of high visibility within their respective courts.

Failure to pay fees established by this section within the time period established by this section shall also subject the suit or petition to an order of dismissal nisi entered by the appropriate justice of the superior court department following the provision of 30 days notice of such impending dismissal to the parties who initiated such suit or petition.

SECTION 503. Said chapter 262 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. The fees of sheriffs, deputy sheriffs and constables shall be as follows:

(a) for the service of civil process:

(1) for service of an original summons, trustee process, subpoena or scire facias, either by reading it or by leaving a copy thereof, \$20 for each defendant upon whom service is made, except as otherwise provided herein;

(2) for service of an original summons and complaint for divorce or for any other service required to be served in hand, \$30 for each defendant upon whom service is made;

(3) for attestation of each copy of a writ, precept or process, except as otherwise provided herein, \$5.

(4) if the officer by the direction of the plaintiff or his attorney makes a special service of a writ or precept, either by attaching personal property or arresting the body, he shall be entitled to \$2 for each defendant upon whom the writ is so served, and \$8 additional for custody of the body arrested, and at the same rate for each day during which he has such custody; provided, however; that if the officer employs an assistant in the arrest of the body, he shall be entitled to \$5 a day for such assistant;

(5) for the custody of personal property attached, replevied or taken on execution, not more than \$50 for each day of not more than 8 hours for the keeper while he is in charge, and not more than \$20 a day for the officer for a period not longer than 10 days; but the officer may be allowed a greater compensation for himself or his keeper, or compensation for a longer period, by the consent of the plaintiff, or by order of the court upon a hearing; provided, however, that the officer shall also be entitled to expenses for packing, labor, teaming, storage and taking and preparing a schedule of property attached, replevied or taken on execution, if he certifies that such expenses were necessary and reasonable;

(6) for an attachment on mesne process of land or of any leasehold estate, \$20 for each defendant against whom an attachment is made, 32 cents a mile each way for travel from the place of service to the registry and his fee for the copy deposited in the registry of deeds or land court, together with the recording fees actually paid;

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(7) for a special attachment of real estate, \$10 additional for each person against whom an attachment is made;

(8) for the service of a writ of replevin: for seizure of property, \$10 for each defendant; securing and swearing appraisers, \$4, and the actual amount paid to appraisers, as hereinafter provided; examining and approving sureties, \$5; delivery of property replevied, \$5; for each service, \$5 for each copy, at the rate hereinbefore provided for copies of writs, precepts or other processes;

(9) for a levy on real estate:

(i) for preparing and serving notice of sale, a fee not to exceed \$50, plus travel;

(ii) For posting notices of sale, \$20, plus travel;

(iii) the necessary expenses of advertising;

(iv) for the sale of land or of any leasehold estate, \$20;

(v) for preparing, executing and acknowledging deed, \$25; and

(vi) for travel, 32 cents a mile each way from the place where he receives the execution to the office of the register of deeds, and his fee for the copy;

(10) for a sale of personal property on mesne process or on execution the following:

(i) for service of a copy of notice to appoint appraisers, \$8 for each person upon whom service is made;

(ii) the necessary expenses of taking and preparing a schedule of property proposed to be sold;

(iii) for attendance upon and swearing appraisers, \$10;

(iv) the amount actually paid to appraisers as hereinafter provided;

(v) for preparing and posting notice of a proposed sale, \$10, plus travel;

(vi) the necessary expenses of keeper, labor and advertising;

(vii) For custody of property, \$10 a day;

(viii) for services as auctioneer, or for services of an auctioneer in selling property, a fair and reasonable amount;

(ix) if the sale is made on execution, poundage may be charged as hereinafter provided;

(x) the fair compensation for the services of an appraiser shall not be more than \$30 for each day's service, but the officer may be allowed a greater compensation for the appraisers by an order of the court;

(xi) for each adjournment of sale of real or personal property, \$10;

(11) for taking bail and furnishing and writing the bail bond, \$2, which shall be paid by the defendant and taxed in his bill of costs if he prevails;

(12) for serving an execution in a personal action by copy and demand on debtor or on trustee, \$10 and travel, if the execution is not collected in whole or in part; for serving an execution in a personal action, and collecting damages or costs on an execution, warrant of distress or other like process, for an amount not exceeding \$100, 10 cents for every \$1; all above \$100 and not exceeding \$500, 5 cents for every \$1; and all above \$500, 2 cents for every \$1; but such percentage shall be allowed only upon the amount actually collected. A

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levy of the execution upon his body shall be considered, so far as the fees of the officer are material, a full satisfaction of the execution if the debtor has recognized with surety or sureties as required by law;

(13) for serving a writ of seisin or possession in a real action, \$15 for each parcel;

(14) for serving an execution upon a judgment for partition or for assignment of dower or curtesy, \$2 per day;

(15) for serving a writ of capias, a writ of habeas corpus, a writ of ne exeat or other process of civil arrest in a civil proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel;

(16) for serving a venire or notice to jurors for attendance upon any court, civil or criminal, \$10 for each person upon whom service is made;

(17) for summoning witnesses, \$20 for each person upon whom service is made and \$2 for each copy served, together with the fee paid to the witness;

(18) for dispersing treasurer's process warrants and proclamations of all kinds, \$4 each;

(19) for travel in the service of original writs, executions, warrants, summonses, subpoenas, notices and other processes, 32 cents a mile each way, to be computed from the place of service to the court or place of return; and if the same precept, or process is served upon more than 1 person, the travel shall be computed from the most remote place of service, with such further travel as was necessary in serving it; if the distance from the place of service to the place of return exceeds 20 but does not exceed 50 miles, 32 cents a mile 1 way only shall be allowed for all travel exceeding 20 miles and, if it exceeds 50 miles, only 6 cents a mile 1 way shall be allowed for all travel exceeding that distance;

(20) for travel in the service of venires and notices to jurors, 32 cents a mile for the distance actually traveled;

(21) for posting warrants, for notifying town meetings or for other purposes, \$5 for each copy posted together with 32 cents a mile for the distance actually traveled;

(b) for the service of criminal process:

(1) for serving a warrant of capias in a criminal proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel, and of a summons upon the defendant, \$20, for each person upon whom the same is served;

(2) for a copy of a mittimus, warrant or other precept required by law in criminal cases, \$5;

(3) for service of a witness, summons or subpoena in criminal cases, \$20 plus travel in the amount of 32 cents a mile each way for a distance of not more than 20 miles, and for any excess over 20 miles, 7 cents a mile each way, and no more. The distance shall be computed from the most remote place of service to the place of return, but upon a subpoena the court shall reduce the fee for travel to a reasonable amount for the service performed if the travel charged has not been actually performed by the officer who made the service; and

(4) for service of an order of notice under chapter 273A, \$20.

SECTION 504. Section 34 of said chapter 262, as so appearing, is hereby amended by striking, in line 78, the words "four dollars" and inserting in place the following words:- "\$50, of which \$46 shall be deposited in the General Fund."

SECTION 505. The first paragraph of section 39 of said chapter 262, as most recently amended by section 144 of chapter 184 of the acts of 2002, is hereby further amended by striking out the paragraph, in lines 3 and 4, and inserting in place thereof the following paragraph:-

For the entry of every original petition, complaint or writ and transmitting it to the recorder, when filed with an assistant recorder, \$240. For the entry of complaint to foreclose tax lien \$200. An additional fee of \$90 shall be paid for the issuance of an injunction or restraining order.

SECTION 506. Said section 39 of said chapter 262 is hereby further amended by striking out, in line 48, as appearing in the 2000 Official Edition, the words "forty dollars" and inserting in place thereof the following figure:- \$50.

SECTION 507. Said chapter 262 is hereby further amended by striking out section 40, as most recently amended by section 151 of chapter 124 of the acts of 2002, and inserting in place thereof the following section:-

Section 40. The fees of registers of the probate and family court department of the trial court, shall be as follows:

for the entry of a complaint for divorce or for affirming or annulling marriage, except as provided hereinafter for an action in equity, \$200;

for the entry of an action for separate support, \$100;

for the entry of a petition for the probate of a will, for administration of the estate of a person deceased intestate, for administration of goods not already administered, with the will annexed or otherwise, of a petition under section 35 or 36 of chapter 209 by a husband or wife for authority to convey land as if sole, of a petition for partition, for change of name, for leave to carry on the business of the deceased and for the appointment of a special administrator, conservator, trustee, receiver of the estate of an absentee or a guardian, except when the petitioner certifies that the ward's estate does not exceed \$100, \$150;

for filing a representation of insolvency, \$150;

for the entry of a petition: for leave to lease real estate; for specific performance; for leave to mortgage real estate; in equity except, such as relates to separate support, adoption or the custody or support of minors; for release of dower or courtesy; for letters to a foreign guardian; petition for leave to compromise; and for leave to pay debts, except when the petitioner or accountant certifies that the estate does not exceed \$1,000 in value, \$75;

for the entry of a general petition except such as relates to adoption or custody or support of minors, \$150;

for the entry of a petition for removal of a fiduciary, \$100;

for the amendment of record except such as relates to separate support, adoption or

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the custody or support of minors, for discharge of surety, for care of burial lot and for erection of a monument, \$60 each;

for new bond and for new inventory, \$75 each;

for filing a statement of voluntary administration, \$100;

for the petition or application for allowance of an account where the gross value accounted for in Schedule A of the account is \$1,000 or less, no fee; where the gross value is more than \$1,000 but not more than \$10,000, \$75 a year; provided, however, that the fees shall not exceed \$170 regardless of the time covered by the account; where the gross value is \$10,000, more than \$10,000 but not more than \$100,000, \$100 for each year or major fraction thereof covered by the account; where the gross value is more than \$100,000 but not more than \$500,000, \$150 for each year or major fraction thereof covered by the account; where the gross value is more than \$500,000 and not more than \$1,000,000, \$200 for each year or major fraction thereof covered by the account; where the gross value is more than \$1,000,000, \$400 for each year or major fraction thereof covered by the account;

for the petition or application for sale of real or personal estate an account where the gross value accounted for is \$100,000 or less, \$100; where the gross value is more than \$100,000 but not more than \$250,000, \$250; where the gross value is more than \$250,000 but not more than \$500,000, \$500; where the gross value is more than \$500,000 but less than \$1,000,000, \$750; where the gross value is more than \$500,000 but not more than \$1,000,000, \$750; where said gross value is over \$1,000,000, \$1000;

for filing a motion for change of name, \$100;

for filing a motion for the framing of jury issues, \$140;

for filing a will for safekeeping, \$75; provided, that no additional fee shall be charged for filing a will in substitution for a will previously filed and withdrawn;

for filing a bond, \$50;

for issuance of an injunction, \$150;

for issuance of a temporary restraining order, \$100; and

for entry of an action for the modification of a decree, \$150.

Notwithstanding this section, no fee shall be charged for the filing of a complaint to modify a temporary order or final judgment relating to support, maintenance or education of a child nor for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support.

SECTION 508. Section 56 of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words ", other than a police officer of the metropolitan district commission,".

SECTION 509. Section 33 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 510. Section 87A of chapter 276 of the General Laws, as most recently amended by section 13 of chapter 300 of the acts of 2002, is hereby further amended by striking out the second, third, fourth and fifth paragraphs and inserting in place thereof the following eight paragraphs:-

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The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. Said person shall pay said probation fee once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$20 per month. Said person shall pay said administrative probation fee once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of said fees would cause such undue hardship then: (1) in lieu of payment of said probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than one day per month and (2) in lieu of payment of said administrative probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than four hours per month. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

The court may waive payment of either or both of said fees in whole or in part if said person is assessed payment of restitution. In such cases, said fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to said fee.

Said probation fee shall be collected by the several probation offices of the trial court and transmitted to the state treasurer for deposit into the General Fund. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

The court shall also assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probationers' victim services surcharge, hereinafter referred to as "victim services surcharge", in the amount of \$5 per month. Said person shall pay said victim services surcharge once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probationer's victim services surcharge, hereinafter referred to as "administrative victim services surcharge" in the amount of \$1 per month.

Said person shall pay said administrative victim services surcharge once each month

during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it has determined, after a hearing and upon written finding, that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

Said probation fee shall be collected by the several probation offices of the trial court and shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

SECTION 511. The first paragraph of section 70C of said chapter 277 of the General Laws is hereby amended by striking out the last sentence and inserting the following 3 sentences:- Where the commonwealth has moved at arraignment or pretrial conference to proceed civilly and the court has allowed that motion, the court shall not appoint counsel. If counsel has already been appointed, the court shall revoke the appointment. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to any term of incarceration.

SECTION 512. The second paragraph of said section 70C of said chapter 277, as so appearing, is hereby amended by inserting the following sentence:- An adjudication of responsibility under this section may include an order of restitution.

SECTION 513. Paragraph (f) of section 1 of chapter 465 of the acts of 1956 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any obligation or expense hereafter incurred at the request of the Authority by the department of public works, the department of conservation and recreation or by the highway department of the city or by any other governmental agency for engineering and legal services in connection with the construction of a project and the financing thereof shall be regarded as a part of the cost of the project and shall be assumed and paid by the Authority, or reimbursed to the commonwealth or to the city or to such agency out of the proceeds of the revenue bonds hereinafter authorized.

SECTION 514. The fourth paragraph of section 4 of said chapter 465 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the department of conservation and recreation or installed under licenses or permits granted by said departments, except with its approval.

SECTION 515. The second paragraph of section 23 of said chapter 465 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The authority may call upon the department of public works, the department of

conservation and recreation, the department of commerce, the department of highways, the planning board of the city and such other state or city boards, commissions, divisions and agencies as may be deemed advisable for the purposes of assisting in making investigations, studies, surveys and estimates, and in policing the projects, and the Authority may arrange for payment for such services and expenses of those agencies in connection therewith.

SECTION 516. Section 58 of chapter 153 of the acts of 1992 is hereby repealed.

SECTION 517. Subsection (h) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Recipients not qualifying as exempt under the provisions of subsection (e) shall participate in the work program established by subsection (j).

SECTION 518. Item 7220-0960 of section 2 of chapter 267 of the acts of 1995 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, the trustees of the university or an officer designated by it may enter into agreements with the commissioner of conservation and recreation for repairs and improvements to, and cooperative operation and management of, the Bellegarde Boathouse property in the city of Lowell, and such cooperative management and operation of the adjacent Sampas Pavilion and Regatta Field as may be agreed upon and the cost for such repairs and improvements may be paid from this item; provided further, that an agreement may also provide that revenues derived from use of the boathouse property or from use of the Sampas Pavilion and Regatta Field may be deposited in a trust fund established by the university pursuant to section 11 of chapter 75 of the General Laws and expended for the maintenance and operation of the boathouse; and provided further, that the university may expend funds from this item for necessary maintenance and operation.

SECTION 519. Item 7511-7961 of said section 2 of said chapter 267 is hereby amended by adding the following words:- "; provided that not less than \$300,000 of the amount appropriated shall be expended for the purpose of conducting a study to create a master plan that would assess the capital and facility needs of the T.W. McGee Building and other buildings located on the Lynn campus of North Shore Community College and that would analyze the feasibility of allowing North Shore Community College to enter a multi-year agreement with private entities relative to capital and facility needs at this site."

SECTION 520. The definition of "Project" in section 2 of chapter 152 of the acts of 1997 is hereby amended by adding the following sentence:- The term shall also include the Springfield Civic Center in the city of Springfield, the Hynes Convention Center in the city of Boston and the Boston common garage in the city of Boston.

SECTION 521. The first sentence of subsection (b) of section 10 of said chapter 152, as appearing in section 5 of chapter 45 of the acts of 2001, is hereby amended by inserting after the words "special receipts," the following words:- shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

SECTION 522. The first sentence of subsection (b½) of said section 10 of said chapter 152, as so appearing, is hereby amended by inserting after the words "special receipts"; the following words:- shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

SECTION 523. Said section 10 of said chapter 152 is hereby further amended by striking out subsection (e).

SECTION 524. Subsection (a) of section 11 of said chapter 152, as amended by section 7 of chapter 450 of the acts of 2001, is hereby further amended by adding the following sentence:- Such bonds shall be issued for such maximum term of year, not exceeding 30 years, as the governor may recommend to the general court in accordance with section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2038.

SECTION 525. Subsection (c) of said section 11 of said chapter 152 is hereby amended by adding the following paragraph:-

Notwithstanding the foregoing, the state treasurer, with the concurrence of the secretary of administration and finance, may fund the Capital Reserve Fund in whole or in part with a surety bond, insurance policy or other form of credit enhancement and the balance on deposit from time to time in the Capital Reserve Fund for all purposes in this section shall be deemed to include an amount equal to the unpaid stated amount of such surety bond, insurance policy or other form of credit enhancement. All amounts drawn on or otherwise received from such surety bond, insurance policy or other form of credit enhancement shall be deposited by the state treasurer in the Capital Reserve Fund except to the extent otherwise provided in the trust or security agreement securing such bonds.

SECTION 526. Subsection (g) of said section 11 of said chapter 152 is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) in any fiscal year of the commonwealth, until the treasurer, with the concurrence of the secretary of administration and finance, has determined that special receipts or other pledged funds have been or will be deposited in the Convention Center Fund in an amount sufficient to pay when due the principal, including sinking fund payments, of and interest on all such bonds payable in such fiscal year and to maintain the capital reserve fund described in subsection (c), no such special receipts or other pledged funds shall be applied to any other use.

SECTION 527. Subsection (h) of section 110 of chapter 5 of the acts of 1995 is hereby amended by adding the following paragraph:-

Recipients not qualifying as exempt under the provisions of subsection (e) and whose child of record is under the age at which full-time school attendance is mandatory may, without penalty, choose not to participate in the work program established by subsection (j) if they need child care services and the Office of Child Care Services determines that there will not be sufficient funding or space to provide child care services to the recipient's child

while the recipient is participating in the work program established by subsection (j).

SECTION 528. Subsection (j) of said section 110 of said chapter 5 is hereby amended by adding the following paragraph:-

Recipients not qualifying as exempt under the provisions of subsection (e) and whose child of record is under the age at which full-time school attendance is mandatory in the city or town in which such child resides, may meet said work requirement through education and training programs that meet the requirements of the federal Personal Work and Responsibility Act of 1996.

SECTION 529. Section 284 of chapter 194 of the acts of 1998 is hereby repealed.

SECTION 530. Section 316 of chapter 194 of the acts of 1998 is hereby repealed.

SECTION 531. Section 357 of chapter 159 of the acts of 2000 is hereby repealed.

SECTION 532. Section 403 of said chapter 159 is hereby repealed.

SECTION 533. Notwithstanding any general or special law to the contrary, the division of medical assistance shall not pay a nursing facility for reserving a bed for residents receiving benefits under chapter 118E of the General Laws who are absent from the facility on so-called medical leaves of absence and non-medical leaves of absence.

SECTION 534. (A) Notwithstanding the provisions of any general or special laws to the contrary, the division of medical assistance may revise and amend its clinical criteria for payment for nursing facility services.

(B) Notwithstanding any general or special law to the contrary, any resident of a nursing home receiving medicaid benefits who meets the criteria in effect prior to July 1, 2003 shall not be subject to the provisions of subclause (A).

(C) Said Division shall seek a waiver to allow a broader standard for home and community-based services.

SECTION 535. Notwithstanding any general or special law to the contrary, the division of medical assistance may develop or amend any standards and regulations applicable to personal care attendant services as the division determines to be necessary and appropriate for the proper and efficient operation of the medical assistance and medical benefits programs administered under chapter 118E of the General Laws.

SECTION 536. Section 36 of chapter 88 of the acts of 2001 is hereby repealed.

SECTION 537. The definition of "Balanced budget" in section 33 of chapter 184 of the acts of 2002 is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) the amount transferred to the stabilization fund under subsection (a) of section 5C is greater than or equal to $\frac{1}{2}$ of 1 per cent of state tax revenue for such fiscal year.

SECTION 538. Section 43 of chapter of chapter 184 of the acts of 2002 is hereby repealed.

SECTION 539. Section 194 of chapter 184 of the acts of 2002 is hereby repealed.

SECTION 540. Item 2000-2013 of section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the words "in the city of Woburn" the following words:-

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; provided further, that not less than \$1,750,000 shall be expended for the acquisition of the Dunn property,- so-called, in the town of West Newbury, however, in the event that the town expends its own funding for acquisition of the property, it will be reimbursed;.

SECTION 541. Said item 2000-2013 of said section 2 of said chapter 236 is hereby further amended by striking out the figure "\$21,250,000" and inserting in place thereof the following figure:- \$23,000,000."

SECTION 542. Item 2100-2011 of said section 2 of said chapter 236 is hereby amended by striking out the words "; provided further, that \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury".

SECTION 543. Said item 2100-2011 of said section 2 of said chapter 236 is hereby further amended by striking out the figure \$46,425,000" and inserting in place thereof the following figure:- \$44,675,000."

SECTION 544. Section 5 of chapter 244 of the acts of 2002 is hereby amended by adding the following paragraph:-

During fiscal year 2004, funds shall be expended by the department of housing and community development, from the sums set forth and made available in item 7004-7013 of section 2, to institute a program of rolling stock housing for households that are eligible for residence in and who have actually resided in scattered site shelters funded through line item 4403-2120 of section 2 of the General Appropriations Act, as said item funding is administered by the department of transitional assistance, for not less than 6 months. Said department of transitional assistance, in conjunction and collaboration with the department of housing and community development, shall assist families from such eligible households in negotiating rental agreements for permanent housing at the current scattered site placement or, if possible, at an alternative placement located within 20 miles of the household's home community with the assistance of any state rental voucher program or federal housing choice voucher program. During fiscal year 2004, said program shall seek to provide such rolling stock housing for not less than 400 eligible families.

SECTION 545. Notwithstanding the provisions of any general or special law to the contrary, the department of capital assets maintenance and management may expend from capital authorizations amounts necessary to cover the operational costs not to exceed \$14 million of the department for fiscal year 2004.

SECTION 546. The first sentence of section 1 of chapter 256 of the acts of 2002 is hereby amended by striking out the words "subject to sections 40E to 40J, inclusive," and inserting in place thereof the following words: "notwithstanding section 40F½".

SECTION 547. Said first sentence of said section 1 of said chapter 256 is hereby further amended by striking out after the words "General Laws," the word "to."

SECTION 548. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commissioner", the commissioner of the department of capital assets management and maintenance.

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"Real property", as defined in section 39A of chapter 7 of the General Laws.

"State agency", as defined in said section 39A(v) of said chapter 7.

"Surplus real property", real property of the commonwealth (i) previously determined to be surplus to current and foreseeable state needs pursuant to sections 40F or 40F½ of said chapter 7, but excluding real property for which there is an established local reuse plan; or (ii) determined to be surplus to current and foreseeable state needs pursuant to this section. The term "surplus real property" shall not include property subject to Article 97 of the amendments to the constitution.

(b) Notwithstanding sections 40E to 40F½, inclusive, and 40H of said chapter 7 of the General Laws, or any other general or special law to the contrary, the commissioner may sell, lease for a term not to exceed 99 years, transfer or otherwise dispose of surplus real property of the commonwealth, as specified in this section.

(c) In order to determine if specified real property is surplus to the current and foreseeable needs of the commonwealth, the commissioner shall provide a suitable written notice and inquiry to the several secretaries, with a date certain for any response. If no executive office responds in writing by the date so specified that an agency has a current or foreseeable need for the real property, the commissioner may declare the property as surplus and dispose of it in accordance with this section. Alternatively, if a written response is timely received specifying a current or foreseeable need for the real property, the commissioner shall, in consultation with the secretary of administration and finance and with those responding affirmatively, determine whether the real property shall (i) be made available for current use by a state agency, (ii) be retained on account of a foreseeable use by a state agency, or (iii) be declared surplus real property which may be disposed of pursuant to this section.

(d) When real property is determined to be surplus to current state needs but not to foreseeable state needs, the commissioner shall take such necessary action to ensure that any disposition of the real property is temporary and maintains the commissioner's ability to make such real property available to a state agency as needed.

(e) If the commissioner determines that the real property is surplus, he shall (i) provide written notice, for each city or town in which the property is located, to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency and the members of the general court; (ii) declare it available for disposition and shall identify restrictions, if any, on its use and development necessary to comply with the policies and principles established by the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws and shall take into consideration other established state and local plans and policies; (iii) conduct a public hearing in the locality in which the property is located to consider potential reuses and appropriate restrictions if the property parcels exceeds 2 acres or if the commissioner determines that a hearing should be held for a smaller parcel and shall

provide reasonable public notice in advance of the hearing; and (iv) ensure that any deed, lease or other disposition agreement shall set forth all such reuse restrictions, provide for effective remedies on behalf of the commonwealth and provide, in the event of a failure to comply with the reuse restrictions by the grantee, lessee or other recipient, that title or such lesser interest as may have been conveyed, shall immediately revert to the commonwealth.

(f) The commissioner shall establish the value of surplus real property using customarily accepted appraisal methodologies. The value shall be calculated both for (i) the highest and best use of the property as may be encumbered, and (ii) subject to uses, restrictions and encumbrances defined by the commissioner. In no instance in which the commonwealth retains responsibility for maintaining the said property shall the terms provide for payment of less than the annual maintenance costs.

(g) The commissioner shall dispose of surplus real property utilizing appropriate competitive processes and procedures. Such competitive processes may include, but are not limited to, absolute auction, sealed bids and requests for price and development proposals.

At least 30 days before the date of an auction or the date on which bids or proposals or other offers to purchase or lease surplus real property are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 stating the availability of such property, the nature of the competitive process and other information deemed relevant, including the time and location of the auction, the submission of bids or proposals and the opening thereof.

(h) The commissioner shall place a notice in the central register identifying the individual or firm selected as party to such real property transaction, along with the amount of such transaction. If the commissioner accepts an amount below the value calculated under subsection (f), he shall include the justification therefore, specifying the difference between the calculated value and the price received.

(i) No agreement for the sale, lease, transfer or other disposition of surplus real property and no deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or deed contains the following certification, signed by the commissioner:

"The undersigned certifies under penalties of perjury that I have fully complied with section 548 of chapter___ of the acts of 2003 in connection with the property described herein."

(j) No agreement for the sale, lease, transfer or other disposition of surplus real property shall be valid unless the purchaser or lessee has executed and filed with the commissioner the statement required by section 40J of chapter 7 of the General Laws.

(k) The grantee or lessee of any surplus real property shall be responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as shall be deemed necessary by the commissioner.

(l) This section shall not apply to the disposition of real property that is the subject of a special act having an effective date prior to that of this section.

(m) The authority granted the commissioner hereunder shall cease as of June 30, 2005, however, the commissioner may complete any transaction for which agreements have

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been signed and delivered on or before that date.

(n) The commissioner shall deposit \$30 million of the proceeds realized from property dispositions pursuant to this section into the General Fund. Any proceeds in excess of that amount shall be deposited into the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

SECTION 549. Section 17A of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "finance", in line 3, the following words:- , the secretary of economic development.

SECTION 550. Chapter 6A of the General Laws is hereby amended by inserting after section 16F the following section:-

Section 16G. (a) Within the executive office of economic development, there shall be a department of business and technology, a department of consumer affairs and business regulation, a department of labor, and a department of workforce development. Subject to appropriation, the departments shall be provided with offices in Boston and elsewhere as may be approved by the governor and may expend sums for necessary expenses of those departments. The executive office may accept gifts or grants of money or property whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

(b) The following state agencies shall be within the department of business and technology: the office of business development, the office of small business and entrepreneurship, the office of science and technology, the office of travel and tourism, the trade office and the office of minority and women business assistance.

(c) The following state agencies shall be within the department of consumer affairs and business regulation: the state racing commission, the division of banks, the division of insurance, the division of standards, the department of telecommunications and energy, the division of professional licensure and the division of energy resources.

(d) The following state agencies shall be within the department of labor: the division of industrial accidents, the division of conciliation and arbitration, the labor relations commission, the joint labor-management committee, the division of occupational safety, and the division of unemployment assistance. The division of unemployment assistance shall include the medical security trust fund and the unemployment insurance fund.

(e) The following state agencies and fund will be within the department of workforce development: the one stop career centers, the state workforce investment board, the division of apprentice training, the commonwealth corporation and the workforce training fund.

(f) The secretary of economic development shall be appointed by the governor and shall be a person of skill and experience in the field of economic development. The secretary shall serve at the pleasure of the governor, shall receive such salary as the governor shall determine and shall devote full time to the duties of his office.

(g) In the case of a vacancy in the office of the secretary or in the case of a disability,

as determined by the governor, or in his absence, the governor may designate an acting secretary to serve until the vacancy is filled or the absence or disability, as determined by the governor, ceases. The acting secretary shall have all the powers and duties of the secretary and shall have like qualifications.

(h) The secretary shall appoint a director for each department within the executive office. Any such director and any inspectors and other full-time employees appointed shall devote their full time during business hours to the duties of their offices and shall not engage in other employment or business activities during business hours. In accordance with the provisions of chapter 30A, and with the advice of the directors of the various departments, the secretary shall promulgate regulations with respect to the departments under the secretariat's control.

(i) In accordance with chapter 30A, the secretary shall require the directors of each department to develop performance measures to evaluate the effectiveness of the individual agencies and programs in accomplishing their missions. The measures, by department, shall include, but not be limited to:

(1) In the department of workforce development: income levels of program participants before and after participation in training programs administered by the division, completion rates, placement rates and the total number of individual participants in the division's programs, employer satisfaction with the programs and direct training expenditures as a share of total expenditures;

(2) In the department of labor: the number of complaints filed, the number of caseworkers per completed case, the number of caseworkers per uncompleted case, the rates of incidences of occupational injuries and illnesses, enforcement actions as a share of complaints received and prevention costs as a share of total program costs;

(3) In the department of economic development: the incremental job growth attributed to services provided, the incremental trade growth attributed to the services provided, the return on investment for marketing campaigns, the number of businesses that relocated to Massachusetts as a result of marketing campaigns, the share of expenses due to administrative expenses, the amount of non-governmental funds leveraged;

(j) The secretary shall require the departments within the executive office to report on the measures annually by December 15 to the clerks of the house of representatives and the senate and the house and senate committees on ways and means. In its report, each department may include analysis as to why the measures may or may not give a true indication of the effectiveness of the programs.

(k) The secretary shall establish in the executive office an office of planning and research for economic development. The office shall compile and produce statistics and analyses regarding labor markets and the general economic situation, in order to assist workers and businesses and to assist departments within the executive office in carrying out their missions. The office shall prepare and annually update a state economic data book, which shall contain a statistical and economic profile of the state and its regions. A copy of said data book shall be placed in the state library and in the central offices of the division of

unemployment assistance, the department of labor, and the department of workforce development and shall be made available to any person for review. The secretary may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the office in the discharge of its duties. Subject to appropriation, the secretary may appoint a senior staff member who shall be responsible for developing a comprehensive plan to promote economic development in all regions of the commonwealth. Nothing in this section shall confer any powers or impose any duties upon the secretary with respect to the foregoing agencies except as expressly provided by law.

SECTION 551. Section 2 of said chapter 6A, as so appearing, is hereby amended by striking out, in line 2, the words "elder affairs" and inserting in place thereof the following words:- economic development, elder affairs.

SECTION 552. Section 17C of said chapter 6A, as so appearing, is hereby amended by striking out, in line 3 and in lines 6 and 7, the words "and workforce development".

SECTION 553. Section 17D of said chapter 6A, as so appearing, is hereby amended by striking out, in line 4 and lines 7 and 8, the words "and workforce development".

SECTION 554. Chapter 23 of the General Laws is hereby amended by striking out sections 1 to 6, inclusive, as so appearing, and inserting in place thereof, the following 5 sections:-

Section 1. (a) Within the executive office of economic development, there shall be a department of labor, in this chapter called the department. The mission of the department shall be to ensure the efficient operation of agencies, which promote harmonious relations between employers and employees and the general welfare of workers.

(b) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

Section 2. (a) The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof.

(b) The director shall be appointed by the governor for a term coterminous with the governor and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with the governor. The director shall devote his full time during business hours to the duties of his office.

(c) The director shall receive such salary as the governor shall determine, provided that such salary shall be equivalent to the salary received by the director of business and technology, director of workforce development, or the director of consumer affairs and business regulation.

Section 3. (a) Within the department, there shall be the following agencies and divisions: the division of unemployment assistance, the division of industrial accidents, the state labor relations commission, the joint labor-management committee for municipal police and fire, the board of conciliation and arbitration, and the division of occupational safety.

(b) The duties of the department shall include, and the department shall have authority and responsibility over, the administration and enforcement of section 3, 5, 9H and 11A; the provisions of chapter 111F; the provisions of chapters 149, with the exception of section 160 to 168A, and 151; the provisions of chapter 151A; and the provisions of subsections (b), (c), (e) and (f) of section 197B of chapter 111. Notwithstanding any general or special law to the contrary, the attorney general shall have exclusive authority to conduct field investigations, inspections, and civil and criminal prosecutions with respect to, and otherwise enforce, said chapters 149 and laws pertaining to wages, hours and working conditions, child labor and workplace safety and fair competition for bidders on public construction, except the laws pertaining to lead and asbestos hazards and workplace hygienic standards which the department shall enforce.

(c) The division of industrial accidents, the labor relations commission, the joint labor-management committee, and the board of conciliation shall not be subject to the jurisdiction of the department of labor, except to the extent of compliance with reasonable requests from the director for the sharing of information which does not interfere with the efficient and independent functioning of the offices, divisions or agencies.

(d) The following funds shall be within the division of unemployment assistance: the Unemployment Insurance Trust Fund and the Medical Security Trust Fund.

Section 3A. There shall be a surcharge on fees assessed by the division of occupational safety within the department of economic security for the licensure, registration or certification of certain professionals, and on fees assessed for the renewal or duplication of such licenses, registrations or certifications, in accordance with the provisions of this section. The amount of the surcharge shall be as follows: a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform deleading services; a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform deleading services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement analytical services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement training; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide deleading training; and a \$50 annual surcharge to those persons licensed or registered to operate an employment agency as defined by section 46A of chapter 140. Said surcharges shall be collected by the

division of occupational safety and transmitted to the treasurer for deposit into the general fund.

Section 4. The director may employ, for periods not exceeding ninety days, such experts as may be necessary to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from chapter 31. Except as otherwise provided, the director may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. Such number of inspectors as the commissioner may deem necessary shall be persons who, before their employment as such, have had at least three years' experience as building construction workmen. The commissioner may require that certain inspectors in the department, not more than seven in number, shall be persons qualified by training and experience in matters relating to health and sanitation. All inspectors and other permanent employees of the department shall devote their whole time to the affairs of the department. All directors and inspectors and such other employees as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and the council.

SECTION 555. Section 9J of said chapter 23, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof, the following sentences:- The secretary, in consultation with the director of labor, may adopt, amend, alter or repeal, and shall enforce, all rules, regulations and orders as may be necessary or suitable for the administration and enforcement of chapter 151A. The director shall seek the approval of the director of workforce development where said changes may affect the operations of the free public employment offices.

SECTION 556. Section 9L and 9M of said chapter 23 are hereby repealed.

SECTION 557. Section 9N of said chapter 23, as so appearing, is hereby amended by striking the words "division of employment and training", inserted by section 1 of chapter 347 of the acts of 2002, and inserting in place thereof the following words:- division of unemployment assistance.

SECTION 558. Said section 9N of said chapter 23, as so appearing, is hereby further amended by striking out the words "employment and training", inserted by section 2 of said chapter 347, and inserting in place thereof the following words:- unemployment assistance.

SECTION 559. Section 11A of said chapter 23, as so appearing, is hereby amended by striking out, in line 3, the words "occupational hygiene" and inserting in place thereof the following words:- occupational safety.

SECTION 560. Section 11E of said chapter 23, as appearing in section 1 of chapter 357 of the acts of 2002, is further amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the department of workforce development an apprenticeship council, to consist of 8 members, 6 of whom shall be appointed by the director of workforce development with the approval of the governor, 1 of

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whom shall be the director of workforce development or his successor, in the department of workforce development, ex officio, and 1 of whom shall be the associate commissioner of career and technical education or his successor, in the department of education, ex officio.

SECTION 561. Section 11H of said chapter 23, as so appearing, is hereby amended by striking out the definition "director" and inserting in place thereof, the following:-

"Director", the director of workforce development.

SECTION 562. Said section 11H of said chapter 23, as so appearing, is hereby further amended by striking out the definition "Division" and inserting in place thereof, the following:-

"Division", the division of apprentice training in the department of workforce development.

SECTION 563. Chapter 23A of the General Laws is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in the place thereof the following section:-

Section 1. (a) Within the executive department, but not within the governor's cabinet, there shall be a department of business and technology, in this chapter called the department, which shall be under the control of the director of business and technology. The director shall be appointed by the governor for a term conterminous with the governor's and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term conterminous with that of the governor. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof. The director shall receive such salary as the governor shall determine; provided, however, that such salary shall be equivalent to the salary received by the director of labor and workforce development or the director of consumer affairs and business regulation.

(b) There shall be within the department the Massachusetts office of business development hereinafter referred to as MOBD, and all other entities within that office, the office of travel and tourism, the office of small business and entrepreneurship, the Massachusetts trade office, the office of science and technology and the office of minority and women business assistance and all entities within that office.

(c) The department may make discretionary and nondiscretionary grants to persons or public or private nonprofit entities for projects and programs which further implement the mission of the department and its agencies and which benefit the general public; provided, however, that the department shall annually make a report to the secretary of administration and finance and the house and the senate committees on ways and means on the use of such funds; and provided further, that any such grant shall be used in accordance with regulations promulgated pursuant to section 15 of chapter 7A.

SECTION 564. Section 3B of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 to 10, inclusive, the words "economic development or his designee

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who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor and workforce development or his designee; a representative of MOBD designated by the director of economic development; the deputy director of the department of economic development having oversight responsibility of the Massachusetts office of business development or his designee" and inserting in place thereof the following words:- business and technology or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor, or his designee; and the director of workforce development or his designee; a representative of MOBD designated by the director of business and technology; the deputy director of business and technology having oversight responsibility of the office of business and technology or his designee.

SECTION 565. Section 45 of said chapter 23A is hereby repealed.

SECTION 566. The second paragraph of section 13A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The tourism executive director shall be appointed by the director of business and technology, with the approval of the governor and the secretary of economic development, and may, with like approval, be removed.

SECTION 567. The first paragraph of section 23A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the department of business and technology a Massachusetts trade office, which shall be under the supervision and control of an executive director.

SECTION 568. Said section 23A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "office of international trade and investment" and inserting in place thereof the following words:- Massachusetts trade office.

SECTION 569. Chapter 23D of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. A Massachusetts industrial service program shall be established in the executive office of economic development, under the joint supervision of the director of business and technology, the director of the department of labor, and the director of workforce development.

The secretary, in consultation with the director of business and technology, the director of labor, and the director of workforce development, shall issue rules, regulations and procedures governing the application for and delivery of the services provided for in this section and sections 3 to 7, inclusive, and sections 24 to 26, inclusive, as necessary to carry out this chapter.

SECTION 570. Section 7 of chapter 23G of the General Laws, as so appearing, is

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hereby amended by striking out, in line 61, the words "office of international trade and investment," and inserting in place thereof the following words:- trade office.

SECTION 571. The General Laws are hereby amended by inserting after chapter 23G the following chapter:-

Chapter 23H Workforce Development.

Section 1. (a) Within the executive office of economic development, there shall be a department of workforce development, in this chapter called the department.

(b) The mission of the department shall be to develop, coordinate, and maintain a coherent workforce development system that fills the needs of employers for a skilled workforce and promotes lifelong learning among employees. The department shall cooperate with all federal, state, and local agencies active in the field of workforce development to achieve this goal.

(c) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

Section 2. (a) The director shall be the executive and administrative head of the department. Except as otherwise provided, he shall be responsible for the administration and enforcement of all laws, rules and regulations for which it is the duty of the department to administer and enforce.

(b) The director shall be appointed by the governor for a term coterminous with the governor and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with the governor. The director shall devote his full time during business hours to the duties of his office.

(c) The director shall receive such salary as the governor shall determine, provided that such salary shall be equivalent to the salary received by the director of business and technology, director of labor, and the director of consumer affairs and business regulation.

Section 3. Within the department, there shall be the following agencies and divisions: a division of apprentice training, which shall administer the provisions of sections 11E to 11W, inclusive of chapter 23; a division of one-stop career centers, which shall administer the provisions of section 6 of this chapter, and other divisions as the director deems necessary to administer and enforce the department's other obligations. The department shall also work as a partner with the Commonwealth Corporation where appropriate, and as approved by the secretary, in consultation with the director and the president of the Commonwealth Corporation.

Section 4. (a) Subject to appropriation, the director of workforce development, shall make expenditures on workforce training grants for the following purposes:

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(1) To provide grants to employers, employer groups, labor organizations and training providers for projects to provide education and training to existing employees and newly hired workers. In determining who shall receive grants, the director shall consider the following criteria:

- (i) whether the project will increase the skills of low-wage, low-skilled workers;
- (ii) whether the project will create or preserve jobs at wages sufficient to support a family;
- (iii) whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers;
- (iv) whether the employer has made a commitment to provide significant private investment in training during the duration of the grant and after the grant has expired;
- (v) whether the project will supplement, rather than replace, private investments in training;
- (vi) whether the employer is a small business that lacks the capacity to provide adequate training without such assistance;
- (vii) whether the project will provide residents of the commonwealth with training for jobs that could otherwise be filled only by residents of other nations; and
- (viii) whether the project is consistent with the workforce development blueprint prepared by the regional employment board.

Such grants shall be for amounts not to exceed \$250,000 and shall be for a term not to exceed 2 years.

(2) To provide technical assistance to increase training opportunities available to employees. The director may provide this direct technical assistance by using existing institutions such as workforce investment boards, community colleges, labor organizations, administrative entities under the federal Workforce Investment Act, Public Law 105-220, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the department of workforce development or of the corporation for business, work and learning. Such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training.

(b) The director of the department of workforce development shall adopt regulations, with the approval of the secretary, pursuant to chapter 30A to carry out this section.

(c) Not later than September 1 of each year, the director of workforce development shall file a report in writing with the joint committee on commerce and labor and the house and senate committees on ways and means concerning the grants made in the fiscal year ending on the preceding June 30, together with such recommendations and additional information as the director of workforce development considers appropriate.

(d) Documentary materials or data made or received by an employee of the department of workforce development, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established by this section, shall not be

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public records and shall not be subject to section 10 of chapter 66.

Section 6. (a) The director of workforce development shall administer the system of free public employment offices established in sections 160 through 168A of Chapter 149, through the division of one-stop career centers.

(b) Said division shall have control of the establishment, maintenance and operation of free public employment offices of the commonwealth and shall co-operate with the Massachusetts rehabilitation commission in the placement of handicapped persons under the provisions of section 81 of chapter 6. The department shall be the state agency for co-operation with the United States Employment Service under chapter 49 of the acts of the 73rd congress, session I, known as the Wagner-Peyser act, and shall have all the powers of such an agency as specified in said act.

The director shall assure that all information secured as an incident to the public employment service program is used solely for the purpose of administering the commonwealth system of public employment offices as part of a national system of public employment offices, except that such information may be disclosed for other purposes in accordance with policies promulgated by the deputy director of employment security, provided that such disclosure will not impede the operation of or be inconsistent with the purposes of the public employment service program, or where such disclosure is otherwise authorized or required by law. Whoever discloses such information other than as required or authorized by law shall be subject to the penalty set forth in section 46 of chapter 151A.

(c) The director, in consultation with the secretary, shall divide the commonwealth into employment districts. Subject to appropriation, he may establish and maintain such additional free public employment offices as he may find necessary. The director may contract with one-stop operators, certified in accordance with the provisions of Public Law 105-220, to provide such offices and shall have all the powers of such an agency as specified in said act. In addition, the director shall consult with the deputy director of the division of unemployment assistance to determine the share of the capital and operating expenses of said offices necessary or convenient for the proper administration of chapter 151A. The division of unemployment assistance shall reimburse the department for said share. Said offices shall be available for the payment of benefits, presentation of claims, registration of the unemployed, action to procure employment for the unemployed, and for the proper administration of chapter 151A

Section 7. (a) There shall be in the department, but not subject to the jurisdiction thereof, a state workforce investment board, hereinafter called the board.

(b) The board shall consist of the governor; 3 members of the senate, 2 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader; 3 members of the House, two of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader; the secretary of economic development; the secretary of health and human services; the director of the department of workforce development; the director of the department of business and technology; the commissioner of transitional assistance; the commissioner of the department of education;

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the chancellor of the board of higher education or another official appointed by the governor representing education and training issues; the head of the division of unemployment assistance; and the following additional members, as appointed by the governor: 2 mayors or chairs of boards of selectmen; 2 persons with experience with youth activities; 2 persons with experience and expertise in the delivery of workforce investment activities, including 1 president of a community college in the commonwealth; 11 persons representing public government, public secondary and post-secondary education, and organizations representing or providing services to trainees, including at least 3 representatives of organized labor, 2 of who shall be selected from among individuals nominated by state labor federations; and 33 persons representing business and industry in the commonwealth to be selected from among individuals nominated by state business associations and trade organizations, including at least 3 chairs of workforce investment boards. The members shall serve two-year terms at the pleasure of the governor, and shall serve without compensation.

(c) The governor shall select an individual to serve as chairperson of the board from among the members. The Chair shall serve at the pleasure of the governor.

(d) There shall be an executive committee of the state workforce investment board.

(i) The executive committee shall be chaired by the director of workforce development, and include the following members: a community college president with expertise in workforce development issues, selected by the Massachusetts Community College Association; the director of adult basic education in the department of the Board Education; the commissioner of the department of transitional assistance; two individuals who, because of their vocations, employments, occupations, or affiliations, shall be classed as employers; and two individuals who, for like reasons, can be classed as employees. Said members shall be, by virtue of their membership on the executive board, also members of the State Workforce Investment Board.

(ii) Said executive committee shall develop legislative and regulatory proposals and identify administrative impediments to the efficient delivery of workforce development programs throughout the commonwealth, including, but not limited to assisting the Governor, or his designee, in preparing the strategic plan for the development of the Massachusetts Workforce Investment System for Massachusetts residents and businesses pursuant to the Workforce Investment Act of 1998. The executive committee shall also carry out such additional responsibilities as the Governor may from time to time require. The executive committee shall consult with the entire Workforce Investment Board in developing such proposals.

(e) The board shall adopt by-laws to govern its proceedings, and shall carry out the responsibilities required of it under the federal Workforce Investment Act of 1998.

(f) The administrative staff of the board shall be supervised by and shall report to the director of workforce development. The board shall contract with said department for personnel services and other operating needs. Notwithstanding any law or special act to the contrary, other departments, agencies, divisions, commissions, boards and bureaus of the commonwealth authorized to provide such information and support as the board may from

time to time require in the course of carrying out its responsibilities.

SECTION 572. Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words "office of international trade and investment" and inserting in place thereof the following words:- Massachusetts trade office.

SECTION 573. Section 197B of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 25, 28, 49, lines 53 and 54, line 57, lines 72 and 73, and in line 75 the words "and workforce development".

SECTION 574. Section 1 of chapter 111F, as so appearing, is hereby amended by striking out the definition of "DOL" and inserting in place thereof the following definition:- "DOL", the department of labor.

SECTION 575. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof, the following definition:-

"Commissioner", the director of the department of labor.

SECTION 576. Said section 1 of chapter 149 of the General Laws, as so appearing, is hereby further amended by striking out the definition of "Department" and inserting in place thereof, the following definition:-

"Department", the department of labor.

SECTION 577. Section 2 of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof, the following definition:-

"Commissioner", the director of the department of labor.

SECTION 578. Section 2 of said chapter 151, as so appearing, is hereby amended by striking out the definition of "Department" and inserting in place thereof, the following definition:-

"Department", the department of labor.

SECTION 579. Chapter 151A of the General Laws is hereby amended by striking out the words "division of employment and training" in each instance in which they appear, and inserting in place thereof, in each instance, the following words:- division of unemployment assistance.

SECTION 580. Section 1 of said chapter 151A, as so appearing, is hereby further amended by striking out paragraph (e½) and inserting in place thereof the following paragraph:-

(e½) "Commissioner", the director of the department of labor established pursuant to the provisions of section 1 of chapter 23.

SECTION 581. Said section 1 of chapter 151A, as so appearing, is hereby further amended by striking out paragraph (g) and inserting in place thereof the following paragraph:-

(g) "Department", the division of unemployment assistance within the department of labor.

SECTION 582. Section 22 of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "department of employment and training" and inserting in place thereof the following words:- the division of unemployment assistance.

SECTION 583. Section 58 of said chapter 151A, as so appearing, is hereby amended by adding the following paragraph:-

(g) Funds from this account shall be used to support the administration and operation of this chapter, and shall be used to contract with the department of workforce development for space required to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation, under this chapter.

SECTION 584. Section 61 of said chapter 151A of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the purpose of maintaining free employment offices, the director of labor is authorized to enter into agreement with the director of workforce development, and shall reimburse the director of workforce development for the cost of providing space in said employment offices for the proper administration of this chapter.

SECTION 585. Said section 62A of said chapter 151A, as so appearing, is hereby further amended by striking out, in line 1, the words "employment and training shall" and inserting in place thereof, the following:- unemployment assistance shall contract with the department of workforce development to.

SECTION 586. Section 62A of said chapter 151A, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof, the following subsection:-

(b) In addition to such access by telephone to offices of the division, the deputy director shall contract with the department of workforce development to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation.

SECTION 587. Section 71D of said chapter 151A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Subject to appropriation, the director of workforce development, in coordination with the secretary and with any other appropriate agency, shall establish a reemployment assistance program to provide counseling, placement, training, and any other services deemed necessary, to employees terminated in plant closings and partial closings which will lead to the reemployment of said employees.

SECTION 588. Section 74 of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "Employment and Training", and inserting in place thereof the following words:- "Unemployment Insurance".

SECTION 589. Notwithstanding any general or special laws to the contrary, wherever in the General Laws the words "division of employment and training" appear, they shall be changed to "division of unemployment assistance"

SECTION 590. Notwithstanding any general or special laws to the contrary, wherever in sections 160 to 168A, inclusive, of chapter 149 of the General Laws the word "commissioner" appear, they shall be changed to "director of workforce development", "department " to "department of workforce development".

SECTION 591. Notwithstanding any general or special law to the contrary, the department of workforce development shall administer the one-stop career centers, so-called, and shall contract with the division of unemployment assistance, to ensure, through all reasonable efforts, the smooth and uninterrupted processing of applications and delivery of benefits.

SECTION 592. Notwithstanding any general or special law to the contrary, the executive committee of the state workforce investment board shall coordinate with the secretary of economic development and the directors of the department of labor and the department of workforce development to develop and submit to the governor and the clerks of the senate and the house of representatives, by June 30, 2004, a comprehensive workforce development plan that shall include, but not be limited to, the following: an assessment of current workforce programs and policies; an assessment of the delivery of employment and training services to persons who face multiple barriers to employment, including youth and disabled and dislocated workers; recommendations for policy, programmatic, and legislative or funding changes.

SECTION 593. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Convention Center Authority shall transfer ownership of the John B. Hynes Veterans Memorial Auditorium, in this section referred to as the "Hynes Auditorium" and the Boston Common Parking Garage, in this section referred to as the "parking garage" and, collectively, "properties" to the Pension Reserves Investment Management, in this section referred to as the "PRIM board" for deposit into the Pension Reserves Investment Trust, in this section referred to as the "PRIT Fund", in satisfaction of \$145 million of the appropriation required by section 22C of chapter 32 of the General Laws. The remaining value of the properties in excess of that amount shall be used to decrease unfunded pension liability of the PRIT fund.

(b) The parking garage shall be transferred subject to any existing easements acquired pursuant to chapter 606 of the acts of 1958.

(c) The properties shall be available for retention or disposition pursuant to the relevant laws and regulations applicable to the ownership of real estate by the PRIT fund, subject to the following restrictions: (i) the PRIM board shall maintain, at least until December 31, 2006, the Hynes Auditorium as a convention center under the administration and management of the Massachusetts Convention Center Authority; (ii) prior to any disposition of the Hynes Auditorium, the PRIM board shall first solicit proposals from prospective buyers or lessors who shall continue to operate the Hynes Auditorium as a convention center,

including proposals that seek to develop ~~commercially~~ the property, including, but not limited to, subdivision of the existing facility for ~~commercial~~ use and development of space atop the existing facility, subject to applicable state and local laws; (iii) the PRIM board shall not dispose of the Hynes Auditorium for a use other than as a convention center until the board has submitted a report detailing its efforts to solicit proposals set forth in clause (ii) to the secretary of administration and finance and the clerks of the house and senate; and (iv) the PRIM board shall ensure that the parking garage shall continue to operate as a parking garage whether retained, leased or otherwise disposed of by the board.

(d) The treasurer shall take appropriate steps to ensure that any transfer of the properties by the PRIM board shall be subject to any existing bond obligations of the authority or the commonwealth and a portion of the proceeds of any such transfer shall be set aside to satisfy the payment of any outstanding debt obligations on the properties.

(e) The value to be credited for the properties so transferred to the PRIT fund shall be its fair market value as determined by the PRIM board based on an independent appraisal and in accordance with applicable laws.

SECTION 594. The amounts transferred pursuant to section 5B of chapter 29, as amended by this act, shall be made available for the Commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws. The amounts transferred pursuant to said section 5B of said chapter 29 shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. Notwithstanding said section 22C of said chapter 32, the amounts transferred shall be the scheduled amount less amounts satisfied by asset transfers for said purpose as required by this act. Subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and district shall verify the cost thereof and the treasurer may make such payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this item shall be made only pursuant to distribution of monies from the fund, and any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution. Such distributions shall not be made in advance of the date on which a payment is actually to be made. The state retirement board may expend an amount for the

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purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth.

SECTION 595. The legislature shall establish a 19 member special commission to study the ecological and environmental impact of the oil spill in Buzzards Bay by Bouchard barge #120 and to investigate legislative changes to existing laws and regulations to increase safety of commercial barges traveling in state waters. The commission shall also evaluate the potential changes in both civil and criminal laws that may apply to the operation of commercial barges in state waters. Said commission shall consist of 15 legislators, 2 of which shall include the House and Senate chairs of the Natural Resources and Agriculture committees, 5 members appointed by the President of the Senate, and 10 members appointed by the Speaker of the House, including at least one member in each chamber from the minority party; and 4 non-legislator members, 2 appointed by the Governor and 2 appointed by the Attorney General.

Said special commission shall submit its report and recommendation, if any, to the legislature by November 1, 2003.

SECTION 596. There shall be a forensic sciences advisory board to provide recommendations for the implementation of a coordinated approach to forensic science services for the commonwealth. The board shall consist of the president of the Massachusetts District Attorneys Association, the attorney general or his designee, the secretary of public safety or his designee, the secretary of health and human services or his designee, the commissioner of public health or his designee, the chief justice of the Massachusetts superior court or his designee, and 5 experts with academic or professional experience in forensic sciences to be appointed by the governor. The governor shall appoint a member of the board as the chair. The board shall convene no later than August 1, 2003 and issue a report to the joint committee on public safety and the house and senate committees on ways and means including, but not limited to, recommendations on:

a) improved efficiency in forensic science services, including measures to improve communication and coordination between laboratories and agencies and to reduce duplication of services and resources;

b) potential public-public and public-private partnerships;

c) improved accountability and responsiveness of commonwealth's forensic science services; and

d) potential reorganization of forensic laboratory services in the commonwealth, including consideration of the reorganization of related laboratories and offices under the department of forensic sciences.

The report shall be filed not later than January 1, 2004. The board shall convene quarterly, and shall submit recommendations to the secretary of public safety on an ongoing

basis.

SECTION 597. (a) There shall be a special commission to study the energy consumption of the government of the commonwealth. The commission shall specifically review the annual level and cost of energy consumption by executive offices, departments, agencies and divisions of the commonwealth's government over the past 3 fiscal years and shall develop a plan to conserve energy by reducing the government's annual energy consumption rates by at least 10 per cent compared to the average consumption rates over the past 3 fiscal years and by increasing the use of energy efficiency methods. The commission shall also investigate and devise a plan to include renewable energy sources in the government of the commonwealth's energy portfolio. The commission shall hold at least 4 statewide public hearings as part of its review. The commission shall report its findings and any proposed legislation to the clerks of the senate and the house of representatives not later than March 1, 2004. A copy of such report shall also be submitted, by said date, with the secretary of administration and finance, who shall take steps necessary to implement the recommendations of the commission.

(b) The special commission shall consist of 14 members. Eight members shall be appointed by the governor, including the chair of the department of telecommunications and energy, or his designee; the commissioner of energy resources, or his designee; the commissioner of the division of capital asset management and maintenance, or his designee; the secretary of the executive office of administration and finance, or his designee; the secretary of the department of transportation, or his designee; the president of the University of Massachusetts or his designee; the superintendent of state office buildings or his designee; and a representative from the Massachusetts Technology Park Collaborative. Three members shall be appointed by the senate president, including the senate chair of the joint committee on energy and the senate minority leader or his designee; a representative from the International Brotherhood of Electrical Workers; and a representative from an organization that addresses energy conservation issues. Three members shall be appointed by the speaker of the house of representatives, including the house chair of the joint committee on energy and the house minority leader or his designee; a representative from the National Association of Government Employees; and a representative from an organization that addresses energy conservation issues.

SECTION 598. There is hereby established a commission to study the advisability of transferring other state agencies or laboratories into the department of forensic sciences. The committee shall further make recommendations on the management structure of the department of forensic sciences and on the division and coordination of responsibilities within the department among the office of the chief medical examiner, the state police crime laboratory and any other state agencies or laboratories that the committee recommends be included in the department. The members of the commission shall be the attorney general or his designee, the secretary of public safety or his designee, the commissioner of public health or his designee, the chief justice of the superior court or his designee, the colonel of the state police or his designee, two representatives of the Massachusetts District Attorneys

Association, a representative of the Massachusetts bar association who is engaged in the practice of criminal defense and a representative of the Massachusetts Police Chiefs Association. The commission shall submit a report of its findings and recommendations on the management structure of the department of forensic sciences and on the advisability of transferring other state agencies or laboratories into the department of forensic sciences to the governor, the chairs of the joint committee on criminal justice and the chairs of the house and senate committees on ways and means not later than July 1, 2004.

SECTION 599. There shall be a special commission called the Commission on Transportation Restructuring to study the administration of the highway system in the commonwealth. The members of the commission shall include the secretary of the executive office of transportation and construction or his designee, who shall be the chairperson of the commission; the commissioner of the Massachusetts highways department or his designee; the chairperson of the Massachusetts Turnpike Authority or his designee; the chair of the commonwealth development coordinating council; the commissioner of the department of conservation and recreation in the executive office of environmental affairs or his designee; 2 members appointed by the speaker of the house of representatives, 1 of whom shall be the House chair of the joint committee on transportation; 1 member appointed by the minority leader of the house; 2 members appointed by the senate president, 1 of whom shall be the Senate chair of the joint committee on transportation; 1 member appointed by the minority leader of the senate; and 4 members appointed by the governor, 1 of whom shall be a representative of the construction trades, 1 of whom shall come from a list of 3 candidates submitted by the Massachusetts Business Roundtable and 1 of whom shall represent an environmental advocacy organization. The commission shall consider various reforms designed to achieve more efficient administration of the highway system including, but not limited to: 1) the abolition of the board and commissioner structure of the Massachusetts highways department; 2) allocating maintenance responsibilities for Massachusetts boulevards and parkways; 3) the appropriate composition and power of the board of the Massachusetts Turnpike Authority; 4) the efficacy of interagency service agreements for the maintenance of Massachusetts highways; and 5) the establishment of a single state agency responsible for highway administration. The commission shall also report on the results of the project for the maintenance of highways in central and western Massachusetts initiated in sections 240, 241 and 574. The commission shall submit a report summarizing its findings and recommendations, including recommendations for legislative action, to the secretary of administration and finance, the joint committee on transportation and the house and senate committees on ways and means not later than December 15, 2003.

SECTION 600. The board of higher education shall establish a commission to research, assess, and make recommendations regarding the health, vitality, and future direction of the state college system not later than September 1, 2003. The commission shall be composed of individuals drawn from the fields of higher education, government and business. The commission shall file its findings and report with the joint committee on education, arts, and humanities by March 30, 2004. Such individuals should represent state,

regional, national perspectives on the challenges facing higher education and should be recognized for their achievement in their various fields.

SECTION 601. There shall be a special commission for the purpose of making an investigation and study of the subject matter of Section 208 entitled "Quinn Bill Reform." The commission shall consist of the house chair and the senate chair of the joint committee on public safety, 2 members joint committee on public service, 2 members of the joint committee on education, one member of the senate committee on ways & means, and 1 member of the house committee on ways & means. The special commission shall investigate and study: i) the financial impact of Quinn Bill reform upon the cities and towns; ii) the impact of collective bargaining agreements upon the Quinn Bill reform, including compiling an inventory of collective bargaining agreements; iii) the impact on the program of the changes in rules for educational institutions initiated by the board of higher education; and iv) the impact of Quinn Bill reform upon minority police officers. The resources and assistance of the following commonwealth departments shall be made available to the commission to assist in conducting its investigation and study: i) the department of revenue, department of local mandates; ii) the joint labor management committee; iii) the board of higher education; and iv) the commission against discrimination. The special commission shall complete its investigation and study by October 31, 2003.

SECTION 602. (a) The general court hereby finds that: (1) the commonwealth has a moral obligation to make whole innocent persons wrongly convicted of crimes; (2) innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have difficulty achieving legal redress because of a variety of substantive and technical obstacles in state law; (3) these innocent persons should have an available remedy from the commonwealth, whose official criminal justice apparatus has seriously failed when an innocent person is convicted and incarcerated; and (4) the law should permit a person who has already obtained relief from a wrongful conviction and who demonstrates that he is innocent to make a claim against the commonwealth.

(b) There shall be a special commission charged with determining appropriate compensation for the wrongfully convicted by taking into account years incarcerated, severity and circumstances of incarceration, and any and all other factors the commission deems appropriate and relevant to how the commonwealth can compensate the wrongfully convicted.

(c) The commission shall consist of 1 member of the senate appointed by the president of the senate; 1 member of the house of representatives appointed by the speaker of the house of the house of representatives; the attorney general, or his designee; the chief justice of the supreme judicial court, or his designee; a member of the criminal defense bar appointed by the Massachusetts Bar Association; the secretary of public safety, or his designee; and the chairman of the parole board, or his designee.

(d) The commission shall file a report of its findings and recommendations and legislation with the house and senate clerks no later than December 31, 2003.

SECTION 603. There shall be a commission to investigate and study public employee compensation, including, but not limited to the, health insurance, dental insurance, life insurance, education assistance, disability insurance, voluntary savings programs, and retirement benefits. The study shall include, but not be limited to, an analysis and comparison of public employee compensation in Massachusetts, including member contribution rates, eligibility, vesting, and portability, to other public and private employee compensation plans. The commission shall consist of 15 members as follows: the house and senate chairman of the joint committee on public service, who shall serve as co-chairs of the commission; 1 member of the senate appointed by the senate president and 1 member of the house appointed by the speaker of the house, or their designees, the secretary of administration and finance, or his designee; the executive director of the group insurance commission, or his designee; a representative of the Massachusetts Municipal Association; the chairman of the Public Employee Retirement Administration Commission, or his designee; a representative of the Associated Industries of Massachusetts, a representative of the Massachusetts Taxpayers Foundation, representative of the Massachusetts Association of Contributory Retirement Systems; the chairman of the state retirement, or his designee and chairman of the state teachers' retirement board or his designees; a representative of the Massachusetts Teachers' Association, and a representative of the American Federation of State, County, and Municipal Employees. The commission shall report to the general court the results of its study together with its recommendations and draft of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives, the joint committee on public service and the house and senate committees on ways and means on or before April 1, 2004.

SECTION 604. There is hereby established a special commission to report on alternatives to using the property tax to fund public education. Said commission shall consist of the Speaker of the House of Representatives or his designee and 3 additional members to be appointed by the Speaker of the House, the President of the Massachusetts Senate or his designee and 3 additional members to be appointed by the President of the Senate, the Chairman of the House Committee on Ways and Means or his designee, the Chairman of the Senate Committee on Ways and Means or his designee, the House and Senate Chairs of the Joint Committee on Education, Arts, and Humanities, the House and Senate Chairs of the Joint Committee on Taxation, who shall both serve as chairs of said commission, the Secretary of Administration and Finance, and 1 member appointed by the following organizations: the Department of Revenue, the Suburban Coalition, the Massachusetts Taxpayer's Foundation, the Massachusetts Municipal Association, Associated Industries of Massachusetts, and the and the Massachusetts Budget and Policy Center. Said commission shall be chaired by the House and Senate Chairs of the Joint Committee on Taxation. The scope of the commission's inquiry shall include, but shall not be limited to: reviewing the current practice of using the property tax to fund education and seeking alternative sources of funding to provide a dedicated stream of revenue. The Commission shall submit its report to the House and Senate Committee on Ways and Means, the Joint Committee on Education,

Arts and Humanities, and the Joint Committee on Taxation not later than January 30, 2004 along with drafts of any legislation.

SECTION 605. The division of urban parks and recreation is authorized and directed to prepare an application to place the former metropolitan parks system on the National Register of Historic Sites.

SECTION 606. There shall be a special commission to study issues related to charter school finance and charter school tuition, and to investigate alternative funding formulas and funding sources. The commission shall be chaired by the house and senate chairs of the joint committee on education, arts, and humanities, and shall be composed of two senators appointed by the senate president, two representatives appointed by the speaker of the house, one senator appointed by the senate minority leader, and one representative appointed by the house minority leader. The commission shall study charter school finances and make recommendations for setting an equitable formula that considers the actual cost per student, the variation in cost for different grade levels and different programs, the advisability of establishing a maximum amount for said average cost, and the impact of new charter schools on existing charter schools, other public schools in the district, and new charter schools. In carrying out its investigation, the commission shall take testimony from the public and interested organizations, including but not limited to, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, and the Massachusetts Charter School Association. The commission shall file a report with the house and senate clerks, the house and senate committees on ways and means, the speaker of the house, and the president of the senate not later than February 1, 2004, along with any legislation necessary to carry its recommendations into effect.

SECTION 607. There shall be a house and senate working group to develop legislation to reform chapter 70 of the General Laws. The working group shall be made up of the president of the senate or his designee, the speaker of the house or his designee, the senate and house chairs of the joint committee on education, arts, and humanities, the chairs of the senate and house committees on ways and means and the minority leaders of the senate and house, or their designees. The working group shall address matters including but not limited to aid and required local contributions determined under chapter 70 and shall consider how best to allocate state funds equitably to cities, towns, and regional school districts. The working groups shall consider the appropriate balance of property value and income measures in setting local spending requirements, and shall recommend ways to reduce arbitrary discrepancies in required local contributions and state aid levels of similar districts. The working group shall draw on the expertise of interested parties including but not limited to representatives of the department of education and organizations representing educators, school administrators, and local officials. The working group shall submit recommended legislation to the joint committee on education, arts, and humanities on or before October 9, 2003.

SECTION 608. (a) There shall be a council on early education and care to support accessible, affordable, quality child care and education for children ages birth through age 5 in the commonwealth. The council shall consist of the commissioner of the office of child care services, the commissioner of education, and the commissioner of public health.

(b) The council shall evaluate the policies and process guiding the expenditure of funds from items 7030-1000 and 7030-1500.

(c) The council shall draw on the expertise of representatives of business and industry, higher education, educators, labor unions, parents, and providers of early education and care services. The council shall develop a comprehensive plan to coordinate, integrate, and streamline publicly funded early education and care administration and functions. The comprehensive plan shall make recommendations to: (1) coordinate resources and public funding streams for early education and care, including but not limited to funding administered by the office of child care services, the department of education, and the department of public health in order to improve educational quality of services, to assure input at the local level on decision-making, to avoid duplication of effort, and to provide flexible services that meet the diverse needs of children and families; (2) increase regulatory, funding and administrative alignment, including, but not limited to streamlining administrative paperwork, building consistency in policies among publicly funded agencies, and developing appropriate subsidy eligibility criteria, sliding-fee scales, reimbursement rates, services, regulations, and standards of quality; (3) strengthen consumer education relative to early education and care resources; (4) create an effective data collection system to support the necessary functions of a consolidated system of early care to enable accurate evaluation of its impact and to maximize utilization of available federal funding; (5) establish the appropriate balance between funding for direct provision of service, for quality enhancement, and for administration; and (6) ensure the creation of a workforce system to support the education, training and compensation of the early education and care workforce, including all center and family-based infant, toddler, preschool and school-age providers. In developing its recommendations, the council shall evaluate the current systems of child care and early education delivery in terms of administrative costs, quality of care, quality of education, training and education of early education and care providers, expenditure tracking accountability, and local control. The council shall evaluate the advisability of creating a board of early education and care with oversight of some part or all of publicly funded early education and care in the commonwealth.

(d) The council shall submit its report and recommendations to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, and the joint committee on human services and elderly affairs not later than February 15, 2004.

SECTION 609. On or before September 1, 2003, the department of public health Lemuel Shattuck hospital shall submit a report to the house and senate committee on ways and means detailing the current billing procedure and rate used to determine the expenses charged to county sheriffs by said hospital for medical services provided to inmates of county

correctional facilities by said hospital, the prior billing procedure and rate used by said hospital to determine said expenses during fiscal years FY97 through FY02, and an explanation of the differences, if any, between the current and prior billing procedure and rate used by said hospital. Said report shall include, but not be limited to, the following: (1) information relative to whether said county sheriffs are currently charged using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (2) whether said sheriffs were previously charged, during fiscal years FY97 through FY02, using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (3) information regarding the current and prior level of interaction and participation afforded to said county sheriffs by the administration of said hospital in determining the rate at is so charged and the level of medical care that is required to continue billing at certain n rates for said inmates, (4) information regarding the current and prior level of inter tion and participation afforded to health maintenance organizations that have been retained by the department of correction to provide health insurance coverage for state inmates in determining the rate that the department is charged for medical services provided to state inmates and the level of medical care that is required to continue billing at certain rates for said inmates, (5) the current billing procedure and rate used by said hospital to determine the expenses charged to said health maintenance organizations covering state inmates including whether said organizations are currently charged using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (6) information regarding whether the billing procedure and rate used to charge said county sheriffs is uniformly applied to all county sheriffs, and (7) information detailing the percentage of actual expenses born by said hospital for the provision of said medical services that is covered by funds appropriated within line item 8910-0010 of section 2 of this act and the percentage of actual expenses for said medical services that is covered by direct payments made to the Lemuel Shattuck hospital by the county sheriffs for fiscal years 1997 through 2002, inclusive.

SECTION 610. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2004. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be available for use in the next fiscal year or that shall be required to use revenues for extraordinary nonschool-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 2.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, 2003 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2004 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, said department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, in a majority of the member municipalities, a regional school district which used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year shall appeal to the department of revenue not later than October 1, 2003 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) A regional school district which received regional school incentive aid in fiscal year 1995 shall, upon the request of the board of selectmen in a town, the city council in a Plan E city or the mayor in any other city, in a majority of the member municipalities, appeal to the department of education for an adjustment in the minimum required local contribution of its member municipalities. The department of education may reduce the increased assessment of the member municipalities as a result of the reorganization of the regional school district by using a portion of the regional incentive aid to reduce the prior year local contribution.

(g) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(h) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed

to be the minimum required local contribution described in chapter 70 of the General Laws. The house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(i) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(j) The amount of financial assistance due from the commonwealth in fiscal year 2004 under said chapter 70 or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(k) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 611. The board of higher education shall evaluate the tuition and fees, mandatory and non-mandatory, charged for attendance at each institution of public higher education. The evaluation shall take into consideration the cost of education at each institution, which shall be defined as the total level of state and student supported education and general expenditures less auxiliary enterprises, state restricted grants and contracts, and debt service for fiscal year 2003, in order to determine the amount of tuition and fees that students are charged at each institution to meet the student share of the cost of education in fiscal year 2003; and the amount of fees that students are charged for costs not included in the cost of education, in fiscal year 2003; provided, however, that the board is not precluded from comparing said costs and amounts to costs incurred or charged in other fiscal years.

The board shall use such information to evaluate and make recommendations on (1) the advisability of redefining fees as a non-mandatory source of student payment charged by an institution for participation in campus activities and for the purchase of specific non-obligatory services; (2) appropriate policies for setting tuition levels; (3) appropriate policies for funding tuition waivers; and (4) how best to adjust state appropriations in order to account for fringe benefit costs of campus employees paid from tuition retained at public institutions of higher education in a manner which makes campus tuition retention revenue neutral to the state. The board shall review the implementation of section 633 of this act and make recommendations on whether to alter, continue or expand tuition retention.

Said evaluation and recommendations shall be reported to the house and senate committees on ways and means and the joint committee on education, arts and humanities on an interim basis no later than December 15, 2003 and with final recommendations no later than December 15, 2004.

SECTION 612. The secretary of administration and finance shall file quarterly reports identifying with particularity all cost savings that result from greater efficiency or the reduction of wasteful expenditures in the executive branch during said quarter, beginning on

October 1, 2003. The reports shall include, but not be limited to: (a) a list of employee positions eliminated, whether by attrition or termination, showing for each the salary, job title, and state agency; and (b) a list of real property leases terminated or renegotiated by the commonwealth or any agency or department, showing for each the address of the real property, the state agencies relocated or otherwise affected, and the amount of the savings realized. The secretary shall file the reports with the house and senate committees on ways and means not later than October 1, 2003, and January 1, April 1 and July 1, 2004.

SECTION 613. The office of elder services, in consultation with the division of medical assistance and the division of insurance shall develop a program of public education designed to inform elders of their options for long-term health care coverage and the consequences of transferring assets for less than fair market value prior to entering a nursing home. The program shall include information about Medicare coverage, MassHealth coverage, long-term care insurance and options for community-based long-term care. The office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 on the progress of the development of the program and details on its implementation.

SECTION 614. (A) Notwithstanding any special or general law to the contrary, the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws and funded in item 9110-1455 of this act will incorporate the following program guidelines in fiscal year 2004:

(i) Enrollment: There will be an open enrollment period, lasting not less than 1 month and not more than 2 months, that will begin no later than August 1, 2003. A person will also be eligible to enroll in the program at any time within a year of reaching age 65.

(ii) Out-of-Pocket Spending Limit: The program shall pay the costs of all prescription drugs for a single enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$2,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year. The program shall pay the costs of all prescription drugs for a married enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$3,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year.

(iii) Deductible: There will be no deductible charged to enrollees with income below 188% of the federal poverty level.

(iv) Co-payments: Retail co-payments for a 30 day supply for enrollees below 188% of the federal poverty level will be \$9 for generic, level 1 drugs; \$23 for brand, level 2 drugs; and \$45 for additional brand, level 3 drugs. Mail service co-payments for a 90 day supply for enrollees below 188% of the federal poverty level will be \$18 for generic, level 1 drugs; \$46 for brand, level 2 drugs; and \$80 for additional brand, level 3 drugs.

(B) Notwithstanding any special or general law to the contrary, the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws and funded in item 9110-1455 shall not incur costs to the commonwealth that exceed the appropriation

authorized in this act in fiscal year 2004. The office of elder services shall report to the house and senate committees on ways and means quarterly on program expenditures and shall update spending projections upon submission of said reports. If the program is projected to exceed the appropriation contained in item 9110-1455 of this act at any point in the fiscal year, the office shall take steps to control the costs of the program during fiscal year 2004. Steps that may be taken shall include, but are not limited to:

(i) Enrollment: The open enrollment period shall be limited to 1 month and a person will no longer be eligible to enroll in the program at any time within a year of reaching age 65.

(ii) Out-of-Pocket Spending Limit: The program shall pay the costs of all prescription drugs for a single enrollee whose out-of-pocket expenditures on prescription drugs exceeds the greater of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$3,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year. The program shall pay the costs of all prescription drugs for a married enrollee whose out-of-pocket expenditures on prescription drugs exceeds the greater of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$6,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year.

(iii) Deductible: There will be quarterly deductibles in the amount of \$12 charged to enrollees with income below 188% of the federal poverty level, \$30 to enrollees with income between 188 and 225% of the federal poverty level, \$60 to enrollees with income between 225 and 300% of the federal poverty level, \$120 to enrollees with income between 300 and 500% of the federal poverty level, and \$150 to enrollees with income above 500% of the federal poverty level.

(iv) Premiums: There will be premiums in the amount of \$5 charged to enrollees with income below 188% of the federal poverty level, \$10 to enrollees with income between 188 and 225% of the federal poverty level, \$15 to enrollees with income between 225 and 300% of the federal poverty level, \$30 to enrollees with income between 300 and 400% of the federal poverty level, \$40 to enrollees with income between 400 and 500% of the federal poverty level, and \$50 to enrollees with income above 500% of the federal poverty level.

(v) Co-payments: Retail co-payments for a 30 day supply for enrollees below 188% of the federal poverty level will be \$9 for generic, level 1 drugs; \$23 for brand, level 2 drugs; and \$45 for additional brand, level 3 drugs. Mail service co-payments for a 90 day supply for enrollees below 188% of the federal poverty level will be \$18 for generic, level 1 drugs; \$46 for brand, level 2 drugs; and \$80 for additional brand, level 3 drugs.

(vi) Eligibility: The income eligibility for disabled individuals shall be lowered to 133% of the federal poverty level.

(vii) Any other alternative changes to enrollment, out-of-pocket spending limits, deductibles, premiums, co-payments, or eligibility that would be sufficient to keep projected spending within the appropriation provided in item 9110-1455 of this act.

If the office of elder services determines that some or all of these options are not sufficient, or should not be pursued, for the purposes of insuring that spending stays within the appropriation for the program, the office shall report to the house and senate committees on ways and means stating this determination, the reasons for this determination, and the alternative options that will be implemented to insure that spending for the prescription drug insurance program does not exceed the appropriation authorized within item 9110-1455 of this act.

(C) The office of elder services shall report to the house and senate committees on ways and means no later than December 1, 2003 on proposals to contain the future-year costs of the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws. This report shall evaluate, but shall not be limited to an evaluation of: tying annual co-pay and premium increases to the annual increase in prescription drug costs or to some fixed annual percentage increase, and increasing the co-pays, premiums and deductibles of enrollees between 225% and 500% of the federal poverty level so that the net cost of these enrollees to the program is zero. This evaluation shall include a consideration of both the fiscal savings that would accrue to the program and the severity of the financial burden that would be felt by enrollees in each income bracket through the implementation of these changes. This report shall also include a plan, including prospects for coordination with outside parties, for increasing the number of enrollees in the program with incomes above 500% of the federal poverty level in order to help subsidize the costs of the program for low-income enrollees.

SECTION 615. Notwithstanding any general or special law to the contrary, the formula provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2004.

SECTION 616. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received his pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws; and (vi) shall have filed a written application with the board in accordance

with subsection (b).

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

Words used in this act shall have the same meaning as when they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than September 1, 2003. The retirement date requested shall be October 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

To ensure the successful completion of the academic year, employees of the University of Massachusetts and employees of state and community colleges shall file their applications for retirement within the period required in this section, but the retirement date requested shall be December 31, 2003. The president of the University of Massachusetts and the chancellor of higher education may identify job titles which may elect to retire earlier than December 31, 2003. Said president and said chancellor shall each file a complete list of titles and corresponding job title codes with the state board of retirement not later than January 15, 2003, but no retirement shall be effective earlier than August 29, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 60 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement. Notwithstanding any special or general law to the contrary, the state board of retirement may employ retired former employees of said board through December 31, 2004, to assist it in the implementation of the retirement incentive program authorized by this section, and in the administration of tasks related thereto.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation

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paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated.

The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular

compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by November 1, 2003 the total value of compensation of the last pay period prior to October 1, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (j).

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal

year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated.

The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (l) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (l).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing

of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

The board of trustees or the president of the University of Massachusetts shall not create any position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (n) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (n).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before January 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such

agreement or contract shall waive the required remittance of that payment within 30 days and shall receive $\frac{1}{4}$ of such payment on October 1, 2003, $\frac{1}{4}$ of such payment on July 1, 2004, $\frac{1}{4}$ of such payment on July 1, 2005, and $\frac{1}{4}$ of such payment on July 1, 2006. Each such employee shall sign a statement that he has agreed to receive $\frac{1}{4}$ of such payment on October 1, 2003, $\frac{1}{4}$ of such payment on July 1, 2004, $\frac{1}{4}$ of such payment on July 1, 2005, and $\frac{1}{4}$ of such payment on July 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority established pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts Convention Center Authority established pursuant to chapter 190 of the acts of 1982 may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions.

SECTION 617. Notwithstanding the provisions of any general or special law to the contrary, the Secretary of the Executive Office of Health and Human Services shall develop a new program for the provision of medically necessary health care services for low income uninsured and underinsured residents of the commonwealth. Said program shall replace the purpose and services available through the uncompensated care trust fund, established pursuant to section 18 of chapter 118G of the General Laws.

In developing said program, the Secretary shall consult representatives from hospitals, including but not limited to, the 5 disproportionate share hospitals providing the greatest amount of free care, community health centers, health maintenance organizations, consumer and patient advocates, employer organizations, relevant policy experts, and shall examine: 1) the definitions of critical access services, free care, emergency medical condition and emergency services as defined in this act and use the free care audits produced by an independent auditor to determine which services are currently being covered by the pool and what services should be covered by the pool as part of the new program; and 2) the impact of Medicaid rates paid to disproportionate share hospitals and its relationship to said hospitals' demand for payments from the uncompensated care pool.

The Secretary shall devise a program which:

- (a) reforms the provision & financing of medically necessary care through the uncompensated care trust;
- (b) preserves access to medically necessary health care services for low income uninsured and underinsured residents of the Commonwealth;
- (c) establishes a fair and equitable program to fund uncompensated care,
- (d) maximizes the amount of federal financial participation or other federal revenue to which the commonwealth may be entitled without increasing the financial burden on the Commonwealth;
- (e) allocates the burden of funding uncompensated care among affected participants such that no single participant or group of participants bears a disproportionate burden for the cost of providing such care;
- (f) protects the unique mission of those organizations who disproportionately provide and deliver medically necessary health care services to a disproportionate number of low income uninsured and underinsured residents of the commonwealth;
- (g) encourages coordination with and the utilization of public and private insurance programs, including programs operated by the division of medical assistance;
- (h) adopts specific measures and procedures to achieve efficiency, accountability, effective management and the administration of the uncompensated care pool, so-called;
- (i) includes a reimbursement system that is efficient and operable on a statewide basis;
- (j) delineates the resources necessary to track and analyze uncompensated care pool utilization;
- (k) promotes the delivery of patient care in the most appropriate, cost-effective manner and location available, while protecting patient access to medically necessary care;

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(l) includes effective forms of care management for uncompensated care pool utilizers;

(m) streamlines administrative operations & functions for health care providers who are subject to the uncompensated care pool, so-called, to the extent possible and practicable;

(n) maximizes the use of federal financial participation without increasing the financial burden on the Commonwealth;

(o) holds the Commonwealth's obligation to the uncompensated care pool to no more than \$30,000,000;

(p) creates an incentives for hospitals to provide free care;

(q) includes any and all legislation necessary to implement said program.

The Secretary shall file any and all recommendations, including any proposed legislation, with the clerks of the senate and the house of representatives and the house and senate committees on ways and means on or before October 1, 2003.

SECTION 618. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, on or after October 1, 2003, \$55,000,000 of federal reimbursement received in fiscal year 2004 by the Commonwealth pursuant to section 401(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the Uncompensated Care Trust Fund for the purpose of funding one-time payments to acute care hospitals and community health centers.

SECTION 619. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, on or after October 1, 2003, \$35,000,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of funding one-time payments to acute care hospitals and community health centers.

SECTION 620. Notwithstanding the provisions of any general or special law to the contrary, the following payments shall be made from the Health Care Quality Improvement Trust Fund in fiscal year 2004 utilizing monies accumulated in said fund during fiscal year 2003 as a result of the prohibition of retroactive application of rate increases to nursing homes approved by section 180 of chapter 184 of the Acts of 2002:

(1) \$6,500,000 for grants to community health centers for one-time grants for costs incurred by the development of the staff and infrastructure necessary to accommodate the MassHealth disabled population pilot project as mandated by this act and to mitigate the effect of changes made to clause (g) of section 9A of chapter 118E of the General Laws by chapter 184 of the Acts of 2002;

(2) \$5,000,000 for the purpose awarding one-time grants to community health centers for capital, equipment, and other costs for the purpose of increasing access to health care for medically underserved populations or areas of the commonwealth through extended hours and innovative urgent care strategies including but not limited to diverting non-emergency visits from hospitals emergency departments. The criteria for awarding such grants shall include, but not be limited to, the lack of sufficient access to cost-effective outpatient services in the geographic area of the applicant to financially sustain the program in future

years, the long-term viability of the applicant, and any other criteria the commissioners of the division of medical assistance and the division of health care finance and policy deem appropriate. An advisory group consisting of the secretary of health and human services, who shall chair the group, the commissioner of the division of medical assistance, the commissioner of the department of public health, the executive director of the Massachusetts League of Community Health Centers, or their designees, shall recommend to the commissioner of health care finance and policy not later than 45 days after the effective date of this act the most efficacious means of awarding said grants consistent with the provisions of this section. The grants shall be awarded not later than six months after the effective date of this act. The commissioner of health care finance and policy shall submit a report to the house and senate committees on ways and means when said grants are awarded, specifying which community health centers will receive funds from this item and the amounts and uses of the awards;

(3) \$1,500,000 to the city of Haverhill over a period of two years for the severe financial hardship resulting from maintaining critical health services through the operation of the former municipally-owned Hale Hospital. Said funds may be utilized for the expenses relative to health insurance and pension costs attributable to retirees of Hale Hospital during fiscal years 2004 and 2005;

(4) \$2,500,000 for a contract with an independent auditor for the purpose of examining the costs and services being billed to the Uncompensated Care Pool, pursuant to section 641 of this act;

(5) \$4,100,000 for the career ladder grant program in long-term care established pursuant to section 410 of chapter 159 of the acts of 2000, provided; that grants shall be available for certified nurses' aides, home health aides, homemakers and other entry-level workers in long term care; provided further, that the length of such grants shall not exceed a period of 3 years; provided further, that the Commonwealth Corporation shall submit quarterly reports to the house and senate committee on ways and means on said grant program including, but not limited to, the number of grants awarded, the amount of each grant, a description of the career ladder programs, changes in care giving and workplace practices that have occurred and their impact on quality of care and worker retention and the certificates, degrees or professional status attained by each participating employee; provided further, that the administrative and program management costs for the implementation of the grant program shall not exceed 4 per cent of the amount provided for in this item; and provided further, that grants may also include funding for technical assistance and evaluation;

(6) \$3,000,000 to fund expenses at the division of health care quality within the department of public health to enforce and improve nursing home quality standards partially funded in item 4510-0710; provided, that \$1,000,000 shall be expended to support boards of registration being transferred to or serving in the department of public health;

(7) \$2,000,000 for administrative expenditures at the division of medical assistance,

partially funded in item 4000-0300, related to the establishment of a program of care management for Medicaid recipients with high-utilization of medical services; provided, that the division shall use the funds to identify health care costs and pricing patterns in the Medicaid program that are not cost effective or medically appropriate using best practices and identify alternatives which provide for an integrated approach to managing health care needs of recipients at risk of or diagnosed with specific ailments, including, but not limited to, asthma, congestive heart failure, diabetes, heart disease and stroke; provided further, that the program shall be designed to improve health care and health outcomes, reduce unnecessary or avoidable inpatient hospitalization, and reduce the number of emergency room visits by such recipients; provided further, that the program shall require the provision of clinically appropriate care management based on best practices, clinical studies and health outcome research; provided further, that the division shall report to the house and senate committees on ways and means by March 1, 2004, the number of individuals participating in the program and any reduction in utilization or spending resulting from the program; provided further, that administrative expenditures may include contracts with disease management organizations;

(8) \$1,500,000 for non-recurring payments to financially distressed visiting nurse association that are operated by a corporation organized pursuant to chapter 190 of the General Laws, are located in an urban area, have experienced an operating deficit during the last two fiscal years and whose Medicaid and other governmental revenues comprise at least 75% of total revenues;

(9) \$300,000 for a statewide stroke education and public awareness program at the department of public health to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel, about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment. The department shall coordinate such program with any ongoing federally-funded statewide efforts, including any programs funded by federal cardiovascular health initiative grants and shall seek to maximize other available sources of funding to accomplish the goals of the program;

(10) \$162,368 for the MS PASS program, so-called, as previously established at the department of public health. Said funds shall be expended to maximize matching dollars to be used for services provided by the program as managed by the Central New England chapter of the National Multiple Sclerosis Society.

SECTION 621. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers including, but not limited to, Neville Communities Home, Inc., Cape End Manor, Taunton Nursing Home, Hampshire Care, Our Island Home, and the Geriatric Authority of Holyoke provided that no such payment shall be made until the division determines that a home qualifies for matching federal revenue under Title XIX. The payments shall be established

in accordance with Title XIX of the Social Security Act or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

SECTION 622. Notwithstanding any general or special law to the contrary, the comptroller shall certify that all revenues generated from license fees, permit fees and any other sources of revenue pertaining to inland fishing, hunting and trapping permit fees under the provision of section 22A in chapter 131, from the sale authorized in section 6 of said chapter 131 and sums received by the commonwealth from the federal government as reimbursed, grants in aid or other receipts on account of activities of the division of fisheries and wildlife and any and all interest generated from the balances of said fund shall be expended solely upon the following: the payment of general administrative expenses of the division of fisheries and wildlife, for acquiring, maintaining or leasing public fishing rights on land on inland streams and ponds, including stream management and the creation of new ponds, for acquiring, maintaining or leasing public hunting rights on land within the commonwealth, for biological surveys of the inland waters of the commonwealth, for propagation of game birds and fish, for salvaging and distributing game birds and fish, for acquisition and maintenance of wildlife sanctuaries and fish and wildlife management areas, for maintaining water resources to provide an adequate water supply for wildlife, for maintaining sources of food for game birds, for other general purposes of said division and said executive office, for payment of the amount necessary for personal services and other expenses for and on account of the enforcement of laws relating directly to game and inland fisheries, such amounts to be determined by the commissioner of administration, for the acquisition by purchase, lease, easement, or license of land or interest therein critical to nongame wildlife and endangered species for multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses, for the management, inventory, preservation, protection, perpetuation, and enhancement of nongame wildlife and endangered species in the commonwealth, for supplementing funds provided to the natural heritage and endangered species program for the purpose of aiding in the protection of rare, threatened, and endangered species in the commonwealth, and for the payment of fringe and related costs as determined by the state comptroller. Upon the determination of the state comptroller, any transfers authorized in this act that would divert funds from the purposes stated herein and would result in the loss of receipt of federal reimbursements, grants in aid or other forms of federal assistance, shall not occur. The Comptroller shall certify annually to the General Court the amount of revenues received and expended pursuant to the provisions of this section.

SECTION 623. Notwithstanding any general or special law to the contrary, during fiscal year 2004, the comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received by the commonwealth in fiscal year 2004 pursuant to the master settlement agreement in the action known as *Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al.*, Middlesex Superior Court, No. 95-7378 and 50 per cent of the earnings generated in fiscal year 2004 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for certain health care expenditures appropriated in section 2.

SECTION 624. Notwithstanding any general or special law to the contrary, the operational services division shall establish a price adjustment review commission which shall make recommendations about special education rate calculations and rate structures and study issues related to cost increases for matters of health and safety, as defined by state and federal regulations, and as required by the department of education where the department has determined that certain cost increases must be implemented prior to the effective date of the tuition increase resulting from program reconstruction for fiscal year 2005. The commission shall include the commissioner of social services or his designee, the commissioner of education or his designee, the secretary of administration and finance or his designee, the house and senate chairs of the joint committee on education or their designees, the chairs of the house and senate ways and means committees or their designees, a representative of the Massachusetts association of school committees, a representative of the Massachusetts association of school superintendents, a representative of the Massachusetts association of special education administrators, and a representative of the Massachusetts association of chapter 766 approved private schools. The commission shall submit its report to the legislature, along with any proposed legislation necessary to carry such recommendation into effect, no later than October 1, 2003.

SECTION 625. Notwithstanding any general or special law to the contrary, the department of public health and all public institutions of higher education receiving funding from the commonwealth shall take all steps necessary to begin participation in the state comptroller's Intercept Program for overdue receivables.

Each agency and institution of higher education shall designate 1 officer responsible for coordinating the necessary steps with the office of the state comptroller. The responsible officer shall submit timely and sufficient information to the office of the state comptroller so that the comptroller may examine accounts and demands against the commonwealth as provided in section 3 of chapter 7A of the General Laws.

The state comptroller shall, not later than December 15, 2003, certify to the house and senate committees on ways and means the level of cooperation being extended by the specified state agency and public institutions of higher education to the state comptroller in pursuit of the goals of this section. Any agency or public institution of higher learning that is not certified as being in full cooperation with the state comptroller shall have the appropriation level of its designated line item reduced according to the following schedule:

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- A) Department of Public Health: Reduction of \$840,000 from line item 4510-0100
- B) Roxbury Community College: Reduction of \$360 from line item 7515-0100
- C) Fitchburg State College: Reduction of \$340 from line item 7110-0100
- D) Worcester State College: Reduction of \$300 from line item 7116-0100
- E) University of Massachusetts at Dartmouth: Reduction of \$33,000 from line item

7100-0200

- F) University of Massachusetts at Amherst: Reduction of \$265,000 from line item

7100-0200

- G) University of Massachusetts at Boston: Reduction of \$90,000 from line item

7100-0200

- H) University of Massachusetts at Lowell: Reduction of \$40,000 from line item 7100-

0200

- I) University of Massachusetts Medical School: Reduction of \$970 from line item

7100-0200

The state comptroller shall, not later than March 15, 2004, report to the house and senate committees on ways and means on the implementation of Intercept Program participation for the agencies and public institutions of higher education identified in this section. The report shall also include an estimate of the amount of overdue receivables that is expected to be collected on behalf of the specified agencies and public institutions of higher education as a result of participation in the Intercept Program in fiscal year 2004.

SECTION 626. Notwithstanding any general or special law to the contrary the executive office of transportation and construction shall submit to the joint committee on transportation no later than January 1, 2004 studies regarding (a) the safety and efficiency of the North End Rotary located on Route 20 in the town of West Springfield, (b) the construction of a berm or sound barrier along Gina Circle in Framingham, and (c) the construction of traffic signals and roadway improvements at the intersection of Rockdale Ave. and Bolton Street in the city of New Bedford.

SECTION 627. The secretary of the executive office of environmental affairs shall coordinate the delivery of services of the departments and divisions under his control to ensure the protection of the air, water, natural resources and land of the commonwealth and to provide support for the provision of recreational activities for the citizens of the commonwealth. In conducting said duties, the secretary shall also work in coordination with departments and division under his control to provide continued support for the recreational facilities currently operated in the commonwealth. The secretary shall continue to maintain the public appreciation and enjoyment of the commonwealth's natural resources, including bicycle and walking paths, hiking trails, beaches, and other public open space. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) all pools and spray pools under the jurisdiction of said executive office shall remain open for not less than 10 weeks during the summer months; (2) all rinks under the jurisdiction of said executive office shall be open from October through April; (3) all golf courses under the jurisdiction of said executive office shall be maintained and groomed and open to the public for reasonable rates

April through November; (4) all playgrounds, tennis courts, local parks, athletic fields and stadia under the jurisdiction of said executive office shall be open for the public use year round and shall be clean and safe for the citizens of the commonwealth; (5) all beaches shall be staffed by lifeguards during the summer swimming season and the beaches shall be cleared of litter and other pollutants; (6) all 750 lane-miles of parkways shall be repaired and kept in good operating condition, including the removal of snow, paving of potholes, and other weather-related damage.

The secretary shall coordinate the delivery of services of the departments and divisions under his or her control to ensure the protection of air, water, land, and other natural resources of the commonwealth and to provide support for the acquisition, management, utilization, and conservation of habitat for native flora and fauna. The secretary shall continue to assure the health and viability of the commonwealth's biodiversity for future generations. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) Provide assistance to the departments and divisions under his or her control, including the administration of funds to cities and towns, for the acquisition of interests in land for conservation purposes; (2) Develop partnerships with private, non-profit and other entities that will augment the commonwealth's stewardship and acquisition of such lands; (3) Monitor and enforce all conservation restrictions held by the commonwealth; (4) Enforce all laws and regulations promulgated for the protection of watersheds, lakes, ponds, rivers, streams, coastal and inland wetlands; (5) Develop natural resource management plans for all state forests, reservation, and wildlife management areas; (6) Ensure that sustainable forestry management practices are employed on all state-owned lands, and that such practices are coordinated with private forestland management practices to achieve landscape-scale goals; (7) Promote the sustainable economic development of the private agricultural and forestry resources of the commonwealth; (8) Promote research and monitoring to establish ecological benchmarks for assessing the health and viability of the commonwealth's biodiversity.

SECTION 628. Notwithstanding any general or special law to the contrary the department of conservation and recreation shall continue to maintain a visitor's informational center in the Quabbin reservation, shall continue to provide, at a minimum, the access and recreational activities that are consistent with the current plans, and shall continue to operate the Quabbin watershed advisory committee and a Ware River watershed advisory committee as provided in section 114 of Chapter 92. On July 1, 2003, ownership, possession and control of the system personal property as it relates to the watershed system shall pass to and be vested in without consideration or further evidence of transfer, and shall thereafter be in the ownership, possession and control of the department of parks and recreation. All such system personal property shall include, without limitation, records, books, maps, plans and documents of any kind and description, and held in any media including without limitation computerized data. All records pertaining to the history of the Swift River and Ware River valleys, land takings therein, Quabbin reservoir construction and matters regarding the 4 discontinued towns and extant adjacent communities shall remain accessible to the public

at the Quabbin reservoir administrative facilities in Belchertown, Massachusetts. Said department of conservation and recreation, acting only on behalf of the Commonwealth, may acquire from any person, real property or any interest or rights therein deemed by it essential for the operation, improvement, maintenance, management or enlargement of the watershed system, by purchase, by gift or by eminent domain in accordance with the provisions of Chapter 79 or Chapter 80A of the General Laws, without the further prior approval of the Governor or the General Court; provided, that all such acquired watershed lands shall be held in the name of the Commonwealth of Massachusetts. Such acquired watershed lands shall become part of the department of conservation and recreation system of real property. No disposition of any lands acquired as part of the watershed system or rights in supply or acquisition of rights in sources of water supply may occur without the prior approval of the Governor and the General Court; provided, that such approval be in compliance with the provisions of Article 97 of the Massachusetts Constitution.

SECTION 629. The commissioner of conservation and recreation, in consultation with the division of capital asset management and maintenance, shall devise a long-term plan for improving the quality of the services offered in recreational facilities in the commonwealth. Such plan shall consider the feasibility and merits of executing long-term lease arrangements for recreational facilities that are under the control of the department, including but not limited to those recreational facilities under the control of the metropolitan district commission as of June 30, 2003, including the skating rinks and golf courses. The commissioner shall also report on the long-term lease program implemented by the former department of environmental management for the skating rinks formerly under its control, including an evaluation of the capital improvements that have been made, improvements in service and hours of operation and the financial results of such transactions. The commissioner shall also recommend ways to attract quality bidders, maximize capital improvements, extend hours of operation and the services that are available in such facilities and to minimize personnel disruption resulting from such transactions. The plan shall include recommendations for legislative actions that may be required to improve the quality of services in recreational facilities. The commissioner shall submit his report to the house and senate committees on ways and means and to the joint committee on natural resources and agriculture no later than December 1, 2003.

SECTION 630. Notwithstanding any general or special law or regulation to the contrary, the secretary of administration and finance shall increase the retailer license fee set forth in 801 CMR 4.02 to \$200 per license; provided, however, that said fee increase shall take effect on July 1, 2003.

SECTION 631. Notwithstanding any general or special law to the contrary and with the exception of fees charged for the testing of blood lead levels, fees charged by the division of occupational safety authorized in subsection (e) of section 197B of chapter 111 of the General Laws, section 46F of chapter 140 of the General Laws or section 6B of chapter 149 of the General Laws under the minimum wage program under 801 CMR 4.02 shall be set at a rate not less than twice the rate charged on July 1, 2002.

SECTION 580B. (a) To provide five-year funding for the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws, the sums set forth in subsection (b), for the purposes set forth in said chapter 121D and subject to the conditions specified in this section, are hereby authorized for expenditure from the General Capital Projects Fund unless specifically designated otherwise, subject to the laws regulating the disbursement of public funds and the approval thereof.

(b)

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

7004-8020 For the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws \$70,000,000

(c) To meet the expenditures necessary in carrying out subsection (b), the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$70,000,000. All of these bonds issued by the commonwealth shall be designated on their face, Affordable Housing Trust Fund Bond Act of 2003, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article 62 of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2031. All interest and payments on account of principal on the obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provision of this section, be general obligations of the commonwealth. The department of housing and community development may expend an amount not to exceed 2 per cent of these authorizations for administrative costs directly attributable to the purposes of this section, including costs of clerical and support personnel. The director of the department shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means detailing, by subsidiary, all personnel costs and administrative costs charged to expenditures made pursuant to this section.

(d) The director of the department of housing and community development shall submit annually to the house and senate committees on ways and means, the joint committee on housing and urban development and the house and senate committees on long term debt and capital expenditures, a 5-year capital plan for fiscal years 2004, 2005, 2006, 2007 and 2008 for capital funds authorized by this section. This capital spending plan shall reflect a balanced allocation of capital funds authorized by this section.

SECTION 632. Notwithstanding any general or special law to the contrary, the division of medical assistance shall, subject to approval or modification by the secretary in programs where federal funding is available, set limits on the number of adults who shall receive benefits under any of the following provisions: clause (d), (e), (h) or (i) of subsection (2) of section 9A of chapter 118E of the General Laws or section 9C, 16 or 16D of said chapter 118E. When an eligibility limit has been reached or exceeded, whether or not limited to higher income levels, the division may close enrollment but shall provide written notification to the house and senate committees on ways and means and the joint committee

on health care at least 30 days in advance of taking such action, until such time or under such circumstances as the division shall determine. If the division closes enrollment, it shall also report to the committees the number of eligible individuals who have applied for and been denied coverage due to the enrollment cap. This provision shall be effective for applications submitted after the effective date of this act or after such later date as approved by the secretary.

SECTION 633. Notwithstanding any general or special law to the contrary, for fiscal years 2004 to 2008, inclusive, all tuition and fees received by a board of trustees of the Massachusetts College of Art shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board of the institution may direct. Any balance in the trust funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

Notwithstanding any general or special law to the contrary, the board of trustees for the university of Massachusetts system and the president of the university are hereby authorized and directed to establish a two year pilot program for out of state tuition retention at the flagship campus of the university at Amherst. The board shall promulgate regulations to allow the administration of the Amherst campus to retain, in fiscal year 2004, all tuition paid by students who are not residents of Massachusetts. The regulations shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention pilot project. The board of trustees for the university system shall issue a report on the progress of said initiative no later than February 1, 2004 to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The report shall include the number of out of state students attending the school, the amount of tuition revenue retained under the program, and any programs or initiatives funded with the retained revenue.

Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the boards of trustees of public higher education institutions as a direct result of the implementation of this section. This section shall apply only in fiscal year 2004.

SECTION 634. The Massachusetts College of Art shall submit to the board of higher education, and said board shall consider, a proposal under clause (p) of section 22 of chapter 15A of the General Laws, as amended by section 63 of this act. The proposal shall establish tuition rates and admission standards for the college, and shall assure that the number of undergraduate degree candidates who are Massachusetts residents enrolled on October 1 of 2003 and each subsequent year thereafter shall be no less than 60 per cent of the total number of undergraduate degree candidates enrolled, or the number of Massachusetts residents enrolled on October 1, 2002, whichever is greater. In-state tuition rates for the college shall preserve affordability for Massachusetts residents. Out-of-state tuition

rates shall appropriately balance the financial needs of the college with the need to be competitive with peer institutions regionally and nationwide. The proposal shall include provisions for performance standards specific to the mission of said college to be used in place of the performance measurements system otherwise in effect. Within 90 days of the submission of a proposal, the board shall formally approve the proposal, or shall return it to said college with suggested changes. If the board takes no action within 90 days of receipt of said proposal, it shall be considered approved.

SECTION 635. Notwithstanding any general or special law to the contrary, the board of education shall take such action as necessary, including, as appropriate, promulgating emergency regulations to modify the process governing MCAS appeals for children with disabilities as defined by the provisions of chapter 71B and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) and regulations promulgated thereto, including children with disabilities subject to the MCAS graduation requirement in 2003. The appeals process established by 603 CMR 30.05 shall be revised to include the following provisions: A child with a disability shall be eligible for an MCAS appeal if the following criteria are met: a) the child has taken the grade 10 MCAS at least three times in each subject area considered in the competency determination in which the student did not achieve a pass score or submitted a portfolio assessment through the MCAS Alternative Assessment at least two times without being granted a competency determination; b) the child has maintained an adequate attendance level as established by the department, or the child's days of absences from school in excess of the number allowed by the department are excused; c) the child has demonstrated participation in academic support services made available and accessible by or approved by the school district under an individual student success plan or under any other plan designed to strengthen the student's knowledge and skills in the subject(s) at issue, or the child's lack of participation in available academic support services has been related to the child's disability.

The regulations shall require that, at the request of the child's parent or guardian or with the parent or guardian's consent, the superintendent of schools for the school district in which the student is enrolled, or the superintendent's designees, shall file an appeal on behalf of a child with an individual education plan. The superintendent may submit written comments or evidence with the appeal. Denial of an earlier appeal shall not prevent a new appeal under the provisions of this section.

The regulations shall require that the superintendent include in the performance appeal evidence of the student's knowledge and skills in the subject(s) at issue, including: (a) documentation that the student has met the local graduation criteria established by the local school committee; (b) documentation that the child's individual education plan team, with the approval of a parent or guardian of the child, recommends graduation for the student consistent with chapter 71B and the Individuals with Disabilities Education Act (IDEA); (c) certification from the individual education plan team, including the parent or guardian, that the student's knowledge and skills in English language arts, mathematics, or both subjects

meet or exceed the performance level established by the board of education for the competency determination and that the student's MCAS scores do not accurately measure the student's abilities; (d) a recommendation from one or more of the child's teachers in the area(s) of appeal, assessing the level of the student's knowledge and skills in the subject area(s) at issue; (e) where possible, a meaningful comparison of the child with a group of other students who passed the MCAS in the subject area of the student's appeal; provided, however that, in the event of an inability to identify an appropriate set of students to enable a meaningful comparison with other students provision (e) shall be waived and shall not be reason for denying a performance appeal; and (f) other supporting information relevant to the determination as to whether the student's knowledge and skills in English language arts, mathematics, or both subjects meet or exceed the performance level established by the board of education for the competency determination, which may include work samples, scores of the student on other standardized tests in the subject area(s), evidence of acceptance to college courses, portfolios of student work, or other evidence of academic achievement which demonstrates that the student meets the competency determination standard.

The Commissioner shall grant the appeal for a child with an individual education plan unless the commissioner finds that there is compelling evidence in the documentation provided in (a) through (f) above or evidence submitted by the superintendent that, contrary to the certification of the individual education plan team, the MCAS does accurately reflect the failure to have achieved knowledge and skills commensurate with a performance level required for the competency determination, in which case the commissioner must provide written documentation of such evidence to the individual education plan team, including the parents. Nothing herein shall affect or in any way limit a child's rights available under chapter 71B or IDEA.

The commissioner of education shall: develop and implement a system to effectively monitor and enforce provisions of federal and state law which require provision of accommodations, modifications, and alternate assessments for children with disabilities participating in MCAS; develop and implement a system to effectively monitor and enforce provisions of federal and state law which ensure access to and meaningful participation in the general curriculum so that children with disabilities can meet the educational standards established in the learning standards set forth in the Massachusetts Curriculum Frameworks; establish policies and procedures to ensure that children with disabilities receive the accommodations, special education, related services, and supplementary aids and services necessary to participate in any MCAS tutorial, remedial, or academic support services made available by or approved by the school committee or the department; and develop and implement a system to effectively monitor and enforce provisions of federal and state law which require school districts to ensure that a continuum of alternative placements is available to provide a free and appropriate public education to meet the needs of children with disabilities who have not demonstrated competency on the grade 10 MCAS examination even though they have satisfied local graduation requirements.

SECTION 636. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$50 for apprentice program sponsor verification on public bidding projects.

SECTION 637. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge an annual fee of \$300 to certify apprentice training sponsors.

SECTION 638. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$40 for an optician apprentice application.

SECTION 639. Notwithstanding any general or special law to the contrary, 50 per cent of the fees collected by any sheriff or deputy sheriff, including those sheriffs and deputy sheriffs serving civil process within a county that has not been abolished pursuant to chapter 34B of the General Laws or any other applicable provision of law, in excess of the fee structure in place for section 8 of chapter 262 of the General Laws prior to July 1, 2003 and pursuant to section 649 of this act, shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. Each sheriff receiving an appropriation in items 8910-0000, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145 or 8910-0619 of section 2 that fails to file the report required by section 649 on or before February 1, 2004 shall transmit, after February 1, 2004, 100 percent of the fees so collected in excess of the fee structure in said section 8 of said chapter 262 prior to July 1, 2003 and pursuant to said section 649 to the state treasurer for deposit into the General Fund of the commonwealth.

SECTION 640. Notwithstanding any general or special law to the contrary, the office of child care services shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Child Care Development Block Grant. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Child Care Development Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

SECTION 641. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of

effort requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Transitional Aid to Needy Families Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

SECTION 642. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any necessary federal waivers or regulation changes and develop a pilot program within its primary care clinical plan and as part of its managed care organization procurement process with a contract effective date of July 1, 2004 for certain managed care eligible, federally optional MassHealth members, aged 19 to 65, including but not limited to all persons who qualify for the MassHealth program pursuant to section 16 of Chapter 118E of the General Laws and all others who qualify under the division's disability criteria but are currently not receiving supplemental security income benefits due to federal income rules. Such pilot program and managed care contract shall include the provision of primary care through community health centers, hospital-licensed community health centers and, where necessary to ensure access, other large primary group practice settings. Said program shall be contracted by an open bidding process and reimbursed by the division at a predetermined capitated rate for each such enrolled MassHealth member. The plan shall require enrollees to choose a primary care physician, so called, in a community-based setting such as a community health center. As part of said pilot program waiver, the division shall mandate that providers contracting with this program shall accept Medicaid reimbursement rates for services to this population, including, but not limited to, hospital outpatient rates. In correlation with said pilot project, the division shall pursue discounts pursuant to 340B federal rules, so called, and shall cooperate with the Massachusetts League of Community Health Centers to carry out this requirement. The division shall take all steps necessary to ensure full implementation of this program by July 1, 2004. The waiver application shall be submitted to the federal centers of medicare and medicaid services by August 15, 2003. The division shall report to the house and senate committees on ways and means within 10 days of receiving federal approval for any applicable waivers and, no later than April 1, 2004, shall submit a report on any expected reductions in spending resulting from the provisions of this section, and the effect on the level of services available to participating members. Upon federal approval and demonstrated success of this pilot program, as determined by the division and the General Court, the division shall examine the feasibility of mandating that all eligible MassHealth enrollees shall be required to enter a community-based managed care program beginning in fiscal year 2006.

SECTION 643. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall increase licensing fees for wholesalers, vending machine operators and retailers as defined in section 1 of chapter 64C to a level that will generate revenues in an amount not less than \$2,535,000.

SECTION 644. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2004, the division of health care finance and policy is authorized to administer, as provided in this section, the Uncompensated Care Trust Fund established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured residents. The division and the division of medical assistance may promulgate regulations to implement any of the provisions in this section.

The division, in consultation with the division of medical assistance and the executive office of health and human services, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI or any successor federal statute.

In hospital fiscal year 2004, the total liability of all acute care hospitals to the fund shall be \$157,500,000 and the division of health care finance and policy shall calculate an assessment percentage rate by dividing \$157,500,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its "private sector charges".

In hospital fiscal year 2004, the total surcharge liability of surcharge payers to the uncompensated care trust fund shall be \$157,500,000. The surcharge amount for each surcharge payer shall be equal to the product of (a) the surcharge percentage and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division of health care finance and policy shall calculate the surcharge percentage by dividing \$157,500,000 by the projected annual aggregate "payments subject to surcharge", as that phrase is defined in section 1 of chapter 118G of the General Laws.

All title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division of health care finance and policy or the division of medical assistance, shall be credited to the General Fund; provided however, that for fiscal year 2004, the comptroller shall transfer to the Uncompensated Care Trust Fund \$140,000,000 of the federal financial participation credited to the General Fund. In addition to the revenues deposited to the Uncompensated Care Trust Fund pursuant to this section, the division may expend up to \$28,000,000 from any unexpended balance in the trust fund at the close of fiscal year 2003 for purposes specified in this section.

All hospital payments made pursuant to this section are subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder and the Commonwealth's Title XIX state plan.

The division of health care finance and policy shall calculate an annual payment liability from the uncompensated care pool to each acute hospital for fiscal year 2004. In determining the liability amount, the division shall (a) take into account such factors as each hospital's fiscal year 2002 payments from the pool, available funding in the pool, the financial burden of hospitals that provide proportionately the largest volume of free care, the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and (b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2004, as determined by the division using prior year data and considering the total funds available for the purpose; provided that the fixed percentage shall not be less than 85 per cent of free care costs as defined in section 1 of chapter 118G of the General Laws for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2002, and not less than 88 per cent of free care costs, as defined under section 1 of chapter 118G of the General Laws, for the 10 acute hospitals with the next highest relative volume of free care costs in said year. All other acute hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2004 annual liability amount to each hospital shall be funded by the trust fund; provided, that the liability may be satisfied through either a disproportionate share payment or adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by any acute hospital and the division of medical assistance. The comptroller shall transfer without further appropriation funds to the division of medical assistance for the purpose of the Title XIX service rate adjustment payments.

The division of medical assistance shall maximize the use of other federally permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$50,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The division of medical assistance shall make payments from the uncompensated care pool for services provided by community health centers to uninsured residents in accordance with the relevant provisions of chapter 118G, and regulations promulgated under chapter 118G, in effect at the end of fiscal year 2003.

In hospital fiscal year 2004, up to \$2,500,000 shall be expended from the health care quality improvement trust fund to fund a contract with an independent auditor to examine costs and services being billed to the pool. The division of health care finance and policy shall submit quarterly reports to the house and senate committees on ways and means the results of said audits, the purpose of which shall be to examine the equity and long term viability of the prospective payment system, which is based upon historical spending and therefore locks in any inefficiencies or inequities inherent in the current system. For the purposes of said audits, allowable free care services shall be defined pursuant to chapter 118G of the General Laws.

In hospital fiscal year 2004, \$380,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein and \$28,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section. The comptroller shall transfer, without further appropriation, \$160,000,000 from the trust fund to the division of medical assistance for the purposes of meeting payment obligations for services provided pursuant to section 679 of this act.

SECTION 645. Notwithstanding the provision of any general or special law to the contrary, the executive office of health and human services shall pursue administrative savings in the behavioral health program of the division of Medical Assistance. Such administrative savings shall seek to reduce duplication in the oversight of service provision, and shall include but not be limited to a reduction in the approval process of patients who need to be hospitalized; the development and implementation of self-management models for inpatient providers; and a recognition of national accreditation and Medicare status for licensure of inpatient behavioral health providers. Such Administrative savings shall also include initiatives to reduce the number of hospitalized children and adolescents who do not require inpatient hospital level of care, including but not limited to an expedited approval process for appropriate residential step-down programs; the enforcement of a no-eject policy for residential settings; allowance for out-of-state placements for extraordinary circumstances; and a requirement that the department of social services visit hospitalized youths in custody of the department within three business day of hospitalization. The executive office of health and human services shall also examine and make recommendations regarding whether there should be a financial assessment to offset the cost of providing hospital care on state agencies who have clients in hospitals who no longer require hospital level care. The executive office of health and human services shall also examine and pursue appropriate models for increasing federal financial participation for the costs of the behavioral health program administrative vendor. The secretary of the executive office of health and human services shall report to the house and senate committees on ways and means and the committee on Medicaid the results of said administrative savings initiatives no later than December 1, 2003, which shall include a list of the administrative savings adopted and the projected amount of savings from such initiatives.

SECTION 646. Notwithstanding any general or special law to the contrary, the division of purchased services of the department of procurement which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal year 2003 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2004 the full price calculated for fiscal year 2003.

SECTION 647. Notwithstanding any general or special law to the contrary and in

order to achieve efficiencies, the executive office of transportation and construction, the Massachusetts Turnpike Authority and the department of highways shall identify instances in which the authority can achieve costs savings and improved performance and service for the maintenance, snow and ice removal, repair, policing, use, administration and operation of interstate highway route 290, interstate highway route 391, and that portion of interstate highway route 91 from the interchange of interstate highway route 91 with interstate highway route 90 and continuing to the Connecticut border. For the period beginning October 1, 2003 and ending on December 1, 2006, the Massachusetts highway department shall enter into an interagency service agreement with the authority, herein, referred to as the "agreement" for the provision of maintenance, snow and ice removal, repair, policing, use administration and operation on such routes in order to achieve cost savings. The authority and the department shall submit a report to the joint committee on transportation and the house and senate committees on ways and means on or before January 1, 2005, detailing any and all cost savings to the commonwealth resulting from the agreement and or estimated to result from any proposed agreement to share employees, equipment and operational activities and functions in order to achieve operational efficiencies, improved performance or services and cost savings, including recommendations to establish a permanent and potentially expanded process for the transfer of certain responsibilities for interstate highway systems in the commonwealth from the highway department to the authority beginning December 1, 2006.

SECTION 648. Notwithstanding any general or special law to the contrary, the department of conservation and recreation may deposit into a trust account and expend federal reimbursement for out of state firefighting costs authorized under section 44 of chapter 138 of the acts of 1991.

SECTION 649. Notwithstanding any general or special law to the contrary, each sheriff receiving an appropriation in items 8910-1000, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145 or 8910-0619 of section 2 shall file a report with the house and senate committees on ways and means no later than February 1, 2004 detailing the civil process fees charged by said sheriff's civil process office, all revenue received from said fees, the compensation structure for deputy sheriffs engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. The report shall include, but not be limited to: the number of civil process transactions by nature and quantity performed by each civil process office or division annually; fee schedules per transaction for those transactions that, under section 8 of chapter 262 of the General Laws, the sheriff is provided discretion to set the fee, the organizational or corporate structure of the civil process office or division in relation to the sheriff's office; the role played by the state or county treasurer in the financial operation of the civil process office or division; an income statement for calendar year 2002; a breakdown of the types and amount of civil process served in 2002; a fee schedule for calendar year 2002, including a list of fees set at the sheriff's discretion; the number of full-time employees, part-time employees and independent contractors utilized by sheriffs for the service of civil process; the compensation structure

used to compensate for such civil process employees and independent contractors; the amount and nature of sheriff's office resources used to support the civil process operation in Fiscal Year 2002 and Fiscal Year 2003, the amount and nature of civil process resources used to support the operations and functions of the sheriff's office in Fiscal Year 2002 and Fiscal Year 2003; the amount of civil process revenues, if any, deposited into the General Fund of the commonwealth pursuant to section 5 of chapter 34B of the General Laws; the amount of civil process revenues, if any, deposited with the county treasurer pursuant to section 22 of chapter 37 of the General Laws, the amount of revenues retained by said civil process division or sheriff's office and the statutory authorization relied upon to so retain that amount, a five-year history of all revenues collected from civil process fees; revenues collected per civil process transaction for fiscal year 2003 and; a comprehensive list of all expenditures associated with all revenues generated from the collection of civil process fees.

SECTION 650. Notwithstanding any general or special law, rule or regulation to the contrary, the department of public safety shall charge the following fees; (a) fees for annual elevator inspections shall be at least \$400 per inspection and (b) overtime elevator inspection fees shall be at least \$400 per inspection.

SECTION 651. Section 4 of chapter 701 of the acts of 1960, as most recently amended by section 7 of chapter 243 of the acts of 2002, is hereby further amended by adding the following paragraph:-

(j) To maintain the confidentiality of all information relating to specifically named customers using the authority's reservations system including, but not limited to, passenger names, home addresses, email addresses, telephone numbers, credit and account data and the dates and times of their reservations and sailings. Such information shall not be a public record, although it may be used and disclosed by the authority as necessary in connection with the appropriate conduct of its operations and in connection with law enforcement activities. The authority shall provide to a customer requesting any such information, all information that the authority has pertaining solely to that customer. The authority shall obtain the express, written consent of a customer before releasing customer information to a third party for commercial or noncommercial purposes.

SECTION 652. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell, may lease for an initial term of 25 years with an option for 10-year renewals to any person, corporation or organization the real property under the care, custody and control of the department of conservation and recreation located at 257 Father Morissette Boulevard in the center of Lowell, and known as the Tremont Yard Building under such terms and conditions as may be imposed by the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell. The lease shall require that any improvements or development be in accordance with the rules and regulations of the Massachusetts Historical Commission and

the Lowell National Historic Board, shall provide a substantial public benefit and shall provide that the lessee preserve the historic canal water power system features located within the property, provide an interpretive display and make available to the general public such historic features at such times and under such reasonable and appropriate terms and conditions as may be imposed by the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell.

SECTION 653. Notwithstanding any general or special law or regulation to the contrary, the term defined in that certain Determination of Applicability issued by the department of environmental protection dated as of February 11, 1999 and referred to as WRP File No. JD 98-6009, issued pursuant to 310 C.M.R., shall be extended, and that such activities allowed thereunder shall continue to be permitted, until a date 18 months following the filing of a certificate by the city of Boston, acting by and through the Boston redevelopment authority, to the clerk of the city of Boston, with a copy of the department, declaring that said authority has identified a water-dependent user for the area of land defined in said determination. The foregoing shall serve as a declaration of variance allowing the continuation of the activities described in the determination defined in the preceding sentence, for such period of time as defined by this section.

SECTION 654. Notwithstanding subsection (d) of section 16 of chapter 71 of the General Laws, the Pioneer Valley regional school district may borrow an amount not to exceed \$75,000 in anticipation of additional state reimbursement of construction costs at the Warwick community school. The term of the loan shall not exceed 4 years, but, the amount of principal payment shall be required in the fiscal year after issuance. To the extent not inconsistent with the foregoing, the provisions of chapter 44 shall apply.

SECTION 655. Notwithstanding any general or special law, rule, or regulation to the contrary, the Massachusetts water resources authority retirement system board may grant creditable service to a present employee who is a member of the retirement system who served as an employee of the United States house of representatives and who has completed 10 or more years of membership service; but, the creditable service shall be determined by the board and the service shall not be credited until the member has paid into the Massachusetts water resources authority retirement system, in one sum or in installments, upon terms and conditions as the retirement board may prescribe, make-up payments equal to the payments made by the member while in the employment of the United States house of representatives, plus the accrued interest on the payments."

SECTION 656. Notwithstanding any general or special law to the contrary, the executive office for administration and finance shall develop and implement a \$1,100,000,000 per year capital program for fiscal year 2004. The Secretary of Administration and Finance will develop a capital spending plan for fiscal year 2004 that shall give priority to projects which are designed to promote economic stimulus, such as job growth by focusing capital spending in areas associated with job creation, including, but not limited to, road, housing, and other building construction and infrastructure creation. The

Secretary shall report to the House and Senate Committees on Ways and Means on January 1, 2004 the details of the capital spending plan for FY04 and the provisions taken to ensure that job creation is the paramount consideration in how such capital funds are spent. The Treasurer shall report to the Committees on Ways and Means on March 1, 2004 the ratio of Commonwealth debt service on principal and interest to the amount of borrowing, showing how that ratio has changed over time and outlining different scenarios for how that ratio could change under different capital spending caps in the future. The provisions of this section shall be deemed severable, and if any part of this section shall be adjudged unconstitutional or invalid, such judgment shall not affect other valid parts of this section or this act.

SECTION 657. Notwithstanding any general or special law to the contrary, not more than 1 counsel shall be paid from the amounts appropriated in items 0321-1500 and 0321-1510 of section 2 for representation of a party in civil proceedings pending in a trial court pursuant to paragraph C of section 23, sections 24, 26, 39E to 39J, inclusive, of chapter 119 of the General Laws or section 3 of chapter 210 of the General Laws.

SECTION 658. Notwithstanding any general or special law to the contrary, the division of medical assistance, in this section called the division, and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental services agreement between the division and the division of health care finance and policy, which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established in section 18 of said chapter 118G, or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to the trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of said Title XIX. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the Uncompensated Care Trust Fund as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result of said actions shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection and expenditure of

funds pursuant to this section.

SECTION 659. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before June 30, 2004, without further appropriation, \$30,000,000 from the General Fund to the Uncompensated Care Trust Fund, established pursuant to section 18 of chapter 118G of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2003. The payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said fund. The comptroller shall transfer from the fund to the General Fund not later than June 30, 2004, the amount of the transfer authorized in this section and any allocation thereof as certified by the commissioner of health care finance and policy.

SECTION 660. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with the requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare and Medicaid services. The division of medical assistance, the department of public health and the department of mental health may expend amounts transferred to them from such separate accounts within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds under this section.

SECTION 661. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$125,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the University of Massachusetts Memorial Hospital. The payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless University of Massachusetts Memorial Hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract and the University of Massachusetts Medical School makes an intergovernmental

funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws. Not later than 60 days after such expenditure, the University of Massachusetts Medical School shall submit to the secretary of administration and finance and the house and senate committees on ways and means a report detailing the programs funded from revenue associated with this section.

SECTION 662. Notwithstanding any general or special law to the contrary, during fiscal year 2004 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$590,000,000 for a program of MassHealth supplemental payments to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the Medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2004. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for such expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other nonfederal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account not less than 50 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions.

SECTION 663. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$32,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain acute care hospitals. The payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the acute care hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract and unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity,

which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means.

SECTION 664. (a) Notwithstanding any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers, financed from appropriation items for any state agency, shall maximize Title XIX and all other federal, state and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of the General Laws or are beneficiaries of any health insurance policy. The agency or provider shall forward client information collected under this section to the division of medical assistance and such data shall only be used to match against available databases for the purpose of identifying all sources of potential payment for health services or health insurance coverage. The division shall return the results of any such data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources.

(b) The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause.

(c) The executive office of health and human services and the operational services division within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

SECTION 665. Notwithstanding any general or special law or rule or regulation to the contrary, a school district that transports or pays for the transportation of public school children in grades 7 to 12, inclusive, shall also provide transportation or payment for nonpublic school children in the same grades.

SECTION 666. Notwithstanding any general or special law to the contrary, funds appropriated in item 0526-0101 and 0526-0111 of section 2A of chapter 55 of the acts of 1999 shall be available for expenditure until June 30, 2005.

SECTION 667. Notwithstanding any general or special law to the contrary, the commissioner of insurance shall study the feasibility of levying a \$100 fee on all life and health insurance agents licensed by the commonwealth, receipts of which shall be payable into the General Fund. The commission shall report the results of the study by filing the same with the clerks of the house and senate no later than January 1, 2004.

SECTION 668. "All school facilities" capital or major reconstruction projects, which have received final municipal approval by a favorable vote by the legislative body of

any municipality, subject to its charter, on or before June 30, 2003, shall be placed on the priority waiting list for reimbursement pursuant to section 10 of chapter 70B of the General Laws at the rate for which it would have been eligible on January 31, 2003. The priority categories set forth in section 8 of said chapter 70B shall not be used to restrict any eligible project from placement on the priority list but may be used to rank new projects for placement on the priority list. Notwithstanding any general or special law to the contrary, the board of education shall not accept any application for the school building assistance program established in said chapter 70B of the General Laws, until after July 1, 2007.

SECTION 669. Notwithstanding paragraph (a) of subsection (xxiii) of section 9 of chapter 211B of the General Laws, or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2004, transfer funds from any item of appropriation of any trial court department to any other item of appropriation within the trial court department. Said transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. Said schedule shall include the following: (1) the amount of money transferred from one item of appropriation to another; (2) the reason for the necessity of such transfer; and (3) the date on which said transfer is to be completed. No such transfer shall occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

SECTION 670. Pursuant to sections 25 and 26 of chapter 118G of the General Laws, the amount of the fiscal year 2004 assessment imposed by those sections shall be sufficient in the aggregate to fund the fiscal year 2004 expenditures detailed in section 536, taking into account federal financial participation made available by such expenditures. The division of health care finance and policy may adjust the assessment by not more than 3 per cent of the total amount specified in order to comply with state and federal laws. The division may also specify by regulation appropriate policies and procedures to provide for the determination and periodic redetermination of assessment rates, including any requirements for data reporting that the division determines necessary to monitor revenues and compliance.

SECTION 671. The secretary of health and human services shall conduct or direct studies on policy areas necessary for the continuing implementation of the reorganization of health and human services in order to realize the greatest benefits of the reorganization in terms of administrative efficiency, improved service delivery and cost savings. The secretary shall report the results of these studies and accompanying recommendations to the house and senate committees on ways and means and the joint committees on human services and elderly affairs and state administration no later than October 1, 2003. Policy areas to be studied will include, but not be limited to, the following areas:

a) The desirability and feasibility of using Aging Service Access Points (ASAPs) to screen disabled individuals seeking placement in nursing homes for suitability for community-based care.

b) The purchase of service contract system used to deliver services to clients of the health and human services secretariat. This study shall include, but not be limited to, an examination of the costs and benefits of standardizing the purchase of service system, developing a rate-setting methodology that identifies all costs of delivering services, instituting a cost-benefit analysis system to determine the financial impact of mandated services, indexing multi-year contracts, and switching to a client rather than service-based model of procuring services. This study will examine the impact of these possibilities on the quality of client service provided, the ability of providers to supply necessary services and receive adequate reimbursement, and the cost to the commonwealth.

c) The co-location of offices of different health and human services agencies within the same building. This study shall include, but not be limited to, the cost savings and cost efficiencies expected to be achieved through office co-location, the impact of office co-location on integrated service provision to clients receiving services from multiple health and human services agencies, the interaction between co-location of offices and the development of standardized health and human service agencies service areas, and the impact of co-locating offices on service accessibility, particularly for those clients in areas from which an agency office will be moved. This study shall also include a list of all office consolidations and closures planned by the executive office to take place before the end of fiscal year 2005.

d) The elimination of duplicative licensing requirements imposed on health and human service providers by agencies within the secretariat. This study shall include, but not be limited to, an evaluation of the costs and benefits of centralizing licensing functions and standardizing licensing requirements for health and human service providers.

e) The consolidation of abuse investigation operations. This study shall include, but not be limited to, an evaluation of the costs and benefits of consolidation with regards to expertise and subject familiarity and the incorporation of information generated by investigations into the other continuing activities of health and human service agencies.

f) The standardization of income verification and re-verification procedures for state programs that are means tested. This study shall include, but not be limited to, an evaluation of the accuracy of income verification and re-verification procedures used by all agencies, the burden level placed on recipients by these procedures, and the cost and benefits of standardizing these practices across all health and human service agencies.

SECTION 672. Notwithstanding any general or special law to the contrary, the board of higher education shall, in consultation with the presidents and chancellors of the Massachusetts state universities, colleges, and community colleges, or their designees, conduct a study of the feasibility of creating courses at the request of businesses residing in Massachusetts, customized to address the special workforce needs of said businesses, for which said businesses will pay the state institution providing the educational service a tuition fee to be set by an agreement between said institution and said businesses. The board shall solicit opinions from state business leaders, including, but not limited to, executives, managers, and other business officials who have a vested interest in the effective education

of the state workforce. The board shall issue a report to the joint committees on education, arts and humanities, the joint committee on commerce and labor, and the clerks of the house of representatives and the senate, no later than March 1, 2004, which shall state the findings of the board; provided, that said findings shall include: the cost effectiveness for business to utilize state higher education resources for the education and training of their workforce; estimates of the tuition revenue generated by providing customized courses for the education and training of the employees of state businesses, which would be available for the supplementation of the operating budget and endowment of a given state institution of higher education; a detailed synopsis of the proposed subject matter and structure of courses that could be created at the request of businesses for the purpose of workforce education and training; testimonies from state business leaders regarding their interest in utilizing state higher education resources for the purpose of workforce education and training; and any other item the board feels would provide an accurate representation of the feasibility of such policy. The board shall also consider in the course of its study, and include in its report, as provided in this section, the structure of customized business courses provided by business graduate schools for large blue chip and other companies, which are generating hundreds of thousands of dollars in additional revenue for said business graduate schools. The board shall also consider in the course of its study, and include in its report, as provided in this section, the feasibility of customized courses for the purpose of workforce education and training for workers of all skill levels, across all industries. The board shall consider said study and said report, as provided in this section, to be an important initiative in the state strategy to better integrate the workforce education and training needs of state workers and businesses with the extensive educational resources of the institutions of higher education of the Commonwealth, and shall pursue this study, as provided in this section, and follow the intent of this section, with all appropriate due diligence. This study shall be in addition to the community college workforce training incentive grant program, authorized in item 7066-0015 of section 2 of this act.

SECTION 673. A person who has been in the state retirement system for more than 35 years, with at least 10 or more of those years in the employment of the Massachusetts Water and Resources Administration; who, in the course of his state employment was exposed to asbestos or other hazardous materials; and who has been diagnosed with an extraneously cancer related illness as well as an extraneously cardio-vascular cardiac related illness, shall be eligible for early retirement with surviving spouse benefits at a compensation rate equivalent to his current salary, if the individual makes application for an early retirement on or before December 31, 2003.

SECTION 674. Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy shall conduct a study on determining the rate of payment for those pharmacies that dispense prescribed drugs to nursing homes, assisted living facilities, hospice programs and similar institutional sites of care, those pharmacies that dispense sterile intravenous drugs ordered by physicians to patients in their homes, and all other pharmacies. Said division shall submit a report on said study not later

than October 1, 2003 to the house and senate committees on ways and means and shall recommend an accurate rate for said pharmacies.

SECTION 675. Notwithstanding the provisions of any general or special law to the contrary, each state and community college shall require that all students enrolled in 9 or more credits submit written documentation evidence of adequate medical insurance coverage. A list of the names, addresses, and social security numbers of all students indicating any form of MassHealth insurance coverage still be forwarded to the Division of Medical Assistance for evaluation of alternative insurance options.

The Division may assist in the purchase of group health insurance, including insurance offered through a college or university, on behalf of an eligible MassHealth member, provided that the Division has determined that the purchase of such insurance is cost-effective and will be provided at no cost to the Commonwealth. The Division shall deny liability to any adult who refuses to enroll in other available insurance.

SECTION 676. Notwithstanding any general or special law to the contrary, the commissioner of education may accept an application for an emergency situation capital school construction grant for the city of Springfield, under chapter 70B of the general laws and may place the project on the priority waiting list, so-called, at the reimbursement rate in effect on June 30, 2003. For the purposes of this section, an emergency situation shall consist of (i) a school that has been determined to be underperforming by the board of education and has lost or is at risk of losing its accreditation; (ii) a determination by the commissioner that such project is needed to address significant deficiencies which cannot be cost effectively addressed through major reconstruction or repair work. The application must meet all requirements of chapter 70B and the regulations promulgated therefore.

SECTION 677. The coordinated prescription drug procurement plan established by section 19 shall be developed and implemented within 180 days of the effective date of this act.

SECTION 678. There is hereby established a Fernald Developmental Center Land Reuse Committee. The committee shall include the mayor of the city of Waltham or his designee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, the ward councilor from the city of Waltham representing the ward in which the campus is located, 4 citizens of Waltham to be appointed by the mayor of the city of Waltham, the state representative from the ninth Middlesex house district, the state representative from the tenth Middlesex house district, and the senator from the third Middlesex senate district. The commissioner of the division of capital asset management and maintenance shall appoint a representative from the division to be a non-voting member of the committee, and who shall attend each of the meetings of the committee. The committee shall be responsible for representing the interests of the town in all deliberations with the division of capital asset maintenance and management about the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a Comprehensive Reuse Consensus Plan for Fernald Developmental Center State Property, which shall provide a detailed description, by

parcel, of how the property is to be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup, including, but not limited to, any building demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. Upon approval by the reuse committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of authorizing legislation, if any, necessary to effectuate the provisions of the reuse plan. If the reuse plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan, including, but not limited to, any restrictions or and requirements imposed by the plan. The reuse committee shall meet as necessary to complete said reuse plan, but shall not meet less than once per month.

SECTION 679. Notwithstanding the provisions of any general or special law to the contrary, the property located in Norfolk, Massachusetts, as identified in chapter 519 of the acts of 1980 and formerly known as the Department of Public Health Hospital, Pondville Hospital, is hereby added to the list of properties for which said department has responsibility, pursuant to chapter 21E of the general laws or any other applicable general or special law, for ensuring that all needed environmental remediation and related work is performed and that all contamination is eliminated from said property.

SECTION 680. Notwithstanding any general or special law to the contrary, the executive office of administration and finance in cooperation with the executive office of environmental affairs and the department of environmental protection, shall meet its obligations under the biosolids improvement project for the Greater Lawrence sanitary district by June 30, 2006.

SECTION 681. Notwithstanding any general or special law to the contrary, no funds from the Health Care Quality Improvement Trust Fund or appropriated in items 4000-0600 of any general appropriation act shall be used directly or indirectly by a recipient nursing home or health care facility for political contributions, lobbying activities, entertainment expenses or efforts to assist, promote, deter or discourage union organizing. As a condition of receiving monies from the fund or item 4000-0600, a nursing home or health care facility shall provide a certification to the division of medical assistance that no funds shall be used for such activities. If the division determines that a recipient of monies from the fund or item 4000-0600 has spent such monies in violation of this section, the recipient nursing home or health care facility shall be required to document the cost of such activity. The division of

medical assistance shall conduct an investigation or audit if a complaint is filed by any person alleging a violation of this section. The division shall consider that there is a rebuttable presumption that such activities were funded in part from such monies and shall require the recipient nursing home or health care facility to provide all appropriate information and documentation showing that no such monies were used for activities in violation of this section. An expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, preparation, planning or coordination of, or carrying out an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity. An expense incurred in connection with:

(1) addressing a grievance or negotiation or administering a collective bargaining agreement;

(2) performing an activity required by federal or state law or by a collective bargaining agreement; or

(3) obtaining legal advice about rights and responsibilities under federal or state law shall not be treated as paid or incurred for activities to assist, promote, deter or discourage union organizing.

Monies spent in violation of this section shall be reimbursed to the fund or the division of medical assistance as appropriate.

SECTION 682. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any federal waivers and make any regulatory changes necessary to establish a program of preventive and primary care for chronically unemployed persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the division to be long-term unemployed, provided that such persons meet the eligibility requirements established under the MassHealth program established in section 9A of chapter 118E, provided that such persons' financial eligibility shall not exceed 100 per cent of the federal poverty level. Such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis. The provision of care to such persons under this program may, taking into account capacity, continuity of care and geographic considerations, be restricted to certain providers including community health centers, hospital-licensed health centers, mental health providers, and, where necessary to ensure access, larger primary group practice settings. Funding for the program may not exceed \$160,000,000 in hospital fiscal year 2004. Enrollment in the program shall not exceed 36,000 persons unless the division determines that there is adequate funding to increase enrollment and, 60 days prior to enrolling any person beyond the 36,000 cap, notifies and receives approval from the house and senate committees on ways and means. The division shall implement the program on or before October 1, 2003 and shall be authorized herein to operate until Sept 30, 2004, provided, however, that implementation of the program shall be contingent upon any required federal approval. The division shall collect information on each person enrolled in said program and shall report quarterly to the house and senate committees on ways and means the following: (1) the number of persons enrolled, (2) the geographic distribution of

said persons, (3) the location of service of each billable claim delineated by enrollee, (4) the type of services provided to enrollees, (5) enrollment patterns delineated by enrollee including but not limited to, coverage start date, coverage end date, any transfer of coverage from the Limited Medical Assistance program to other MassHealth programs, other state funded programs, or federally funded programs and (6) data collected on utilization on emergency room visits as compared to visits to community health centers and other lower-cost sites of care. Said division shall account for all spending on said program on the Massachusetts management accounting reporting system or MMARS, so called.

SECTION 683. Chapter 15A of the General Laws is hereby amended by striking out section 4, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 4. (a) The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, 7 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education. Of the appointed members, at least 1 shall be a representative of organized labor, at least 1 shall be a representative of the business community, and 1 shall be a member whom the governor shall choose from among not more than 3 full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section 5. Nominated students shall have maintained satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section 21. Of the 3 members chosen to represent public institutions of higher education, 1 shall be a member of the board of trustees of the state university selected by the chair of the board of trustees for the university, 1 shall be a member of a board of trustees of a state college chosen by vote of the chairs of the boards of trustees of each of the state colleges, and 1 shall be a member of a board of trustees of a community college chosen by vote of the chairs of the boards of trustees of each of the community colleges. For the purposes of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be state colleges. There shall be an office of the board consisting of a chancellor and employees appointed by the board.

(b) Members of the board shall be appointed to serve 5-year terms, except that the undergraduate student members shall be appointed annually to serve terms of 1 year commencing initially upon appointment by the governor and expiring on April 30 and each year thereafter commencing on May 1 and expiring on April 30 as long as the member remains a full-time undergraduate throughout his 1-year term. Within 3 consecutive years, the student appointee shall in the first year be a student attending the state university, in the second year, shall be a student attending a community college and, in the third year, shall be

a student attending a state college. This cycle shall repeat. Each of the student government associations at each of the public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the board. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the student advisory committee, except as provided in this section. No member shall be appointed for more than 2 consecutive terms, except that a student member may serve for only 1 term. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term, except that if a member chosen to represent the public institutions of higher education ceases to be a member, the resultant vacancy shall be filled for the remainder of the term by the chairs of the boards of trustees of the public institutions in the same manner as in paragraph (a). The chairperson of the board, who shall be appointed by the governor, shall notify the governor whenever a vacancy exists. The board shall have an executive committee and such other committees as the board may from time to time establish.

(c) The members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

(d) No member of the board shall be principally employed within the public higher education system of the commonwealth. Not more than one third of the members shall be principally employed by the commonwealth. A member of the board shall cease to be a member if such member ceases to be qualified for appointment or if he is absent from 5 regularly scheduled meetings during a calendar year.

(e) A person affiliated with an independent institution of higher education shall be eligible for membership on the board. No member of the board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that the member, his immediate family or partner has no personal and direct financial interest in the particular matter; and provided further, that such affiliation is disclosed to the board and recorded in the minutes of the board.

(f) The board shall meet 6 times per year, and at least once every 2 months, omitting meetings in the months of July and August; the chair may call additional meetings at other times.

(g) Six members of the board shall constitute a quorum and the affirmative vote of 6 members shall be necessary for any action taken by the board.

(h) All members of the board appointed by the governor shall be appointed according to section 18B of chapter 6.

SECTION 684. Section 9 of said chapter 15A of the General Laws is hereby amended by striking out, in line 16, as so appearing, the words "colleges, branches or institutions as it deems advisable" and inserting in place thereof the following words:- branches or

institutions as it deems advisable. If, in the opinion of the board, a college campus should be closed or consolidated, the board shall submit such proposal to the secretary of administration and finance, the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The joint committee on education, arts, and humanities may, within thirty days of the receipt of a proposal, hold a public hearing on its merits. The council shall not close a college without the authorization of the general court.

SECTION 685. Said section 9 of said chapter 15A is hereby further amended by striking out, in line 20, as so appearing, the word "commonwealth" and inserting in place thereof the following words:- commonwealth. Such analysis shall include, but not be limited to, an analysis of state and local labor market trends and the economic development plans of the commonwealth conducted in cooperation with the secretary of economic development and his staff.

SECTION 686. Section 15 of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by striking out the third and fourth paragraphs and inserting in place thereof the following paragraph-

The board of trustees of the university shall receive its appropriation directly, in one sum. Funds appropriated for the state college system and the community college system shall be disbursed by the board to each board of trustees pursuant to the line item requirements of the general appropriation act.

SECTION 687. Chapter 15A of the General Laws is hereby amended by inserting after section 7 the following section:-

Section 7A. (a) In order to promote accountability for effective management and stewardship of public funds and to achieve and demonstrate measurable educational outcomes, the institutions shall certify achievement of public higher education accountability objectives through a performance measurement system. The board of higher education, in this section called the board, in consultation with the institutions, shall develop the system, including specific performance measures, with which to evaluate the institutions and with which to compare them with peer institutions with similar missions in other states. The board may conduct regional public hearings on the measures proposed to be incorporated into the system.

(b) The board, in consultation with the presidents of the state and community colleges, shall identify peer institutions for the state and community colleges. The higher education accountability objectives shall include, but not be limited to, the following: (1) making public higher education more affordable; (2) improving student access and academic achievement; (3) recruiting qualified students; (4) responding to specific needs of the workplace, as defined by business and labor; (5) providing policy research addressing the needs of the commonwealth and local communities; (6) ensuring cost-effective use of resources at each institution and across all institutions, and manage campuses as efficiently as possible; (7) promoting collaboration among the campuses and with the private sector; (8)

supporting kindergarten to grade 12 education programs; and (9) maximizing fundraising from private sources.

(c) In order to measure the achievements and expected outcomes of the commonwealth's system of public higher education, the board shall form, not later than September 1, 2003, separate task forces for the state and community college segments consisting of presidents or their appointees and members of boards of trustees of the institutions.

(d) For each of the accountability objectives, the board, in consultation with each task force, shall establish and annually evaluate intelligible performance measures and identify data items that shall be obtained for each performance measure. Data shall be collected and analyzed on a campus, segmental and systemwide basis; provided, however, the board in consultation with the campuses shall establish definitions for all data items used in the performance measurement system.

(e) In order to achieve the accountability objectives of cost-effective use of resources and efficient fiscal management of the institutions, each task force shall match or improve upon standards established by National Association of College and University Business Officers. The performance measurement system shall be regularly evaluated and revised by the board in consultation with the institutions to ensure that it continues to measure the achievements and expected outcomes of the commonwealth's public higher education system. Accountability objectives, performance measures and data items shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities.

(f) The board shall use accountability objectives, performance measures and expected outcomes to conduct an annual evaluation of the performance of each institution. An institution's failure to meet a reasonable number of the accountability objectives, as determined by the performance measures, within a given year shall be deemed underperforming. If the board finds an institution to be underperforming, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities. If the institution fails to achieve the agreed to targeted improvements and timeline, funds appropriated for the underperforming institution in the following fiscal year shall be disbursed by the board of higher education to the institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of an underperforming institution.

(g) Not later than January 1 of each year, the chancellor of higher education shall submit to the governor and the general court a condition of higher education report which details the condition and performance of each public higher education institution.

(h) The board shall structure its staff and financial resources to provide technical assistance to institutions to help them identify problems and assist them with formulating and implementing plans to meet the accountability measures.

(i) The board of trustees of the University of Massachusetts shall develop a performance measurement system for the university, in consultation with the board of higher education. The objectives of the performance measurement system shall be: (1) to promote student access and affordability; (2) to recruit qualified undergraduate and graduate students; (3) to promote student success; (4) to pursue theoretical and applied research, scholarship and creative activity; (5) to contribute to the economic development of the commonwealth; (6) to support kindergarten to grade 12 education programs; (7) to provide policy research addressing the needs of the commonwealth and local communities; (8) to ensure cost-effective use of resources; and (9) to maximize fundraising from private sources. The system shall include performance indicators for each of these purposes and identify data to be used in measuring performance. The board of trustees may compare institutional performance with the performance of peer institutions with similar missions as part of its evaluation process.

(j) The university shall adopt an implementation plan and timetable for meeting performance measures established by the system. The board of trustees shall report annually to the governor and the general court on the results of the performance measurement system, including recommendations for improvements to the system and for achieving improved levels of performance where necessary.

SECTION 688. Section 294 of chapter 43 of the acts of 1997 is hereby repealed.

SECTION 689. Notwithstanding any general or special law to the contrary, not more than 1 counsel shall be paid from the amounts appropriated in items 0321-1500 and 0321-1510 of section 2 for representation of a party in civil proceedings pending in a trial court pursuant to paragraph C of section 23, sections 24, 26, 39E to 39J, inclusive, of chapter 119 of the General Laws or section 3 of chapter 210 of the General Laws.

SECTION 690. There shall be a special commission consisting of 2 members of the judiciary committee of the house of representatives, 2 members of the judiciary committee of the senate, the chair of the house committee on ways and means or his designee, the chair of the senate committee on ways and means or his designee, 1 justice of the district court department of the trial court, 1 criminal defense attorney, the president of the Massachusetts Academy of Criminal Defense Lawyers or his designee, the executive director of the committee for public counsel services or his designee, and the president of the Massachusetts Bar Association or his designee, for the purpose of making an investigation and study of the standards by which indigent counsel are appointed in the commonwealth, including but not limited to, the criteria by which justices determine eligibility for indigent counsel, the compensation of indigent counsel and the financial status of any defendant under consideration for appointment of counsel. The commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before the first Wednesday in November, 2003.

SECTION 691. Notwithstanding any general or special law to the contrary, subsection (b) of section 3 of chapter 29D of the General Laws shall not apply in fiscal years 2004 and 2005.

SECTION 692. Said section 22 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 56 and 57 the words ", initially, by January first, nineteen hundred and ninety-three and every two years thereafter" and inserting in place thereof the following words:- annually to the board of higher education according to a schedule determined by said board in consultation with the board of trustees. (p) The board of trustees of an institution with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a 5-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence pursuant to section 7.

SECTION 693. Notwithstanding any general or special law to the contrary, the terms of all appointed members of the board of higher education shall expire on August 30, 2003. Commencing on September 1, 2003, and continuing for the terms hereinafter stated and until successors are appointed, the board of higher education shall include among its appointed members not fewer than 7 persons appointed by the governor from among the members of the board of higher education serving as of June 30, 2003. Of the appointed members of said board, a student member shall be appointed for a term to expire May 30, 2004. Of the remaining appointed members, 1 shall be appointed for a 1-year term, 1 shall be appointed for a 2-year term, 1 shall be appointed for a 3-year term, 2 shall be appointed for a 4-year term, and 1 shall be appointed for a 5-year term. The member chosen to represent the state university shall be elected for a 2-year term. The member chosen to represent the state colleges shall be elected for a 3-year term. The member chosen to represent the community colleges shall be elected for a 4-year term. The term of the chairperson of the board of higher education shall continue under the provisions which existed prior to the effective date of this act.

SECTION 694. Notwithstanding any general or special laws to the contrary., wherever in sections 160 to 168A, inclusive, of chapter 149 of the General Laws the word "commissioner" to "the director of workforce development" "department" to "the department of workforce development".

SECTION 695. Notwithstanding any general or special law to the contrary, all judges currently acting as a presiding judge in any of the divisions of the Boston municipal court department which were, prior to the passage of this act, formerly under the jurisdiction of the district court department of the trial court shall continue performing such duties and responsibilities until such time as their term expires. All grant or community service programs which were funded in those divisions of the Boston municipal court department that were, prior to the passage of this act, under the jurisdiction of the district court department shall continue receiving such funding as part of a cooperative agreement between said departments. Notwithstanding any general or special law to the contrary, the chief justice for administration and management, the chief justice of the district court division of

the trial court, and the chief justice of the Boston municipal court department shall, on or before August 1, 2003, enter into agreements regarding the assignment of judges between the district court department and the Boston municipal court department in order to preserve the continuity of the current judicial assignments of those judges serving in courts other than the court to which such judges were originally assigned and to minimize the reassignment of such judges to other courts following the passage of this act.

SECTION 696. Notwithstanding any general or special law to the contrary, or any legal memoranda or other type of agreement entered into by and among any state or public agencies, authorities or bodies corporate and politic prior to the effective date of this act, the division of urban parks and recreation in the department of conservation and recreation shall assume the sole responsibility for the delivery and the performance of services for all maintenance and repair work, including snow and ice control, for the boulevards, parkways, roads, ways and bridges, including drawbridges, previously under the care, custody and control of the metropolitan district commission. No lands, facilities, boulevards, parkways, roads, ways, bridges, personnel, equipment or material under the care, custody and control of the department within the urban parks district and no duties mandated by law to be undertaken and performed by the department within the urban parks district, may be transferred either in whole or in part to any other state or public agency or to any other entity, without the express prior approval of the general court. Nothing in this section shall be construed to prohibit the department from entering into cooperative agreements with municipalities to share joint management and maintenance responsibilities for areas situated within the urban parks district; provided, however, that such agreements shall not pledge or commingle funds or funding sources, but shall instead designate specific services to be provided by each entity within the limits of its authority. Nothing in this section shall be construed to prohibit the department from entering into agreements with individual corporate or other partners from within the private sector to promote the donation of services or funds or other assistance to the department; provided, however, that the department shall at all times exercise its statutory duties in managing and supervising the delivery of such services, funds or assistance.

SECTION 697. Unless otherwise provided in this act, wherever the name of transferor agency as defined in section 532, or any abbreviation thereof, appears in any general or special law or in any order, rule or regulation or other such document related to the exercise of such powers, or the performance of such duties, or to such custody and control as are vested in those departments, such name shall mean and shall be construed as referring to each respective transferee agency identified in section 532.

SECTION 698. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of food and agriculture, as the transferor agency, to the department of agricultural resources, as the transferee agency;

(2) the functions of the metropolitan district commission, as the transferor agency, to the division of urban parks and recreation in the department of conservation and recreation, as the transferee agency;

(3) the functions of the department of environmental management, as the transferor agency, to the department of conservation and recreation, as the transferee agency;

(4) the functions of the division of environmental law enforcement in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the office of environmental law enforcement in the executive office of environmental affairs, as the transferee agency;

(5) the functions of the division of forests and parks in the department of environmental management, as the transferor agency, to the division of state parks and recreation in the department of conservation and recreation, as the transferee agency;

(6) the functions of the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the department of fish and game, as the transferee agency;

(7) the functions of the division of watershed management in the metropolitan district commission, as the transferor agency, to the division of water supply protection, as the transferee agency;

(8) the functions of the division of water resources in the department of environmental management, as the transferor agency, to the division of water supply protection, as the transferee agency;

(9) the functions of the office of administrative appeals in the department of environmental protection, as the transferor agency, to the office of administrative appeals in the executive office of environmental affairs, as the transferee agency;

(10) the functions of office of the chief medical examiner, as the transferor agency, to the department of forensic sciences, as the transferee agency;

(11) the functions of the state police crime laboratory, as the transferor agency, to the department of forensic sciences, as the transferee agency;

(12) the functions of the division of employment and training, as transferor agency, to the division of workforce development, excluding the oversight of the unemployment insurance fund and the medical security trust fund;

(13) the functions of the division of medical assistance pursuant to section 352, as the transferor agency, to the office of elder services, as the transferee agency; and

(14) the functions of the division of health care finance and policy pursuant to section 348, as the transferor agency, to the executive office of health and human services.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without in-

interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 699. Notwithstanding any general or special law to the contrary, the comptroller shall certify that all revenues generated as determined by the provisions of section thirteen of chapter sixty-four A, sections forty-two, forty-three, forty-five, forty-six A and forty-nine of chapter ninety-one and any sums received by the commonwealth from the federal government on account of the activities of the department of environmental management relative to (a) the continuous maintenance dredging; (b) cleaning of all areas

within the harbors, inland waters and great ponds of the commonwealth including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation; (c) maintenance of state piers; and (d) for the purpose of carrying out the provisions of section thirty-one shall be expended solely upon the following: for the purpose of continuous maintenance dredging and cleaning of harbors, inland waters and great ponds of the commonwealth, including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation, by the department of conservation and recreation, and for the payment of fringe and related costs as determined by the state comptroller. Upon the determination of the state comptroller, any transfers authorized in this act that would divert funds from the purposes stated herein and would result in the loss of receipt of federal reimbursements, grants in aid or other forms of federal assistance, shall not occur. The Comptroller shall certify annually to the General Court the amount of revenues received and expended pursuant to the provisions of this section.

SECTION 700. Notwithstanding any general or special law to the contrary, the transfer of long-term care services provided under item 4000-0600 in section 2 from the division of medical services to the department of elder affairs shall be effective on January 1, 2004. The secretary of the executive office of health and human services shall, after consulting the division of medical assistance, the department of elder affairs and appropriate stakeholders, advocates and provider representatives, report in writing to the house and senate committees on ways and means by October 1, 2003 on the status of the planning process necessary to effectuate a seamless transition of benefits and services provided under that item and to successfully achieve the transfer of functions from the division to the department in the new office of elder services by January 1, 2004.

SECTION 701. (a) Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2003 through June 30, 2004 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2004:

(1) effective July 1, 2003, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes;

(2) effective July 1, 2003, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2003, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and

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retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include any and all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the division of medical assistance. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2003, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the division of medical assistance in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the division of medical assistance in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the division of medical assistance, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2004 a preliminary analysis of funds expended pursuant to said subsection in fiscal year 2004 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of sections 25 and 26 of chapter 118G of the General Laws;

(7) an amount sufficient to implement the provisions of section 622 of chapter 151 of the acts of 1996;

(8) payment for services provided to MassHealth members by pharmacies participating in MassHealth.

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(b) The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to provide the appropriate rate increases to nursing homes and payment of dispensing fees to pharmacies.

(c) The division of medical assistance shall seek a waiver from the uniformity provisions of 42 U.S.C. 1396(w)(b) to mitigate the impact of the user fee on non-profit continuing care retirement communities and non-profit residential care facilities, provided that any facility included in the waiver calculation shall be established as a non-profit entity

(d) As a condition of receiving any of the funds allocated in this section, all participating nursing homes shall, for the purposes of a medical leave of absence for Medicaid eligible residents, ensure that the bed in said facility occupied by said resident before the hospitalization shall be available upon the return of said resident from an inpatient acute hospital stay for a period of not less than ten days.

SECTION 702. The proposed bridge on United States highway route 44 to span state highway route 58 in the town of Carver shall be designated and known as the Frank R. Mazzilli Bridge. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 703. The provisions of sections 329 and 330 shall apply to individuals dying on or after the effective date of this act.

SECTION 704. Section 128 shall take effect on June 30, 2003, at which time the comptroller shall transfer any remaining balance in said fund, positive or negative, to the General Fund.

SECTION 705. Sections 497 and 502 of this act shall be effective on October 1, 2003.

NO SECTION 706.

SECTION 707. Section 27 of this act shall take effect on July 1, 2005.

SECTION 708. Section 28 of this act shall expire on June 30, 2005.

SECTION 709. Section 480 shall take effect on October 1, 2003.

SECTION 710. As of June 30, 2003, any reference to a fund listed in sections 35, 36, 37, 38, 39, 45, 58, 87, 94, 126, 128, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 239, 295, 296, 364, 381, 384, 407, 442, 530, 531, 536 and 539 in any general law or special act, shall be construed to refer to the General Fund.

SECTION 711. Section 165 shall take effect on July 1, 2004.

SECTION 712. Section 204 shall be effective for tax years beginning on or after March 5, 2003.

SECTION 713. Sections 35, 36, 37, 38, 39, 45, 46, 58, 87, 94, 126, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 145, 146, 147, 148, 149, 150, 151, 152,

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153, 154, 155, 156, 157, 158, 159, 160, 239, 295, 296, 364, 381, 384, 407, 442, 530, 531, 536, and 539 shall take effect on June 30, 2003, at which time the comptroller shall transfer the balance of the funds repealed by said sections to the Commonwealth Stabilization Fund established pursuant to section 2H of chapter 29 of the General Laws, as amended by section 13(a) of chapter 177 of the acts of 2001.

SECTION 714. Sections 494 and 499 shall expire on October 1, 2004.

SECTION 715. Except as otherwise specified, this act shall take effect on July 1, 2003.

This bill was returned on June 30, 2003, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein:

Items Disapproved:

SECTION 2:	0321-1600	0321-2000	0321-2100	0321-2205	0331-3404
0333-1313	1231-1000	1599-3857	2000-0500	2300-0101	2800-0200
2800-9004	4000-0875	4110-2001	4130-0002	4190-1101	4510-0720
4510-0790	4512-0225	4513-1023	4513-1026	4513-1112	4590-0301
6005-0105	7000-9402	7000-9506	7004-4314	7004-8878	7006-0066
7006-0067	7030-1005	7053-1927	7061-0011	7061-9626	7066-0009
7066-0015	7100-0300	7100-0500	7504-0101	8000-0030	8000-0225

SECTIONS: 5, 12, 13, 20, 21, 23, 24, 26, 27, 28, 48, 108, 124, 129, 160, 161, 163, 167, 176, 177, 178, 179, 180, 203, 208, 209, 210, 211, 212, 213, 218, 220, 221, 222, 223, 225, 231, 232, 234, 235, 240, 248, 250, 306, 320, 336, 362, 363, 411, 439, 449, 451, 454, 455, 456, 457, 458, 460, 461, 462, 463, 464, 465, 466, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 489, 490, 492, 504, 519, 520, 527, 528, 534, 540, 541, 542, 543, 544, 545, 560, 561, 562, 571, 583, 584, 585, 586, 587, 590, 591, 592, 594, 597, 598, 600, 602, 603, 604, 605, 606, 607, 609, 612, 613, 616, 620, 621, 624, 626, 627, 630, 631, 635, 636, 637, 638, 640, 641, 642, 643, 645, 647, 649, 650, 653, 655, 656, 665, 667, 671, 672, 673, 676, 677, 678, 679, 680, 681, 683, 684, 686, 690, 693, 694, 695, 696, 707, 708, 709, 711, 714

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
0320-0010	10,552	976,267
0321-1510	13,000,000	59,381,494
0321-1520	2,000,000	6,014,020
0322-0100	300,000	8,936,289
0330-2200	2,000,000	6,606,082
0332-2300	144,356	48,118

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SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
0332-3100	204,950	68,317
0332-3800	120,784	40,261
0332-4300	305,269	101,756
0332-7200	100,504	33,501
0332-7500	187,565	62,522
0332-7700	230,702	76,901
0339-1003	500,000	3,352,505
0411-1000	296,649	5,135,418
0910-0200	475,492	1,725,658
1120-4005	134,171	1,049,877
1310-1000	75,868	1,441,491
1410-0012	165,000	853,615
1410-0630	86,018	343,890
1599-0050	203,257	26,574,638
4110-0001	213,456	611,836
4110-2000	150,155	7,850,419
4110-4000	200,000	1,684,200
4120-4010	131,240	433,760
4125-0100	128,235	4,801,301
4130-1000	6,677,891	5,560,812
4180-0100	250,000	22,442,947
4403-2000	9,000,000	312,374,779
4510-0100	791,797	18,302,427
4510-0712	1,382,505	1,304,922
4570-1500	35,678	2,993,810
4590-0300	835,000	1,700,000
5920-3000	1,300,000	45,500,000
7000-9101	100,000	791,182
7002-0200	152,800	2,218,869
7004-9030	400,000	2,300,000
7006-0020	1,103,914	8,435,881
7006-0040	427,072	3,000,000
7007-0500	100,000	100,000
7007-1000	1,419,390	5,509,821
7007-1500	84,000	500,000
8000-0125	239,946	3,356,945
9110-1630	2,416,360	91,741,798
9110-1633	999,827	33,942,151

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SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
9110-1660	1,094,580	215,100
9110-9002	590,000	5,310,000
9500-0000	1,276,977	16,620,035
9700-0000	529,923	6,767,859

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0335-0001	1,526,343	1,659,121	"central division of the"
0335-0200	174,491	58,164	"Boston municipal"
0339-1001	15,000,000	90,861,116	"; provided, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, said commissioner, subject to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers"
0610-0050	940,557	825,921	"; provided, that said commission shall maintain at least one chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages"
1107-2501	39,996	1,572,323	"; provided further, that the commission shall report to the house and senate committees on ways and means not later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of mental retardation and mental health and the Massachusetts rehabilitation commission; provided further, that the report shall include: (i) the number of claims found to be substantiated; (ii) the number of claims found to be unsubstantiated; and (iii) the number of claims found to be falsely reported as a result of intentional and malicious action"

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Item	Reduce by	Reduce to	Wording Stricken
1108-5200	30,000	756,539,003	<p>"; provided further, that the preceding provisions pursuant to employee contributions shall sunset June 30, 2005 at which time the commonwealth's share of such premiums for active state employees and their dependents shall be 85 per cent"</p> <p>and</p> <p>"; provided further, that notwithstanding any general or special law to the contrary, during fiscal year 2004, said commission shall continue to provide health insurance coverage for employees and members of the board of bar examiners, both full-time and part-time, that were employed by said board as of January 1, 2003 consistent with coverage provided to state employees pursuant to this item"</p>
2010-0100	2,900,000	613,437	<p>"; provided further, that the department of environmental protection shall expend not less than \$1,375,000 for a program to preserve the continuing ability of redemption centers to maintain operations in pursuit of the commonwealth's recycling goals consistent with section 323 of chapter 94 of the General Laws; provided further, that said redemption centers shall be eligible for such funds if they were registered with the commonwealth as of April 1,2003"</p>
2030-1000	200,000	9,702,003	<p>"; provided, that each county shall be assigned at least 1 full-time environmental officer; provided further, that officers shall be assigned to vacant patrol districts"</p>

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
2200-0100	675,000	27,465,275	"; provided, that not less than \$75,000 shall be expended for drinking water protection in the town of Paxton"
2310-0200	80,000	6,702,731	"; provided further, that not less than \$80,000 shall be expended to assist access for recreational opportunities for the disabled in the town of Wilmington"
2320-0100	20,000	300,092	"; provided, that the public access board may expend from capital authorizations amounts necessary to cover the personnel costs of the board for fiscal year 2004"
2330-0100	282,600	3,163,900	"; provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that the department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004; Provided further, that not less than \$45,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered by the state aquaculture coordinator and Dukes and Nantucket counties; provided further, that not less than \$90,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable County Department of Health and Environment; and provided further, that the sum expended for the School for Marine Science and Technology to help mitigate the negative economic impact to the Massachusetts ports which has resulted from the change in federal fisheries regulations in fiscal year 2004 shall not be reduced from fiscal year 2003 except in proportion to adjustments consistent with the department's budget adjustment"

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Item	Reduce by	Reduce to	Wording Stricken
2810-0100	100,000	18,164,818	"; provided further, that not less than \$100,000 shall be obligated for educational programming at the Ernestina Commission"
2820-0100	247,000	20,881,262	"; provided further, that not less than \$247,000 shall be expended for the maintenance and operation of the James Michael Curley recreation center in Boston"
4000-0100	745,167	1,738,645	"; provided further, that \$100,000 shall be undertaken for studies pursuant to section 668 of this act and other studies undertaken for the purposes of successfully implementing the reorganization of health and human services"
4000-0500	1,100,000	2,360,640,111	<p>"; provided further, that payment of any additional amounts for administration to its mental health and substance abuse benefits contractor, including any financial or performance incentives, shall be contingent on the contractor first providing to the house and senate committees on ways and means an analysis of the difference between inpatient and outpatient provider costs and the rates of payment by said contractor; provided further, that such analysis shall include a plan to address such difference, if any, between said costs and payments"</p> <p>and</p> <p>"; provided further, that \$1,100,000 shall be available for the provision of medical interpreter services to MassHealth members in emergency rooms or acute psychiatric units within acute care or psychiatric hospitals; and provided further, that not less than twenty percent of said amount shall be expended for grants awarded through a competitive bidding process intended for innovative methods to improve interpreter services and contain costs"</p>

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
4000-0600	75,000	1,522,455,000	"; provided further, that not less than \$75,000 shall be made available to reimburse providers of dementia-specific adult day care at the rate paid on January 1, 2003"
4110-1020	100,000	223,947	"; provided, that the commission shall work with the division of medical assistance, the department of mental retardation and other state agencies to maximize federal reimbursement for clients so determined through this item including, but not limited to, reimbursement for home and community-based waiver clients"
4120-2000	325,129	6,934,078	"; provided further, that not less than \$100,000 shall be expended on special vocational projects in Charlestown for people with disabilities; provided further, that \$155,000 shall be expended for services provided by the Life Focus Center; and provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to said residence"
4120-3000	405,000	7,375,098	"; provided further, that not less than \$100,000 shall be expended on special projects in Charlestown for people with disabilities; and provided further, that not less than \$305,000 shall be expended for the Charlestown Navy Yard Special Project for disabled adults"
4120-4000	220,000	7,251,512	"; provided further, that \$200,000 shall be obligated for the SHARE Foundation at the University of Massachusetts; and provided further that no less than \$20,000 will be used to assist the Living Independently for Equality, Inc. of Brockton"
4510-0600	530,000	2,179,962	"; provided further, that not less than \$50,000 shall be expended for the director of the bureau of environmental health assessment of the department of public health to conduct an environ-

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Item	Reduce by	Reduce to	Wording Stricken
			mental risk assessment of the health impacts of the Cambridge Plating Company in the town of Belmont; provided further, that the assessment may include, but shall not be limited to, examining incidences of cancers in Belmont and the surrounding communities; provided further, that not less than \$30,000 shall be expended for a renal disease program administered by the National Kidney Foundation of Massachusetts, Rhode Island and Vermont for nutritional supplements and early intervention services for those affected by renal disease and those at risk of renal disease; provided further, that not less than \$14,800 shall be allocated to the Franklin Regional Council of Governments for costs associated with the regional public health agent pilot project in Franklin county; provided further, that not less than \$100,000 shall be expended for the purposes of research and prevention activities associated with Lyme disease to be conducted by the Barnstable county department of health and environment"
4512-0103	150,000	31,906,975	"; provided further, that not less than \$150,000 shall be expended for the operation of a program to be administered by the Springfield department of health for a comprehensive drug treatment for the prevention of AIDS"
4513-1020	697,132	28,490,998	"; provided further, that the department shall submit to the house and senate committees on ways and means a report on the number of families served by said program and the amount of funds appropriated herein granted to qualified families not later than February 1, 2004"
5095-0015	3,000,000	153,753,632	"; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future

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Item	Reduce by	Reduce to	Wording Stricken
			actions; provided further, that the report shall include an examination of the costs, benefits, and effect on quality of services provided by continuing the operation of Worcester State Hospital and shall identify alternative methods of providing the services currently provided by this institution; provided further, that the report shall include: the number of clients transferred from inpatient care into the community, the community supports provided to clients discharged from inpatient care into the community and the current inpatient bed capacity relative to the number of clients in psychiatric hospitals managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at inpatient facilities resulting from the transfer of clients from one facility to another; provided further, that the department shall submit the report not later than December 1, 2003; provided further, that no action to reduce the client population of Worcester State Hospital for the sole purpose of closing the hospital shall be undertaken, and no steps shall be taken to close the institution through attrition, layoffs or any other means until a study of this reduction or closing is completed and the general court shall have approved the closure of Worcester State Hospital by law"
5911-1000	822,924	11,279,425	"; provided, that the department shall not charge user fees, so-called, for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by said department or for applications of requests for transfer of guardianship, so-called; provided further, that a study commission shall be established to explore the viability of developing a training and/or apprenticeship program for direct

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Item	Reduce by	Reduce to	Wording Stricken
			care workers, and the impact of such programs on compensation, quality of care and staff retention; provided further, that said commission shall consist of a representative from Department of Mental Retardation, Service Employees International Union, ADDP, MARC, Department of Education, Department of Labor, the House and Senate Chairs of Ways and Means or their designee, and the House and Senate Chairs of the Joint Committee on Human Services and Elderly Affairs or their designee; and provided further, that said commission shall file a report with its findings to the House and Senate Ways and Means Committee and the Joint Committee on Human Services and Elderly Affairs not later than January 1, 2004"
5911-2000	109,522	13,239,367	"; and provided, further, that not less than \$109,522 shall be expended from this item for the life focus center in the Charlestown section of the city of Boston"
5920-1000	500,000	51,549,675	"; provided, that the department shall submit a semi-annual report to the house and senate committees on ways and means detailing the total number of service coordinators within the department, the number of consumers served by said coordinators, and the amount of time spent per month per consumer"
5920-2000	903,000	448,617,888	"; provided further, that not less than \$99,000 shall be expended on Special Olympics Massachusetts for the purpose of "unified sports"; provided further, that an additional \$304,000 shall be expended on a contract with Work, Inc., for enhanced or expanded services to clients; and provided further, that not less than \$500,000 shall be expended for Best Buddies Massachusetts"
5920-2025	521,970	105,929,308	"; provided further, that not less than \$302,000 shall be expended for the life focus center in the

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Item	Reduce by	Reduce to	Wording Stricken
			Charlestown section of the city of Boston, including an alternative work program"
5930-1000	698,454	162,963,187	"; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15,2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process"
7003-0702	2,224,000	1,750,000	"; provided further, that not less than \$400,000 shall be expended on the Commonwealth Corporation; provided further, that not less than \$200,000 shall be expended to the Western Massachusetts Enterprise Fund and the South-eastern Economic Development Corporation's microenterprise programs as a supplemental match to conduct an entrepreneurial training and technical assistance program for support of emerging high-growth microenterprises that are owned or employ income-eligible residents; pro-

Item	Reduce by	Reduce to	Wording Stricken
			vided further, that not less than \$195,000 shall be expended for 3 full-time equivalent rapid response labor specialists at the Massachusetts AFL-CIO; provided further, that not less than \$150,000 shall be expended for the center for women and enterprise; provided further, that not less than \$139,500 shall be expended for the Just- A-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers, or persons receiving benefits from the transitional aid to families with dependent children program; provided further, that not less than \$135,000 shall be expended for incumbent worker coordinators at the Massachusetts AFL-CIO; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program; provided further, that not less than \$105,000 shall be made available to the E-Team Machinist Program in the city of Lynn; provided further, that not less than \$100,000 be expended for the Aberjona River plan; provided further, that not less than \$100,000 be expended on the Acre Urban Revitalization project in the city of Lowell; provided further, that not less than \$100,000 shall be expended for minority training in Hampden County; provided further, that not less than \$100,000 shall be expended on the Jackson-Appleton-Middlesex plan, so called, in the city of Lowell; provided further, that not less than \$90,000 shall be expended for Centro Latino de Chelsea to provide workforce training, educational services and other transitional services in the city of Chelsea; provided further, that not less than \$75,000 shall be expended for the Martin Luther King, Jr. Business Empowerment Center in Worcester; provided further, that not less than \$75,000 shall be provided to the Workforce Investment Association of MA, Inc. for the pur-

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			pose of assisting administrators, career center directors, and fiscal agents; provided further, that not less than \$75,000 shall be expended to support the Technology Initiative operated by the Metro South/West Regional Employment Board for the development of Technology Centers of Excellence serving the region's youth and businesses, and said grant shall require a 200 percent match from the private sector; provided further, that not less than \$50,000 shall be expended for the Allston-Brighton vocational adjustment center for the continued operation of a job training and placement center; and provided further, that not less than \$7,500 shall be provided for the Bonnie Brae Camp in the city of Gardner"
7004-3036	221,925	200,000	"; provided further, that the department shall report to the house and senate committees on ways and means not later than February 1, 2004 on possible savings and efficiencies through consolidation of said services and counseling; provided further, that not less than \$141,000 shall be expended for the Just-A-Start Corporation to administer a housing stabilization conflict management services program to prevent homelessness; provided further, that \$80,925 shall be expended for the Central Massachusetts Housing Alliance"
7006-0010	588,434	10,481,417	"; provided further, that this assessment will be in addition to any and all assessments that the division currently assesses upon financial institutions and will be made at a rate sufficient to produce \$11,069,851 in additional revenue that will pay for this item"
7007-0950	2,283,321	250,000	"; provided further, that not less than \$500,000 shall be made available through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2004 for the highway informa-

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
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tion centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston"

and

"; provided further, that not less than \$250,000 shall be granted to the Southcoast Development Partnership for the purposes of regional tourism and economic development in Southeastern Massachusetts; provided further, that not less than \$250,000 be expended for the Massachusetts Sports and Entertainment Partnership; provided further, that not less than \$200,000 shall be expended for the Merrimack Valley Economic Development Council; provided further, that not less than \$155,977 shall be expended for the International Trade Assistance Center in Fall River; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$100,000 shall be allocated for the I-495 Technology Corridor Initiative; provided further, that not less than \$95,000 be expended for a grant to the Russian Community Association; provided further, that not less than \$94,531 shall be expended for City Stage; provided further, that not less than \$75,000 shall be expended for the Waltham Tourist Council; provided further, that \$75,000 shall be expended for the Cape Cod Economic Development Council, Inc.; provided further, that not less than \$75,000 shall be expended for the Old Provincial State House; provided further, that not less than \$75,000 be expended for a technology training program operated by the Cape Cod Technology Council; provided further, that not less than \$50,000 shall be expended for the 25th anniver-

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Item	Reduce by	Reduce to	Wording Stricken
			sary of the Caribbean Council; provided further, that not less than \$45,000 shall be expended to perform a cost assessment of an economic development project at South Harbor in the city of Lynn; provided further, that not less than \$40,000 shall be expended as a grant for the Pioneer Valley Visitors and Tourist Information Center; provided further, that not less than \$40,000 shall be expended for an economic development project operated by the Arlington Neighborhood Association in the city of Lawrence; provided further, that not less than \$37,813 shall be expended for the New Bedford Art Museum; and provided further, that not less than \$25,000 shall be expended for the economic development project at the Salisbury Chamber of Commerce"
7030-1002	10,000,000	13,000,000";	provided further, that not later than January 15, 2004 the department shall report to the house and senate committees on ways and means on the total number of enhancement and transition grants requested and awarded; provided further, that the report shall detail common factors associated with both successful and unsuccessful applications and shall include the total number of full day and half day kindergarten classrooms projected to be in operation in Massachusetts public schools in fiscal year 2005"
7030-1003	2,100,004	1,792,990	", which shall include maintaining support for existing BayState readers schools and providing additional funds for new schools to participate in said program"
7061-0012	6,500,000	115,100,262	"; provided further, that not less than \$400,000 shall be expended for the costs of borrowing audiotaped textbooks by special needs students whose disabilities include, but shall not be limited to: blindness, visual impairments, learning disabilities such as dyslexia, or physical disabili-

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Item	Reduce by	Reduce to	Wording Stricken
			ties such as cerebral palsy that limit the use of standard print, and for the cost of an outreach program geared toward special education teachers, students and parents regarding the services of such program; provided further, that of that amount, funds may be expended for the purposes of training teachers and students"
7061-0029	200,000	2,401,971	"; provided, that not less than \$200,000 shall be expended for the Donahue Institute at the University of Massachusetts for analysis of special education approaches that increase knowledge of the operational dynamics and educational needs of urban schools and their students"
7100-0200	50,000	327,714,464	"; provided further, that notwithstanding any general or special law to the contrary, the university may enter into leases of real property without prior approval of the division of capital asset management and maintenance" and "; provided further, that not less than \$50,000 shall be expended for a grant to the McCormack Institute"
7109-0100	245,814	29,290,937	"; provided, that not less than \$245,814 shall be expended for the operation of the John Joseph Moakley Center for Technological Applications at Bridgewater State College; and provided further, that the initiative shall be conducted on the site of the college for the purposes of technological applications to classroom teaching and initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts"
7112-0100	160,000	18,154,192	"; provided, that not less than \$160,000 shall be expended for the regional economic research center"

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
7518-0100	108,000	15,614,114	"; provided, that \$108,000 shall be obligated for the life focus center"
8100-0000	2,328,946	193,392,954	"; provided further, that not less than \$2,328,946 shall be expended for the payroll costs of the state police directed patrols; and provided further, that any community that was selected to receive earmarked funds in fiscal year 2003 shall receive 100 per cent of the amount so earmarked in fiscal year 2004, of which \$100,000 of the \$365,000 previously earmarked in chapter 184 of the acts of 2002 for the Zero Tolerance Program shall be expended for patrolling the area of the Mystic River Reservation that lies between Sandy Beach in Winchester and Dugger park in West Medford commonly known as Whiskey Flats"
8200-0200	250,000	2,246,050	"; provided, that the council shall expend not less than \$250,000 in accordance with chapter 30B of the General Laws, for training and technical assistance for chiefs of police and administrative or command personnel by: a) a combination of training manuals, seminars, computer based training and distance learning; b) research, drafting and mailing of monthly articles and presentations on legal and administration topics; c) training presentations during and following monthly meetings of policy chiefs; d) e-mail, toll-free consultation to chiefs on administrative issues and follow-up on seminar topics; e) a state-wide three-day training conference on management, legal and leadership issues; provided further, that the executive director of the council shall submit a report not later than January 1, 2004 to the house and senate committees on ways and means on police chief training offered by said council that shall include, but not be limited to, the ongoing need for specialized training of chiefs of police, the identification of

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Item	Reduce by	Reduce to	Wording Stricken
			the estimated cost of providing such training to said chiefs of police, a detailed breakdown of all expenditures related to chief of police training by date, event, publication, amount expended and number of chiefs of police benefiting from said training, and that the breakdown shall be made for fiscal years 2001, 2002, 2003 and the first quarter of fiscal year 2004"
8900-0001	1,537,000	426,268,435	"; provided, that the department shall expend not less \$997,000 to cities and towns hosting facilities" and "; provided further, that not less than \$40,000 shall be provided for the Dismas House, so called; provided further, that the department shall expend not less than \$500,000 to the community hosting the facility at Cedar Junction"

SECTION 2 Item reduced in amount

Item	Reduce by	Reduce to
0611-5500	23,000,000	356,767,936

SECTION 3 Corresponding 0611-5500 reduced in Additional Assistance amounts

Municipality	Additional Assistance	Municipality	Additional Assistance
ACTON	27,892	BILLERICA	2,206,569
ACUSHNET	22,424	BOSTON	154,233,141
ADAMS	32,913	BOURNE	331,133
AMHERST	209,365	BOXFORD	34,199
ARLINGTON	4,218,840	BRAINTREE	3,172,780
ASHLAND	273,880	BROCKTON	4,048,478
ATHOL	4,111	BROOKLINE	3,285,207
AVON	376,292	BURLINGTON	1,302,158
AYER	41,531	CAMBRIDGE	16,864,990
BECKET	8,059	CANTON	824,652
BEDFORD	454,845	CARLISLE	13,834
BELMONT	777,202	CHELMSFORD	2,381,286
BEVERLY	2,303,424	CHELSEA	3,190,459

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Municipality	Additional Assistance	Municipality	Additional Assistance
CHICOPEE	1,122,966	LITTLETON	154,903
CLARKSBURG	12,317	LOWELL	5,955,461
CLINTON	164,852	LYNN	8,901,637
COHASSET	156,006	LYNNFIELD	340,274
CONCORD	360,628	MALDEN	5,247,262
DANVERS	1,050,980	MANSFIELD	680,984
DEDHAM	1,456,097	MARBLEHEAD	37,009
DUNSTABLE	28,248	MARLBOROUGH	2,562,545
EASTHAMPTON	102,258	MARSHFIELD	190,436
EDGARTOWN	26,775	MAYNARD	551,225
ERVING	12,351	MEDFIELD	699,369
ESSEX	31,772	MEDFORD	6,041,591
EVERETT	3,836,178	MEDWAY	175,639
FAIRHAVEN	367,649	MELROSE	2,539,872
FALL RIVER	2,151,745	METHUEN	153,120
FITCHBURG	201,758	MIDDLETON	118,879
FRAMINGHAM	4,412,064	MILLIS	301,439
GARDNER	113,410	MILTON	1,169,486
GEORGETOWN	49,778	MONROE	13,081
GLOUCESTER	1,806,203	MONTEREY	11,776
GOSNOLD	1,843	MOUNT WASHINGTON	31,263
HADLEY	129,935	NAHANT	117,774
HAMILTON	40,281	NATICK	1,824,443
HANCOCK	16,566	NEEDHAM	193,476
HANOVER	1,245,798	NEW ASHFORD	6,869
HARDWICK	3,032	NEW BEDFORD	672,733
HARVARD	51,743	NEWBURYPORT	1,296,200
HAVERHILL	2,351,046	NEWTON	1,293,340
HAWLEY	12,139	NORTH ADAMS	174,560
HINGHAM	313,847	NORTH ANDOVER	113,224
HOLBROOK	4,468	NORTH READING	888,047
HOLLISTON	387,247	NORTHAMPTON	542,806
HOLYOKE	569,784	NORTHBOROUGH	57,398
HOPKINTON	112,978	NORTHBRIDGE	2,884
HULL	1,304,176	NORWELL	508,201
IPSWICH	728,314	NORWOOD	2,503,892
LAWRENCE	179,112	ORANGE	1,986
LENOX	67,762	PEABODY	2,949,462
LEOMINSTER	10,982	PHILLIPSTON	4,119
LINCOLN	274,268	PITTSFIELD	826,795

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Municipality	Additional Assistance	Municipality	Additional Assistance
PROVINCETOWN	20,833	WAKEFIELD	1,350,698
QUINCY	10,864,153	WALPOLE	830,074
RANDOLPH	1,714,909	WALTHAM	5,127,169
READING	1,441,635	WARE	14,330
REVERE	5,010,306	WARWICK	27,135
ROCKLAND	370,375	WASHINGTON	22,309
ROWLEY	107,291	WATERTOWN	4,158,237
SALEM	3,098,289	WAYLAND	263,337
SANDWICH	83,034	WEBSTER	58,238
SAUGUS	1,675,680	WELLESLEY	90,954
SAVOY	12,962	WENDELL	23,982
SCITUATE	821,867	WENHAM	131,300
SHARON	58,698	WEST BOYLSTON	63,637
SHEFFIELD	11,213	WEST BRIDGEWATER	44,343
SHERBORN	19,678	WEST TISBURY	171,349
SHIRLEY	174,283	WESTBOROUGH	136,244
SHREWSBURY	280,701	WESTFORD	841,100
SOMERVILLE	15,234,348	WESTWOOD	34,060
SOUTH HADLEY	18,986	WEYMOUTH	2,276,789
SPRINGFIELD	1,718,330	WILMINGTON	1,178,227
STONEHAM	1,905,672	WINCHENDON	23,825
STOUGHTON	96,867	WINCHESTER	323,477
STOW	6,550	WINDSOR	26,317
SUDBURY	602,578	WINTHROP	2,148,533
SWAMPSCOTT	330,919	WOBURN	3,368,997
TOLLAND	9,265	WORCESTER	11,091,531
TOPSFIELD	237,894		

SECTION 2 *Item reduced in amount*

Item	Reduce by	Reduce to
7061-0008	451,048	3,107,689,540

SECTION 3 *Corresponding 7061-0008 Chapter 70 reduced in amounts*

Municipality	Chapter 70 Aid
ASHFIELD	64,284
BECKET	55,101
BUCKLAND	-
CHARLEMONT	45,917

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Municipality	Chapter 70 Aid
CHESTERFIELD	64,284
DALTON	82,651
HAWLEY	18,637
HINSDALE	64,284
HOLDEN	9,183
MILLVILLE	36,789
PERU	18,367
PLAINFIELD	18,367
RAYNHAM	-
RUTLAND	-
SANDISFIELD	-

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
2001-1001	75,000	50,000	"The secretary of environmental affairs may expend an amount not to exceed \$125,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services; provided further, that the secretary of environmental affairs shall increase any existing digital data and map fees that have not been modified more recently than fiscal year 1989, and provided further, that the increase shall take effect during fiscal year 2004"

Wording Inserted

"The secretary of environmental affairs may expend an amount not to exceed \$50,000 accrued from fees charged to authorities and units of government within the commonwealth, other than state agencies, for the distribution of digital cartographic and other data, and the review of en-

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Item	Reduce by	Reduce to	Wording Inserted
			vironmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws the, for the purposes of providing said services"
2810-2040	150,000	2,553,218	<p>Wording Stricken</p> <p>"The division of state parks and recreation may expend revenues collected up to a maximum of \$2,703,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation"</p> <p>Wording Inserted</p> <p>"The division of state parks and recreation may expend revenues collected up to a maximum of \$2,553,218 from fees charged by the division of state parks and recreation, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks and recreation system of the division of state parks and recreation"</p>
2820-4420	250,000	850,000	<p>Wording Stricken</p> <p>"; provided, that the division of urban parks and recreation may expend revenues up to \$1,100,000 collected from fees generated by the golf course"</p> <p>Wording Inserted</p> <p>"; provided, that the division of urban parks and recreation may expend revenues up to \$850,000 collected from fees generated by the golf course"</p>

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
2820-4421	150,000	550,000	"; provided, that the division of urban parks and recreation may expend revenues up to \$700,000 collected from fees generated by the golf course" <i>Wording Inserted</i> "; provided, that the division of urban parks and recreation may expend revenues up to \$550,000 collected from fees generated by the golf course"
4110-1000	250,000	3,423,070	<i>Wording Stricken</i> "; provided further, that not less than \$500,000 shall be expended for the talking information center" <i>Wording Inserted</i> "; provided further, that not less than \$250,000 shall be expended for the talking information center"
4512-0500	77,603	1,399,150	<i>Wording Stricken</i> "; provided further, that not less than \$200,000 shall be expended for the Taunton Oral Health Clinic" <i>Wording Inserted</i> "; provided further, that not less than \$122,397 shall be expended for the Taunton Oral Health Clinic"
4590-0250	8,901,510	3,721,456	<i>Wording Stricken</i> "; provided further, that \$200,000 shall be allocated to the Berkshire County Area Health Education Center, Inc. for programs including but not limited to alcohol, drug and tobacco prevention; provided further, that not less than \$12,000,000 shall be expended for school nurses and school-based health centers; and provided further, that not more than \$99,000 shall be expended for the HELP program for black males' health"

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Item	Reduce by	Reduce to	<i>Wording Inserted</i>
			"; provided further, that not less than \$3,397,490 shall be expended for school nurses and school-based health centers"
7000-9401	1,048,625	13,931,736	<i>Wording Stricken</i> "; provided further, that notwithstanding said section 19C of said chapter 78 or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to \$1.06 per resident in the commonwealth " <i>Wording Inserted</i> "; provided further, that notwithstanding said section 19C of said chapter 78 or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to \$0.93 per resident in the commonwealth"
7006-0068	250,000	200,000	<i>Wording Stricken</i> "The division of standards may expend an amount not to exceed \$450,000 from revenue received from license fees assessed to owners of motor vehicle repair shops" <i>Wording Inserted</i> "The division of standards may expend an amount not to exceed \$200,000 from revenue received from license fees assessed to owners of motor vehicle repair shops"
7007-0515	350,000	200,000	<i>Wording Stricken</i> "; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator

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Item	Reduce by	Reduce to	Wording Stricken
			Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$200,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998"
			<i>Wording Inserted</i>
			"; provided further, that not less than \$100,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission; and provided further, that not less than \$100,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998"

SECTION 2 *Items disapproved by striking the wording:*

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0321-1518	"; provided further, that the comptroller shall certify to the chief counsel at the end of each month the amount available for expenditure from this line item"
0330-0300	"; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that said report shall include, but not be limited to, the number of cases in which said assessment was reduced or waived by a judge or clerk-magistrate within said courts; and provided further, that said report shall be submitted to the victim and witness assistance board on or before January 15, 2004"
0332-6300	"; provided, that notwithstanding the provisions of any general or special law to the contrary, said district court shall be the perma-

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	nent location for the northern trial session to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that the clerk magistrate shall utilize whatever space within the facility at-large he deems necessary to comply with S.J.C. Rule 3:12, Canon 3(A)6"
0335-0100	"Boston municipal"
0335-0300	"Boston municipal"
0335-0400	"Boston municipal"
0335-0500	"Boston municipal"
0335-0600	"Boston municipal"
0335-0700	"Boston municipal"
0339-2100	"; provided, that said office shall be located at the Charlestown division of the Boston municipal court"
1000-0001	"; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller shall deduct an amount of \$1,000 from any item of appropriation in section 2 of this act in which a reporting requirement is stipulated within said item and which report is not filed within ten days of the stated due date; provided further, that any and all amounts deducted shall be deposited in the General Fund and said comptroller shall notify the house and senate committees on ways and means of any and all amounts so deducted"
1201-0130	"; provided further, that the commissioner of revenue shall study the potential impacts of the disclosure by the commissioner of a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, 121A corporations and other taxable entities, that are delinquent in the payment of their tax liabilities in an amount greater than \$25,000 for a period of six months from the time the taxes were assessed; provided further, that the commissioner shall at least annually publish a list of all taxpayers who are delinquent in the payment of any tax liability, and said list shall include, at a minimum, information indicating whether the taxpayer is an individual, the name of the taxpayer; if the taxpayer

is a business entity, the name of the business entity, provided further, that said list shall include also the address of the taxpayer, the type of tax for which the taxpayer is delinquent, the year the tax was assessed, and the amount of total tax liability outstanding, including penalties and interest; provided further, that the commissioner shall make the list available for public inspection at the department upon request during regular business hours, provided further, that the commissioner shall, at least annually, publish the list on the department's website, with a link to said list clearly situated on said website, and at the same time may also publish said list in any print media and electronic media of the commissioner's choosing; provided further, that the commissioner shall provide the registrar of motor vehicles and the assessors in each city and town with a list of the names and addresses of taxpayers who filed resident income tax returns; provided further, that the purposes of the lists are to identify residents who may have improperly registered their motor vehicles and failed to pay motor vehicle registration fees, state sales and use taxes and local motor vehicle excises; and provided further, that the commissioner shall direct the assessors to provide to all real property owners a notice inserted with each tax bill describing section 3 1/2 of chapter 90 of the General Laws"

1201-0160

"; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of said funds"

and

"; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 2004 detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal re-

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imbursements, projections of said indicators for the remainder of the fiscal year and any deviations of current performance from previous projections"

1410-0400

"; provided further, that notwithstanding any general or special law to the contrary, the commissioner of veterans' services may continue a training program for veterans' agents and directors of veterans' services in cities and towns of the commonwealth; provided further, that the purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits; provided further, that the subject matter of such training program shall include benefits available under chapter 115 of the General Laws and alternative resources, including those which are partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income, and Social Security Disability benefits, as well as federal pension and compensation entitlements; provided further, that the commissioner shall promulgate regulations for said training program; provided further, that upon successful participation by such veterans' agents or directors of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be reimbursed by the commonwealth on or before November 10 following the fiscal year in which such costs were paid"

1599-1971

"; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998,

1999, 2000, 2001, 2002 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice"

1599-7092

"; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until 60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also pro-

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	vide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter"
1750-0100	"; provided further, that notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of \$50 to be collected from each applicant for a civil service examination"
1750-0201	"; provided further, that the human resources division shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of standards and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means by February 1, 2004 on the projected costs of said program for fiscal year 2004"
2000-0100	"; provided further, that said secretary shall file a plan with the house and senate committees on ways and means 20 days before entering into any interdepartmental service agreements with any of the departments or divisions under said secretariat or any department, division or office under the executive office of administration and finance; provided, that the parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the division of urban parks and recreation under the executive office of environmental affairs; provided further, that said plan shall detail the purposes of, reasons for, and amounts of said agreements"
2800-0101	"; provided further, that not less than 13 employees shall be assigned to patrol watershed areas; and provided further, that said department shall submit quarterly reports to the house and senate

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4000-0300

committees on ways and means not more than 10 days after the end of the quarter detailing expenditures in the most recent quarter including the amount and a description of what was charged"

"; provided further, that by October 1, 2003 the division shall report to the house and senate committees on ways and means the results of a study into the feasibility of establishing a mechanism that will allow hospitals and community health centers the ability to electronically access the health benefit coverage database to assist with coordinating coverage of persons requesting uncompensated care under chapter 118G of the General Laws and medical assistance under chapter 118E of the General Laws; provided further, that said study shall include an analysis of any applicable provisions of the Health Insurance Portability and Accountability Act that may affect said mechanism; provided further, that the division may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the division later discovers another third party is liable if no other course of recoupment is possible" and

"; provided further, that notwithstanding the provisions of any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that said executive office shall annually submit on or before February first to the house and senate committees on ways and means a report detailing the cost-effectiveness of the drug prior authorization program including an analysis of: (a) the direct cost of the prior authorization program; (b) the estimated amount, if any, of cost shifting to physicians in terms of additional time spent in obtaining authorization for a selected course of therapy; (c) internal program costs shifting, if any, including but not limited to additional prescriptions, laboratory tests, physician visits, hospitalization, and skilled nursing care that are associated with implementation of the prior authorization program; provided further, that each

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report shall include all therapeutic classes that are currently subject to prior authorization; provided further, that any contractor retained to develop and prepare said annual report shall not be related to any contractor retained by the state to develop and implement said prior authorization program; provided further, that the division shall file a quarterly report with the house and senate committees on ways and means and the joint committee on health care detailing the estimated savings resulting from the prior authorization of medications designed to treat epilepsy, the number of instances that an appeal for a nongeneric version of such medication was denied and any instances of hospitalization of an individual denied such nongeneric medication"

4100-0060

"; and provided further, that notwithstanding any general or special law to the contrary said division shall set the rate paid for the dispensing fees to retail pharmacies for prescribed drugs to publicly aided or industrial accident patients at \$3 beginning in fiscal year 2004"

4120-1000

"; provided further, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of revenue, the commission shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; provided further, that the lists shall include client names and social security numbers and payee names and other identification, if different from a client's"

4120-5050

"; and provided further, that the commission shall submit a report to the house and senate committees on ways and means not later than February 3, 2004, detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased and the annualized impact of the expenditures in the subsequent fiscal year"

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4130-0001

"; provided, that the office shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots funded from items 4130-3050 and 4130-3600 by category of eligibility; provided further, that the report shall include the number of recipients subject to subsection (f) of section 110 of chapter 5 of the acts of 1995 funded under item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized child care"

and

"; provided further, that notwithstanding any general or special law to the contrary, the office shall perform post-audit reviews on a representative sample of the income eligibility determinations performed by vendors receiving funds from item 4130-3050; provided further, that the office shall report quarterly to the house and senate committees on ways and means and secretary of administration and finance on the error rate, if any, in income-eligibility determinations calculated by the post audit reviews"

4200-0010

"; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2004, detailing the caseload for all department programs funded in items 4200-0100, 4200-0200, and 4200-0300; provided further, that the commissioner of youth services, in conjunction with the department of education, shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 on the status of educational resources at the department of youth services; provided further, that said report shall review teacher retention, compare salaries within the department to statewide averages, and analyze the related impact on the quality of educational services provided to youths in the custody of the department; and provided further, that the report shall include recommendations for the improvement of educational resources and costs associated with the improvements"

4400-1000

"; provided further, that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on pro-

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	<p>gram expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefits; provided further, that the report shall comprehensively track statewide use of the emergency assistance program by eligibility category including, but not limited to, caseload, average length of use or stay and monthly expenditures"</p> <p>and</p> <p>"; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the office of the state auditor, the total value of settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in collections"</p> <p>and</p> <p>"; and provided further, that the department shall report to the house and senate committees on ways and means not later than December 15, 2003 on the extended office hours and placement of workers at community and human service organizations that the department has determined is feasible within the appropriation provided and that the department will provide in the current fiscal year"</p>
4401-1000	<p>"; and provided further, all of this item is subject to appropriation and, in the event of a deficiency, nothing herein shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item"</p>
4403-2120	<p>"; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter, the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving</p>

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shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter; provided further, that the report shall also provide a status report on efforts to increase the number of units of scattered site shelter above the number contracted for in fiscal year 2003, any barriers encountered to increasing the number of units of scattered site shelter, and the plan of action or recommendations for overcoming any barriers encountered; provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item"

4408-1000

"; provided further, that the secretary of health and human services shall report monthly to the house and senate committees on ways and means for the preceding month on the number of persons applying for benefits under this program, by category, age and disability, if any, and the number of persons receiving and denied benefits under this program by category, age and disability, if any"

4510-0099

"; provided, that the department shall submit a quarterly report to the house and senate committees on ways and means detailing the amount of revenue generated as a result of increasing departmental fees as well as all expenditures made from this account"

4510-0110

"; provided further, that the department shall submit a tentative allocation schedule of the community health center grants to the house and senate committees on ways and means not later than February 1, 2004"

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4510-0721	"; and provided further, that the board shall be under the authority of the division of health care quality"
4510-0725	"; provided, that the boards shall be under the authority of the division of health care quality"
4512-0200	"; and provided further, that the department shall report to the joint committees on health care and on human services and the house and senate committees on ways and means within 90 days of the passage of this act on its efforts to encourage or strengthen discharge and aftercare planning for its substance abuse clients and to address inefficiencies in the provision of outpatient substance abuse services, including an assessment of existing or other appropriate financial incentives for inpatient or outpatient providers to encourage or require such discharge planning, existing or other appropriate regulatory mechanisms to encourage or require such discharge planning, legal or practical impediments to such discharge planning, the efficacy of redirecting existing resources to strengthen the relationship between inpatient and outpatient providers of substance abuse services, and the potential for improved outcomes for substance abuse clients and savings to the commonwealth"
4513-1002	"; provided further, that within 30 days of the effective date of this act, the department shall report to the house and senate committees on ways and means the total number of cases which can be supported with funds from this item without incurring a deficiency; and provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of clients served per month and the total food voucher expenditures per month"
4800-0038	"; provided further, that the department shall report monthly to the house and senate committees on ways and means on the number of clients served, the cost per unit of service and any available information on the outcome of services provided for each program funded from this item; provided further, that service providers shall provide the department with all information necessary to allow the completion of these reports; provided further, that not later than February 17 of the current fiscal year the department shall provide to the house and senate committees on ways and means a

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recommendation on whether or not to discontinue any program, including earmarked programs, whose cost per unit of service or service outcomes do not fall within a reasonable standard"

4800-0041

"; provided further, that the department shall form area review teams that shall evaluate the feasibility of maintaining the child in the community in this manner wherever possible before recommending placement in a residential setting; provided further, that the department shall provide quarterly reports detailing the number of children diverted from residential settings, the programs in which they were placed, the associated cost saving from the diversion, and any other measurements that would help assess the success of these programs in promoting the health and well-being of children"

5042-5000

"; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than January 15, 2004 on the results of the collaboration between the department and the other departments within the executive office of health and human services; provided further, that the report shall detail the current status of the implementation of clinically appropriate service models for that population of children and adolescents, remaining disparities in the service system which require children and adolescents to be served in unnecessarily restrictive or otherwise clinically inappropriate settings and changes during fiscal years 2002 and 2003 in the clinical acuity of children and adolescents"

5046-0000

"; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planning population and the types of services received in each region for fiscal year 2004 not later than February 1, 2004"

5047-0001

"; provided further, that the department shall report to the house and senate committees on ways and means not later than January 30, 2004, on the utilization of said emergency programs and acute inpatient beds by clients of the department during each month of fiscal year 2003; provided further, that said report shall detail the number of clients of the department determined to be eligible for the medicaid program during fiscal year 2003; and pro-

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	vided further, that said report shall detail expenditures made by the division of medical assistance on behalf of clients of the department and those uninsured persons not deemed to be clients of said department from the amounts appropriated in item 5047-0001 of chapter 184 of the acts of 2002 during fiscal year 2003 for said acute inpatient care and emergency services"
5047-0002	" ; provided, that not less than an additional \$2,500,000 from the reimbursements shall be deposited in the General Fund by the close of fiscal year 2004; provided further, that upon such deposit, the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that the amount has been deposited into the General Fund" and "; and provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 3, 2004 detailing the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served, the types of services purchased by region and the annualized impact of the expenditures in the subsequent fiscal year"
5920-2020	" ; provided further, that the department shall submit copies of the quarterly reports required by Section G of said Settlement Agreement to the house and senate committees on ways and means; and provided further, that any names and other identifying personal information contained in said quarterly reports shall be redacted from the reports prior to their submission to the committees on ways and means in order to preserve the confidentiality of said information"
5920-5000	" ; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 2004, on the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served in each region and the types of services purchased in each region"
6000-0100	" ; provided, that notwithstanding any general or special law to the contrary, the secretary is hereby authorized and directed to proceed

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	forthwith on the Route 128 add-a-lane project, so-called, in a manner consistent with the design-build provisions pursuant to section six of chapter 53 of the Acts of 1999 in order to expedite said project and to effectuate the immediate preservation of the public convenience"
7053-1925	"and shall report to the house and senate committees on ways and means on the projected impact of these grants not later than April 30, 2004"
7061-9200	"; provided, that the department of education shall file a spending plan for the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by January 2, 2004"
7061-9404	"; provided further, that the department, in collaboration with the board of higher education, shall issue a report not later than February 1, 2004 on remedial programs for students in the class of 2003 who did not achieve a competency determination by June 30, 2003 which shall include, but not be limited to: (1) the number of members of the graduating class of 2003 who are participating in said programs; (2) a detailed list, by provider, of the number of students participating in said programs, including students attending classes at institutions of public higher education offering said programs; and (3) the number of students who have passed the MCAS assessment and obtained a competency determination after having received services from these programs; provided further, that said report shall be provided to the house and senate ways and means committees and to the joint committee on education, arts, and humanities"
7061-9612	“; provided further, that the department of education shall study and report on the potential replication in other regions of the commonwealth of learning strategies modeled by the academy; provided further, that said study shall identify potential public-private partnerships between public schools and public and private institutions of higher learning in the commonwealth that could establish such academies in other regions of the commonwealth to foster excellence in mathematics and science education by developing replicable teaching models, and providing professional development services, and math and science MCAS remediation

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	to the public schools of said regions; provided further, that the department shall submit a report with recommendations, along with proposed legislation, if any, to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate committees on ways and means; and provided further, that the report shall be filed not later than January 1, 2004"
7066-0000	"; provided further, that the board shall make a report to the general court relative to the annual cost of maintaining the electronic equipment and systems of institutions of public higher education and identify means to reduce such costs; provided further, that the report shall include, but not be limited to the following: an analysis of current equipment maintenance service contracts, a review of alternative equipment maintenance programs which, if implemented, would result in cost savings, better management of the equipment repair process, and enhanced equipment protection; provided further, in preparing said report the board may utilize the services of appropriate third parties knowledgeable in equipment maintenance service contracts; provided further, that the board shall file the report with the house and senate committees on ways and means within 90 days of the effective date of this act"
8324-0000	"; and provided further, that the department shall complete a feasibility study for a new fire station for the city of Springfield Fire Department at the intersection of Bay Street and Berkshire Avenue"
8400-0001	"; and provided further, that said registry shall submit a report to the house and senate committees on ways and means not later than April 1, 2004 detailing the steps taken and the resultant change in customer service"
8400-0016	"; provided, that the comptroller shall certify that \$2 generated from every motorcycle registration is credited to the motorcycle safety program funded herein"
8910-0000	"; provided further, that notwithstanding the provisions stated in this item, the maintenance of effort obligations for Suffolk county shall be 4 per cent of the total fiscal year 2004 Suffolk county cor-

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Item

Wording Stricken

rection operating budget as approved by the county government finance review board"

and

"; provided further, that each sheriff shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the comptroller pursuant to section 27 of chapter 29 of the General Laws"

9110-1455

"; provided further, that the department of elder affairs, through the coordinated prescription drug procurement plan developed by the secretary of health and human services, shall contract with a non-profit pharmacy benefit manager for the management of this program"

Pursuant to Article 56 as amended by Article 90, Section 3, of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments to Sections 19, 39, 117, 185, 361, 453, 596, 698, and 701.

The remainder of the bill was approved by the Governor on June 30, 2003 at one o'clock and fifteen minutes, P.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 7, 2003 the House of Representatives and on July 8, 2003 the Senate passed the following Items:

SECTION 2. Items: 1108-5200, 1599-3857, 7007-0500, 7030-1002, 7030-1003, 7030-1005, 7066-0009, 7100-0500

SECTIONS: 129, 161, 163, 167, 176, 177, 178, 179, 594 and 683

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 8, 2003 the House of Representatives and the Senate in concurrence passed the following Items:

SECTION 2. Items: 0611-5500, 2820-4420, 2820-4421, 4512-0225, 7006-0067, 7006-0068, 8000-0225

SECTIONS: 12, 630, 638 and 650

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 8, 2003 the House of Representatives and on July 10, 2003 the Senate passed the following Items:

SECTION 2. Items: 2001-1001, 4100-0060, 4190-1101

SECTIONS: 504, 631, 636 and 637

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The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 9, 2003 the House of Representatives and on July 10, 2003 the Senate passed the following Items:

SECTION 2. Items: 1599-1971, 1599-7092, 5930-1000

SECTIONS: 203, 616, 621, 640, 641, 653, 678, 679 and 693

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 10, 2003 the House of Representatives and the Senate in concurrence passed the following Items:

SECTION 2. Items: 0610-0050, 4510-0790

SECTIONS: 5, 48, 411 and 545

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 10, 2003 the House of Representatives and on July 14, 2003 the Senate passed the following Items:

SECTION 2. Items: 0321-2100, 0322-0100, 0335-0001, 0335-0100, 0335-0200, 0335-0300, 0335-0400, 0335-0500, 0335-0600, 0335-0700, 0339-1001, 4110-1020, 4110-2001, 4110-4000, 4120-2000, 4120-3000, 5920-2000, 5920-3000, 7053-1927, 7100-0200, 9110-1630

SECTIONS: 234, 449, 454, 455, 456, 457, 458, 460, 461, 462, 463, 464, 465, 465, 466, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 489, 490, 492, 620, 684, and 695

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2003 the House of Representatives and the Senate in concurrence passed the following Items:

SECTION 2. Items: 4510-0600, 5095-0015, 7066-0015, 7100-0300, 7109-0100

SECTIONS: 209, 210, 211, 212, and 213

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 10, 2003 the House of Representatives and on July 17, 2003 the Senate passed the following Items:

SECTION 2. Item: 0339-1003

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2003 the House of Representatives and on July 17, 2003 the Senate passed the following Items:

SECTION 2. Items: 0910-0200, 1310-1000, 4590-0250, 7000-9401, 7000-9402, 7000-9506, 7006-0066, 8200-0200

SECTIONS: 571, 583, 584, 585, 586, 587, 590, 591, 592, 609, 649, 680 and 694

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 16, 2003 the House of Representatives and on July 17, 2003 the Senate passed the following Items:

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SECTION 2. Items 0321-1600, 0321-2000, 0321-2205, 0330-2200, 0331-3404, 1410-0630, 2200-0100, 2300-0101, 2330-0100, 2800-0101, 2820-0100, 4000-0875, 4100-1000, 4120-4000, 4125-0100, 4513-1023, 4513-1112, 4570-1500, 4590-0300, 5911-1000, 5920-2025, 7007-0515, 7007-0950, 7061-0008, 7061-0011, 7061-0012, 7504-0101, 9110-1660

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 17, 2003 the House of Representatives and the Senate in concurrence passed the following Items:

SECTION 2. Items 0332-3100, 0332-3800, 0332-6300, 0332-7200, 0332-7500, 0332-7700, 0333-1313, 0339-2100, 1120-4005, 1231-1000, 1410-0012, 2000-0500, 2010-0100, 2310-0200, 2800-0200, 2800-9004, 2810-0100, 4000-0300, 4000-0600, 4110-0001, 4110-2000, 4120-4010, 4130-0002, 4130-1000, 4180-0100, 4510-0720, 4512-0103, 4513-1020, 4513-1026, 5047-0002, 6000-0100, 7000-9101, 7002-0200, 7003-0702, 7004-3036, 7004-4314, 7007-1000, 7061-0029, 7061-9626, 7112-0100, 8100-0000, 8900-0001, 9100-1633, 9110-9002

SECTIONS: 13, 218, 223, 248 306, 439, 519, 528, 604, 605, 607, 627, 645 and 673

Chapter 27. AN ACT RELATIVE TO THE HEALTH INSURANCE OF ACTIVE AND RETIRED EMPLOYEES OF THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, any employee who retired or will retire from the service of the town of Plymouth after February 26, 1998 and is enrolled in a health or dental plan offered by the town as of July 1, 2003 or at least 5 years before their retirement, their spouse and dependents shall be entitled to receive the same percentage of premium contribution provided by the town on the date of hire of the employee, but no greater than 90 per cent, for so long as the retiree remains continuously enrolled in the benefit plan, notwithstanding any alteration in health plan premiums by the town.

SECTION 2. This act shall apply to all non-union employees who are eligible for health insurance benefits and to employee groups who agree, within 60 days of the effective date of this act, to an increase in the percentage paid by active employees to 20 per cent effective July 1, 2003. This act shall also apply to any employee who is enrolled in a health or dental plan offered by said town and retired from the service of the town after February 26, 1998 but before July 1, 2003.

SECTION 3. Employee groups that do not agree, within 60 days of the effective date of this act, to an increase in the percentage paid by active employees to 20 per cent effective on July 1, 2003 shall not be guaranteed the rate of hire percentage contribution upon retirement.

SECTION 4. If the commonwealth mandates an increase in the minimum percentage contribution active employees only shall pay toward their health insurance, the provisions of this act governing the percentages to be paid by retirees shall not be affected.

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

Approved June 30, 2003.

Chapter 28. AN ACT TO PROTECT FEDERAL TRANSPORTATION FUNDING AND STRENGTHEN DRUNK DRIVING LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to avoid loss of life and the loss of federal highway aid funds pursuant to the Federal Transportation Equity Act, 23 U.S.C. section 163, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Section 24 of chapter 90 of the General Laws, as appearing in the 2000

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Official Edition, is hereby amended by inserting after the word "vehicle", in line 4, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 2. Said section 24 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 10, the figure "\$125" and inserting in place thereof the following:- \$250.

SECTION 3. Paragraph (e) of subdivision (1) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the third sentence.

SECTION 4. Said section 24 of said chapter 90, as so appearing, is hereby amended by striking out in lines 485 to 488, inclusive, the words "; and if such evidence is that such percentage was eight one-hundredths or more, there shall be a permissible inference that such defendant was under the influence of intoxicating liquor".

SECTION 5. Subparagraph (1) of paragraph (f) of subdivision (1) of said section 24 of said chapter 90 is hereby amended by striking out the third sentence, as amended by section 4 of chapter 302 of the acts of 2002, and inserting in place thereof the following sentence:- If the person arrested refuses to submit to such test or analysis, after having been informed that his license or permit to operate motor vehicles or right to operate motor vehicles in the commonwealth shall be suspended for at least a period of 180 days, but not more than 1 year for such refusal, no such test or analysis shall be made and he shall have his license or right to operate suspended in accordance with this paragraph for a period of 180 days; provided, however, that any person who is under the age of 21 or who has been previously convicted of a violation under this section or a like violation by a court of any other jurisdiction shall have his license or right to operate suspended forthwith for a period of 1 year for such refusal; and provided further, that any person previously convicted 2 or more times for a violation under this section or a like violation by a court of any other jurisdiction shall have his license or right to operate suspended forthwith for a period of 18 months for such refusal.

SECTION 6. Said section 24 of said chapter 90, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 636, the word "ninety" and inserting in place thereof the following figure:- 30.

SECTION 7. Said section 24 of said chapter 90, as so appearing, is hereby amended by striking out, in line 770, the word "\$125" and inserting in place thereof the following figure:- \$250.

SECTION 8. The first paragraph of section 24D of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 2, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 9. Section 24D of said chapter 90, as so appearing, is hereby amended by inserting after the word "liquor", in line 2, the following words:- , controlled substance or the vapors of glue.

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SECTION 10. Said section 24D of chapter 90 , as so appearing, is hereby amended by inserting after word "alcohol", in lines 6, 75, 86, 87, 88, 110, 114, 117, 122, 144 and 148, the following words:- or controlled substance abuse.

SECTION 11. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in line 13, the words "drinking drivers" and inserting in place thereof the following words:- drivers who operates a motor vehicle after or while consuming alcohol, controlled substances or the vapors of glue.

SECTION 12. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in line 19, the words "of intoxicating liquor" and inserting in place thereof the following words:- and operating with a blood alcohol percentage of eight one-hundredths or greater, or.

SECTION 13. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out the fourth paragraph, and inserting in place thereof the following paragraph:-

Upon each disposition under this section, the defendant will surrender any Massachusetts drivers license or permit in his possession to the probation department of that court. The probation department will dispose of the license, and the court shall report the disposition in the case in a manner as determined by the registrar. Notwithstanding the provisions of subparagraph (1) of paragraph (c) of subdivision (2) of section 24, subparagraph (1) of paragraph (f) of subdivision (1) of section 24, and section 24P, a defendant may immediately upon entering a program pursuant to this section apply to the registrar for consideration of a limited license for hardship purposes. The registrar, at his discretion, may issue such license under such terms and conditions as he may prescribe. Any such license shall be valid for an identical 12 hour period, 7 days a week. This provision shall also apply to any other suspensions due to the same incident that may be in effect pursuant to said subparagraph (1) of paragraph (c) of subdivision (2) of section 24, said subparagraph (1) of paragraph (f) of subdivision (1) of said section 24 and section 24P of this chapter. Nothing in this section shall be construed to authorize hardship eligibility if the person is suspended or revoked, or to be suspended or revoked, under any other statute not referenced in this section, or due to any other incident. Failure of the operator to complete his obligations to the program, or remain in compliance with court probation, shall be cause for immediate revocation of the hardship license. In these and all cases where a hardship license is sought by an operator, the probation office for the court where the offender is on probation will, upon request, furnish the registry with documentation verifying the person's status with probation.

SECTION 14. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 71, 72, 90 and 142, the words "director of the division of alcoholism" and inserting in place thereof the following:- department of public health.

SECTION 15. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 79, and in lines 113 and 114, and in line 118, the words "division of alcoholism," and inserting in place thereof in each instance, the following words:- department of public health.

SECTION 16. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 80, 96, and 106, the word "division" and inserting in place thereof in each instance, the following words:- department of public health.

SECTION 17. Said section 24D of said chapter 90, as so appearing, is hereby further amended by striking out, in line 90, the second time it appears, and in lines 94, 147, and 151, the word "director" and inserting in place thereof in each instance, the following words:- department of public health.

SECTION 18. Said section 24D of said chapter 90, as so appearing, is hereby further amended by inserting after the word "alcohol impaired", in line 149, the following words:- or controlled substance abuse-impaired.

SECTION 19. Said section 24D of said chapter 90, as so appearing, is hereby further amended by inserting after the word "alcoholism", in line 153, the following words:- or controlled substance abuse.

SECTION 20. Section 24E of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 2, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 21. Section 24G of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 4, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 22. Said section 24G of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 35, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 23. Section 24J of said chapter 90, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "driving under the influence of intoxicating liquors" and inserting in place thereof the following words:- operating a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or under the influence of intoxicating liquor.

SECTION 24. Section 24L of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 4, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 25. Said section 24L of said chapter 90, as so appearing, is hereby amended by inserting after the word "vehicle", in line 35, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 26. Section 24N of said chapter 90, as so appearing, is hereby amended by striking out, in line 36, the word "ninety" and inserting in place thereof the following figure:- 30.

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SECTION 27. The first paragraph of said section 24N of said chapter 90, as so appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following:- The defendant's license or permit to operate a motor vehicle shall remain suspended for a period of 180 days; provided, however, that any person who is under the age of 21 or who has been previously convicted of a violation under section 24 or a like violation by a court of any other jurisdiction shall have his license or right to operate suspended forthwith for a period of 1 year for such refusal; provided, further, that any person previously convicted 2 or more times of a violation under section 24 of a like violation by a court of any other jurisdiction shall have his license or right to operate suspended forthwith for a period of 18 months for such refusal.

SECTION 28. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 2, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 29. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out, in lines 172 to 174, inclusive, the words "; and if such evidence is that such percentage was eight one-hundredths or more, there shall be a presumption that such defendant was under the influence of intoxicating liquor".

SECTION 30. Section 8A of said chapter 90B, as so appearing, is hereby amended by inserting after the word "commonwealth", in lines 1 and 2 and in line 29, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 31. Section 8B of said chapter 90B, as so appearing, is hereby amended by inserting after the word "commonwealth", in lines 1 and 2 and in line 31 the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 32. Subsection (2) of said section 8B of said chapter 90B, as so appearing, is hereby amended in line 31 by inserting after the word "commonwealth" the following:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

SECTION 33. Section 26 of said chapter 90B, as so appearing, is hereby amended by inserting after the word "vehicle", in line 1, the following words:- with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or.

Approved June 30, 2003.

Chapter 29 AN ACT RELATIVE TO CERTAIN CAPITAL SPENDING AUTHORIZATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the extension of certain capital spending authorizations that will

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otherwise revert on June 30, 2003 but which are needed to fund obligations during fiscal year 2004, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the unexpended balances of capital accounts which otherwise would revert on June 30, 2003 but which are necessary to fund obligations during fiscal year 2004 are hereby re-authorized until September 30, 2003, at which time these re-authorizations shall terminate and shall revert. The secretary of administration and finance shall file with the clerk of the house of representatives on or before September 1, 2003, a report and any legislation necessary to effectuate the de-authorization of capital accounts, delineated by item of appropriation, determined to be no longer necessary, and recommendations and amounts necessary to re-authorize capital accounts, delineated by item of appropriation, to fund ongoing capital projects throughout the remainder of fiscal year 2004.

SECTION 2. This act shall take effect as of June 30, 2003.

Approved July 3, 2003.

Chapter 30. AN ACT VALIDATING ACTION TAKEN BY THE MARTHA'S VINEYARD REFUSE DISPOSAL AND RESOURCE RECOVERY DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the Martha's Vineyard Refuse and Resource Recovery District, in this act called the district, may issue bonds or notes for a term not exceeding 20 years for the purpose of reimbursing itself for the payment of capital costs paid through operating funds in the fiscal year ending June 30, 2002.

SECTION 2. The actions taken by the district committee on October 2, 2002 to authorize the issuance of bonds or notes in the amount of \$500,000 for the payment of capital costs of the district, are hereby ratified, approved and confirmed in all respects, and, notwithstanding any general or special law or any provision of the district agreement to the contrary, such bonds or notes may be issued by the district.

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

Approved July 9, 2003.

Chapter 31. AN ACT VALIDATING THE ACTION TAKEN AT THE ANNUAL TOWN MEETING HELD IN THE TOWN OF WINCHENDON.

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 Winchendon at the annual town meeting held on May 19, 2003, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrant for the town meeting had been published in full compliance with law and town by-law.

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

Approved July 14, 2003.

Chapter 32. AN ACT DESIGNATING CERTAIN BRIDGES AND A PARK IN THE TOWN OF BILLERICA.

Be it enacted, etc., as follows:

SECTION 1. The bridge located on Concord road and spanning over Route 3 in the town of Billerica shall be designated and known as the Gordon C. Brainerd Bridge. The department of highways shall erect and maintain a suitable marker on the bridge bearing this designation in compliance with the standards of the department.

SECTION 2. The bridge located on Treble Cove road and spanning over Route 3 in the town of Billerica shall be designated and known as the Veteran's Memorial Bridge. The department of highways shall erect and maintain a suitable marker on the bridge bearing this designation in compliance with the standards of the department.

SECTION 3. The water park in Warren Manning state park in the town of Billerica shall be designated and known as Jean F. Coppinger Memorial Park.

Approved July 17, 2003.

Chapter 33. AN ACT AUTHORIZING THE CITY OF MEDFORD TO GRANT ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any limitations imposed by sections 11 and 17 of chapter 138 of the General Laws, any vote cast in the city of Medford pursuant to chapter 595 of the acts

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of 1977 or any other general or special law or rule or regulation of the city of Medford to the contrary, the licensing authority of said city may grant, from time to time, licenses for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to restaurants having a seating capacity of not less than 99 persons, without including the seating capacity of function rooms. Except as expressly provided, a license issued pursuant to this act shall be subject to all other provisions of said chapter 138.

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

Approved July 17, 2003.

Chapter 34. AN ACT CONSOLIDATING MASSACHUSETTS HOUSING FINANCE AGENCY MORTGAGE LOANS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the consolidation of certain loans of the Massachusetts Housing Finance Agency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (b) of section 8 of chapter 708 of the acts of 1966 is hereby further amended by striking out the sixth sentence, as most recently amended by section 1 of chapter 581 of the acts of 1989, and inserting in place thereof the following sentence:- The aggregate principal amount of notes and bonds of the MHFA issued to make mortgage loans pursuant to section 5 and to make or purchase loans pursuant to section 5A, outstanding at any 1 time, shall not exceed the sum of \$4,900,000,000, of which \$150,000,000 shall be used only to make mortgage loans pursuant to said section 5 in cities and towns which have been found to have a rate of unemployment of at least 6 per cent in the issue of "Area Trends in Employment and Unemployment" published by the United States Department of Labor for the October preceding the making of any such loan.

SECTION 2. Said paragraph (b) of said section 8 of said chapter 708 is hereby further amended by striking out the last sentence as most recently amended by section 14 of chapter 239 of the acts of 1998.

Approved July 17, 2003.

Chapter 35. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF FALL RIVER.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance may, subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and the requirements of this act, sell and convey to the city of Fall River by deed a parcel of state-owned land, together with all buildings and structures located thereon, known and numbered as 64 Durfee Street, in this act referred to as the "parcel", located in the city of Fall River. The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey. Any subsequent disposition of the parcel, or any portion thereof, by the city of Fall River or the Fall River Redevelopment Authority acting on its behalf, for private development or cultural purposes shall be permitted, subject to subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws.

SECTION 2. The consideration to be paid by the city of Fall River to the commonwealth for the parcel shall be not less than the full and fair market value for the parcel. The value of the parcel shall be determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal. The inspector general shall review and approve the appraisal, and the review and appraisal shall include an examination of the methodology utilized for the appraisal. The commissioner shall, 30 days before the conveyance authorized by this act submit the appraisal and a report thereon to the inspector general. The inspector general shall prepare a report of his review and approval of the appraisal and file the report with the commissioner and copies of the same shall be filed with the house and senate committees on ways and means and with the chairmen of the joint committee on state administration at least 15 days before the conveyance.

SECTION 3. The city of Fall River shall be responsible for the costs of any appraisals, surveys, including, without limitation, the cost of preparing a recordable plan and the cost 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 conveyance of the parcel deemed necessary by the commissioner.

Approved July 17, 2003.

Chapter 36. AN ACT AUTHORIZING THE TOWN OF PEMBROKE TO EXCHANGE A CERTAIN PARCEL OF TOWN FOREST LAND FOR LAND HELD FOR SCHOOL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Pembroke may transfer the care, custody and control of a portion of a certain parcel of land described in section 2 from the Pembroke conservation commission to the Pembroke school committee for the purpose of school construction in exchange for the land described

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in section 3, such land as described in section 3 having been transferred from the school committee to the conservation commission for town forest purposes by a unanimous vote under Article 21 of the October 15, 2002 Pembroke special town meeting.

SECTION 2. The land to be transferred to the school committee under section 1 is described as follows:

The land shown as "Town Forest Property Transferred to School 21,113 S.F. (+/-)" on sketch entitled "Pembroke Middle School, Pembroke, MA, Land Transfer Plan" prepared by Larson Associates, Inc. on file with the town clerk, being a portion of the town land described in a deed recorded with the Plymouth registry of deeds in book 1954, page 483.

SECTION 3. The land transferred to the conservation commission by vote of the October 15, 2002 Pembroke special town meeting is described as follows:

The land shown as "School Property Transferred to Town Forest 21,118 S.F. (+/-)" on a sketch entitled "Pembroke Middle School, Pembroke, MA, Land Transfer Plan" prepared by Larson Associates, Inc. on file with the town clerk, being a portion of the town land described in a deed recorded with the Plymouth registry of deeds in book 3215, page 29;.

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

Approved July 23, 2003.

Chapter 37. AN ACT RELATIVE TO DESIGNATING A CERTAIN SQUARE AND TWO HIGHWAYS IN THE TOWN OF WEBSTER.

Be it enacted, etc., as follows:

SECTION 1. The intersection of Lake parkway, Thompson road and exit 1 of interstate highway route in the town of Webster shall be designated as Elks Memorial square. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

SECTION 2. The portion of state highway route 193 from the intersection of Lake street to the intersection of Lake parkway in the town of Webster shall be designated as the Herman Becker Highway. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

SECTION 3. The portion of state highway route 193 from the border with the state of Connecticut to the intersection of Lake parkway in the town of Webster shall be designated as the William Starzec Highway. The department of highways shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

Approved July 24, 2003.

Chapter 38. AN ACT AUTHORIZING THE TRANSFER OF AN EASEMENT UNDER THE CONTROL OF THE DEPARTMENT OF CONSERVATION AND RECREATION IN THE CITY OF LYNN.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, release an easement in a parcel of land, currently under control of and used by the department of conservation and recreation for conservation and recreational purposes for the Lynn Heritage State Park, to the city of Lynn, or its successors or assigns, holder of the fee, in order that the city of Lynn, or its successors or assigns, may convey the easement subject to the requirements of sections 2, 3, 4, 5 and 6, and to such additional terms and conditions consistent with this act as the commissioner may prescribe in consultation with the department of conservation and recreation.

The easement to be released herein may not be used to increase building density on the parcel of land to be conveyed by the city of Lynn or to create additional lots on this parcel.

The easement to be released under this act, is described in an instrument recorded at Essex south registry of deeds in book 9353, page 423, and is shown as "Uplands 2.453 acres" on a plan of land entitled "Plan of land in Lynn, Mass. for Harborside Landing realty trust, scale 1" = 40', Dec. 21, 1987, Landmark engineering & surveying, Inc.", recorded with Essex south registry of deeds in plan book 234, plan 98.

The commissioner of the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation, may not release the land shown as "Flats 6.078 acres" on the plan of land recorded at plan book 234, plan 98, which will remain under the control of and used by the department of conservation and recreation.

The commissioner of the division of capital asset management and maintenance, on behalf of and in consultation with the commissioner of the department of conservation and recreation, may release the obligation of the developer set forth in the "Consent agreement" and exhibits recorded at the Essex south registry of deeds at book 9353, page 423.

SECTION 2. The city of Lynn, or its successors or assigns, shall compensate the commonwealth through all of the following actions:-

(a) transferring a public access easement to the commonwealth, acting by and through the department of conservation and recreation, on a parcel of land shown as "68168+ / - s.f. 1.565 acres" on a plan entitled "Plan of land in Lynn, MA showing easement, Scale 1" = 4'-, March 14, 2002, Landmark engineering and surveying, Inc." to be recorded at Essex south registry of deeds. Modifications to this plan may be made before the conveyance of the easement, with the approval of the department of conservation and recreation;

(b) construction on the parcel of land described in clause (a), of a boardwalk, roadway, pedestrian pathway and landscape areas, according to design plans prepared by the

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grantee and approved by the grantor;

(c) maintaining the improvements constructed under clause (b) in perpetuity;

(d) transferring to the commonwealth, acting by and through the department of conservation and recreation a parcel of land containing 8,139 s.f. at 1 - 19 Exchange street, described in the deed from David L. Keimach to Michael T. Miles, trustee, Miles Group of Lynn Realty trust, recorded in Essex south registry of deeds at book 19345, page 265;

(e) constructing on the parcel of land described in clause (d), a park, according to design plans prepared by the grantee and approved by the grantor;

(f) releasing to the Economic Development and Industrial Corporation of Lynn, in an instrument approved by the department of conservation and recreation, the 891 square foot easement, granted by the Economic Development and Industrial Corporation of Lynn to the city of Lynn, in an instrument recorded at Essex south registry of deeds on December 18, 2001, at book 18064, page 37.

SECTION 3. The city of Lynn, or its successors or assigns, shall assume the costs of due diligence, according to department of conservation and recreation specifications, and other expenses and liabilities related to the exchange of the easements and construction and maintenance of improvements described in clauses (b) and (e) of section 2, considered necessary by the commissioner of the division of capital asset management and maintenance or the department of conservation and recreation. No instrument releasing, by or on behalf of the commonwealth, the title and obligations to the easement described in section 1 shall be valid unless such instrument provides that the easement shall be used solely for the purposes described in said section 1. The instrument shall include a reversionary clause that stipulates that the easement described in said section 1 will revert back to the commonwealth and assigned to the care, custody and control of the department of conservation and recreation if the easement ceases to be used for the express purposes for which it is conveyed.

SECTION 4. In the event that the value of the benefits, as determined by independent appraisal prepared for the division of capital asset management and maintenance in consultation with the department of conservation and recreation, provided by the city of Lynn or its successors or assigns for the exclusive benefit of the commonwealth in clauses (a), (b), (d) and (e) of section 2, are less than the value of the property conveyed in section 1, the grantee shall pay the difference in monetary compensation. Any monetary compensation received by the commonwealth under this section shall be deposited in the Conservation Trust.

SECTION 5. The grantor's obligation to complete the disposition authorized in section 1 shall be conditioned upon the grantee's completion of the obligations set forth in sections 2, 3, 4 and 5, except for the maintenance obligations described in clause (b) of section 2 which shall be perpetual.

SECTION 6. 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

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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.

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

Approved July 24, 2003.

Chapter 39. AN ACT AUTHORIZING THE CITY OF LAWRENCE TO USE CERTAIN PARK LAND FOR SCHOOL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Lawrence may use certain park land for the construction of a school building, surface parking areas, playing fields, and ancillary school related structures and facilities. This land is shown on a plan of land entitled "Record Conditions Plan of Land Located in Lawrence, Massachusetts, prepared by Meridian Engineering Inc.", dated July 14, 2003, to be recorded in the Essex County registry of deeds.

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

Approved July 24, 2003.

Chapter 40. 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 section 2, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to laws regulating the disbursement of public funds and the approval thereof.

SECTION 2.
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Massachusetts Highway Department.

- 6033-0315 For projects pursuant to sections 5 and 11 of this act, on the interstate federal aid highway system; provided, that funds may be expended for the costs of those projects including, but not limited to, the nonparticipating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department of highway employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding any general or special law to the contrary, including any other provision of this act 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 fully fund the state portion of any such obligation; and provided further, that the department shall only enter into obligations for those projects pursuant to the authority granted in this act based upon the prior and anticipated future commitment of federal funds and the availability of corresponding state funding authorized or appropriated for such use by the general court for the class and category of project for which any such obligation applies \$180,000,000
- 6033-0316 For federal aid projects pursuant to sections 5 and 11 and for nonparticipating portions of such projects; provided, that notwithstanding any general or special law to the contrary, including any other provision of this act, 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 state portion of the federal commitment to fund any such obligation; provided further, the department shall only enter into obligations for projects pursuant to the authority granted in this act based upon the 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 expenditures from this item may include the costs of engineering and other services essential to such projects rendered by department employees or by consultants; provided further, that amounts expended for department employees may include salary and salary-related expenses of such employees to the extent that they work on or in support of such projects \$900,000,000

SECTION 3. To meet a portion of the expenditures necessary in carrying out 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, \$237,600,000 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 2003 and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all such bonds shall be payable not later than June 30, 2028. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2 O of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 2 O. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 2003 and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2028. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section 2 O of said chapter 29. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth pay-

able solely in accordance with said section 2 O of said chapter 29.

SECTION 4. Bonds issued as special obligation bonds pursuant to this act shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with respect to such bonds be included in any computation of the limit imposed by section 60B of said chapter 29.

SECTION 5. In carrying out section 2, the department may enter into such contracts or agreements as are appropriate with other state, local or regional public agencies or authorities. In relation to such agreements between the department and other state agencies or authorities, the department 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 said agency or authority; and provided further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced.

SECTION 6. Notwithstanding 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 provision of 23 U.S.C. 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, Transportation Equity Act for the 21st Century, PL 105-178 and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than the department of highways, such other department, agency or instrumentality 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 section 2 and such federal funds, when received, shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by said section 2, there is hereby appropriated to the Federal Highway Construction Program Fund a sum of \$1,080,000,000 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 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, section 2 of chapter 11 of the

acts of 1997 and sections 2 and 2A of chapter 235 of the acts of 2000.

SECTION 7. Notwithstanding any general or special law to the contrary, land or rights in land may be acquired by the department of highways by eminent domain under chapter 79 of the General Laws, by purchase or otherwise, on behalf of any other department, authority, agency, board, commission, or public entity if the governing body of such other department, authority, agency, board, commission or public entity consents thereto.

Control of the land or rights in the land acquired under this section shall not vest in any other department, authority, agency, board, commission or public entity until such time as the work for which the land or rights in land have been acquired has been completed by said department.

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 this section 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 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 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.

SECTION 8. Whenever the department determines it is necessary that a utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facility shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth may reimburse the owner of such utility or utility facility for the cost of relocation; provided further, that any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to section 27 of chapter 149 of the General Laws.

Notwithstanding 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 that project.

SECTION 9. Notwithstanding 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 the 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.

This section shall apply to any underground utility or utility location project eligible for federal reimbursement having commenced on or after the first day of January 1984.

SECTION 10. Section 61 and sections 62A to 62H, inclusive, of chapter 30 of the General Laws, chapter 91 of the General Laws and section 40 of chapter 131 of the General Laws shall not apply to bridge projects of the department authorized under this act for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect those 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 in the case of a state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of any railroad or 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 this act; and provided, further, that if a flagman is needed to carry out this act, the railroad or railway company or its assigns shall provide such flagman. For the purposes of this section, 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 11. The department of highways shall expend the sums authorized in section 2, for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under 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, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding 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 U.S.C. 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 1 month after such removal. In planning projects funded by section 2, consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing herein shall be construed as giving rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein.

Funds authorized by section 2 shall, except as otherwise specifically provided in this act, be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of 1956 and, notwithstanding 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 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/Third Harbor Tunnel Project, and shall construct, control, supervise or contract those structures; provided, however, that no construction or contractual agreement for construction shall begin prior to the review of the inspector general of the commonwealth.

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 chapter 79 of the General Laws or otherwise for parking facilities adjacent to any public way, to be operated by the department or under contract with any person;

(2) 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 this section, the department may enter into contracts or agreements with cities to mitigate the impacts of projects undertaken pursuant to this act and to undertake additional transportation measures within cities, and may enter into such contracts or agreements with other state, local or regional public agencies, authorities or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities or political subdivisions may enter into such contracts or agreements with the department. In relation to such agreements the department may advance to such agencies or authorities, without prior expenditure by such agencies or authorities, monies necessary to carry out such agreements; provided however, that the department shall certify to the comptroller the amount so advanced; and provided further, that all monies not expended under such agreement shall be credited to the account of the department from which it was advanced.

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SECTION 12. 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 facility, shall be expended in accordance with the provisions of 42 U.S.C. 12141 to 42 U.S.C. 12150, inclusive.

Approved July 24, 2003.

Chapter 41. AN ACT RELATIVE TO THE FUNCTIONS OF CERTAIN STATE AGENCIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is relative to the functions of certain state agencies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of food and agriculture, as the transferor agency, to the department of agricultural resources, as the transferee agency;

(2) the functions of the metropolitan district commission, as the transferor agency, to the division of urban parks and recreation in the department of conservation and recreation, as the transferee agency;

(3) the functions of the department of environmental management, as the transferor agency, to the department of conservation and recreation, as the transferee agency;

(4) the functions of the division of environmental law enforcement in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the office of environmental law enforcement in the executive office of environmental affairs, as the transferee agency;

(5) the functions of the division of forests and parks in the department of environmental management, as the transferor agency, to the division of state parks and recreation in the department of conservation and recreation, as the transferee agency;

(6) the functions of the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the department of fish and game, as the transferee agency;

(7) the functions of the division of watershed management in the metropolitan district commission, as the transferor agency, to the division of water supply protection, as the transferee agency;

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(8) the functions of the division of water resources in the department of environmental management, as the transferor agency, to the division of water supply protection, as the transferee agency;

(9) the functions of the office of administrative appeals in the department of environmental protection, as the transferor agency, to the office of administrative appeals in the executive office of environmental affairs, as the transferee agency;

(10) the functions of the division of employment and training, as transferor agency, to the division of workforce development, excluding the oversight of the unemployment insurance fund and the medical security trust fund;

(11) the functions of the division of medical assistance pursuant to section 352 of chapter 26 of the acts of 2003, as the transferor agency, to the office of elder services, as the transferee agency; and

(12) the functions of the division of health care finance and policy pursuant to chapter 348 of chapter 26 of the acts of 2003, as the transferor agency, to the executive office of health and human services.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

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(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 2. This act shall take effect as of July 1, 2003.

Approved July 24, 2003.

Chapter 42. AN ACT RELATIVE TO QUALITY HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for nursing facility Medicaid rates for fiscal year 2004, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2003 through June 30, 2004 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2004:

(1) effective July 1, 2003, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes;

(2) effective July 1, 2003, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2003, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include any and all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add-on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the division of medical assistance. In implementing this act, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2003, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the division of medical assistance in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the division of medical assistance in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the division of medical assistance, shall establish penalties sufficient to deter non-compliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2004 a preliminary analysis of funds expended pursuant to that clause in fiscal year 2004 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related

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to the implementation and administration of sections 25 and 26 of chapter 118G of the General Laws;

(7) an amount sufficient to implement section 622 of chapter 151 of the acts of 1996.

SECTION 2. The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund, on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to provide the appropriate rate increases to nursing homes and payment of dispensing fees to pharmacies.

SECTION 3. The division of medical assistance shall seek a waiver from the uniformity provisions of 42 U.S.C. 1396(w)(b) to mitigate the impact of the user fee on non-profit continuing care retirement communities and non-profit residential care facilities, but any facility included in the waiver calculation shall be established as a non-profit entity.

SECTION 4. As a condition of receiving any of the funds allocated in this act, all participating nursing homes shall, for the purposes of a medical leave of absence for Medicaid eligible residents, ensure that the bed in the facility occupied by said resident before the hospitalization shall be available upon the return of said resident from an inpatient acute hospital stay for a period of not less than 10 days.

Approved July 24, 2003.

Chapter 43. AN ACT RELATIVE TO THE USE OF PARK LAND IN THE TOWN OF SWAMPSCOTT FOR SCHOOL PURPOSES.

Be it enacted, etc., as follows:

The town of Swampscott, acting by and through its board of selectmen, may use 10.1 acres of land, more or less, being a portion of park land known as Jackson Park in the town of Swampscott, as a site for a new high school building together with parking and other uses related thereto. The park land is shown on a plan entitled "Plan of Land Jackson Park, Essex Street, Swampscott, MA" prepared for Symmes, Maini and McKee by Surveying and Mapping Consultants of Braintree, Ma, dated May 15, 2003, to be recorded in the Essex county registry of deeds.

The foregoing was laid before the Governor on the seventeenth of July, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 44. AN ACT RELATIVE TO THE TEACHER, PRINCIPAL AND SUPERINTENDENT QUALITY ENDOWMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to transfer certain monies to the General Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, for fiscal year 2004 amounts needed to meet the obligations under section 35S of chapter 10 of the General Laws may be expended from amounts in the Teacher, Principal and Superintendent Quality Endowment Fund including principal. Any remaining balance in the Fund shall be transferred to the General Fund.

SECTION 2. This act shall take effect as of June 30, 2003.

Approved July 28, 2003.

Chapter 45. AN ACT RELATIVE TO TERRITORIAL JURISDICTION OF DISTRICT COURTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith territorial jurisdiction of district courts, therefore 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 218 of the General Laws is hereby amended by striking out section 1, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 1. The district court department, established under section 1 of chapter 211B, shall consist of divisions, 1 for each of the judicial districts hereinafter enumerated, and whenever the words "district court", "municipal court" or "court" are used in this chapter, unless the context refers exclusively to the Boston municipal court department or a juvenile court, or some other clearly contrary intent, such words shall refer to a division of the district court department. Unless the context refers only to a person appointed to the Boston municipal court department or to a juvenile court, the words "justice" and "special justice" shall mean, respectively, an associate justice and a special justice of the trial court appointed to a division of the district court department; and the words "clerk" or "clerk of court" shall mean the clerk of such court; and the words "assistant clerk", "deputy assistant clerk", "temporary clerk" or "temporary assistant clerk" shall mean, respectively, an assistant clerk, deputy assistant clerk, temporary clerk or temporary assistant clerk of such court.

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The several divisions of the Boston municipal court department and of the several divisions of the district court department shall continue to comprise the following cities, towns, wards and territory, in the following counties, respectively.

Barnstable

The first district court of Barnstable, held at Barnstable; Barnstable, Sandwich and Yarmouth. The second district court of Barnstable, held at Orleans; Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Harwich and Dennis. The third district court of Barnstable, held at Falmouth; Mashpee, Falmouth and Bourne. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Berkshire

The district court of northern Berkshire, held at Adams, North Adams and Williamstown; Adams, North Adams, Williamstown, Clarksburg, Florida, New Ashford, Cheshire, Savoy, Hancock and Windsor; the district court of central Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of central Berkshire, held at Pittsfield; Pittsfield, Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, Lenox, Becket and Windsor; the district court of southern Berkshire exercising concurrent jurisdiction in Lenox and Becket and the district court of northern Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of southern Berkshire, held at Great Barrington and Lee; Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox and Becket; the district court of central Berkshire exercising concurrent jurisdiction in Lenox and Becket.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Bristol

The first district court of Bristol, held at Taunton; Taunton, Rehoboth, Berkley, Dighton, Seekonk, Easton and Raynham.

The second district court of Bristol, held at Fall River; Fall River, Somerset, Swansea, Freetown and Westport; the third district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The third district court of Bristol, held at New Bedford; New Bedford, Fairhaven, Acushnet, Dartmouth, Freetown and Westport; the second district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The fourth district court of Bristol, held at Attleboro; Attleboro, North Attleborough, Mansfield and Norton. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Dukes County

The district court of Dukes County, held at Oak Bluffs, Edgartown and Tisbury; Dukes County.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119, and petitions brought under sections 24 and 39E of said chapter 119, are excepted from the jurisdiction of the above court of this county.

Essex

The first district court of Essex, held at Salem; Salem, Beverly, Danvers, Middleton and Manchester-by-the-Sea.

The second district of Essex, held at Ipswich; Ipswich, Hamilton, Topsfield and Wenham.

The central district court of northern Essex, held at Haverhill; Haverhill, Groveland, Georgetown, Boxford and West Newbury; the district court of Newburyport exercising concurrent jurisdiction in West Newbury.

The district court of eastern Essex, held at Gloucester; Gloucester, Rockport and Essex.

The district court of southern Essex, held at Lynn; Lynn, Swampscott, Saugus, Marblehead and Nahant.

The district court of Lawrence, held at Lawrence and Methuen; Lawrence, Andover, North Andover and Methuen.

The district court of Newburyport, held at Newburyport; Amesbury, Merrimac, Newbury, Newburyport, Rowley, Salisbury and West Newbury; the central district court of northern Essex exercising concurrent jurisdiction in West Newbury.

The district court of Peabody, held at Peabody; Peabody and Lynnfield.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Franklin

The district court of Franklin, held at Greenfield, Franklin county, except Orange and Erving; Warwick, Wendell, Leverett, Shutesbury and New Salem. Sessions may also be held at Shelburne Falls in Shelburne and Buckland at such times and places as the justice of said court may determine.

The district court of eastern Franklin, held at Orange; Athol, Orange, Erving, Warwick, Wendell, Leverett, Shutesbury and New Salem. Said court shall be held in Athol at least 1 day each week of the year. Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Hampden

The district court of eastern Hampden, held at Palmer; Palmer, Brimfield, Hampden, Monson, Holland, Wales, Wilbraham, Ludlow and East Longmeadow.

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The district court of western Hampden, held at Westfield and Chester; Westfield, Chester, Granville, Southwick, Russell, Blandford, Tolland, Montgomery and Agawam.

The district court of Chicopee, held at Chicopee; Chicopee. The district court of Holyoke, held at Holyoke; Holyoke.

The district court of Springfield, held at Springfield; Springfield, West Springfield and Longmeadow.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Hampshire

The district court of Hampshire, held at Northampton, Cummington, Huntington and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham and Ware and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land under the care and control of the department of conservation and recreation comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Middlesex

The district court of central Middlesex, held at Concord; Concord, Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, and Lexington.

The first district court of northern Middlesex, held at Ayer; Ayer, Dunstable, Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton, Boxborough and the Devens Regional Enterprise Zone.

The first district court of eastern Middlesex, held at Malden; Malden, Wakefield, Melrose and Everett.

The second district court of eastern Middlesex, held at Waltham; Waltham, Watertown and Weston.

The third district court of eastern Middlesex, held at Cambridge; Cambridge, Arlington and Belmont.

The fourth district court of eastern Middlesex, held at Woburn; Woburn, Winchester, Burlington, Wilmington, Stoneham, Reading and North Reading.

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston, and Hopkinton.

The district court of Lowell, held at Lowell; Lowell, Billerica, Tewksbury, Dracut, Chelmsford and Tyngsborough.

The district court of Marlborough, held at Marlborough; Marlborough and Hudson.

The district court of Natick, held at Natick; Natick, Sherborn, Wayland and Sudbury.

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The district court of Newton, held at Newton; Newton.

The district court of Somerville, held at Somerville; Somerville and Medford.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Nantucket

The district court of Nantucket, held at Nantucket; Nantucket county.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of the above court of this county.

Norfolk

The district court of northern Norfolk, held at Dedham; Dedham, Dover, Norwood, Westwood, Medfield, Wellesley and Needham.

The district court of East Norfolk, held at Quincy; Quincy, Braintree, Cohasset, Weymouth, Holbrook, Randolph and Milton; and, in criminal cases, concurrently with the second district court of Plymouth, that part of Scituate described in chapter 394 of the acts of 1912. Arrests and service of process in such cases may be made by an officer qualified to serve criminal process in Cohasset.

The district court of southern Norfolk, held at Stoughton; Stoughton, Avon, Canton and Sharon.

The district court of Western Norfolk, held at Wrentham; Franklin, Walpole, Foxborough, Medway, Millis, Norfolk, Wrentham and Plainville.

The municipal court of Brookline, held at Brookline; Brookline.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Plymouth

The second district court of Plymouth, held at Hingham; Hingham, Rockland, Hull, Hanover, Scituate and Norwell.

The third district court of Plymouth, held at Plymouth; Plymouth, Kingston, Plympton, Pembroke, Duxbury, Halifax, Hanson and Marshfield.

The fourth district court of Plymouth, held at Wareham; Middleborough, Wareham, Lakeville, Marion, Mattapoisett, Rochester and Carver.

The district court of Brockton, held at Brockton; Brockton, Bridgewater, East Bridgewater, Whitman, Abington and West Bridgewater. Said court may adjourn to the Massachusetts Correction Institution, Bridgewater, whenever the public convenience seems to the first justice to render such adjournment expedient.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Suffolk

The central division of the Boston municipal court department, held at Boston; wards

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6, 7, 8, 9, 10, 11, 12, 16, 17 and 18 of Boston as they existed on February 1, 1882; and in criminal cases, concurrently with the Roxbury and Brighton divisions of the Boston municipal court department, the second and third district courts of eastern Middlesex and the district court of Newton, respectively, so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as effected by chapter 245 of the general acts of 1916 as is within the districts of said courts.

The Brighton division of the Boston Municipal court department, held at Brighton in Boston; ward 25 of Boston as it existed on February 1, 1882.

The Charlestown division of the Boston municipal court department, held at Charlestown in Boston: wards 3, 4 and 5 of Boston as they existed on February 1, 1882; provided, however, that in criminal matters, said court shall have exclusive jurisdiction in that part of said wards which is in so much of the Charles river basin, as defined in section 2 of chapter 524 of the acts of 1909, as affected by chapter 245 of the general acts of 1916 under the care and control of the department of conservation and recreation as is within the districts of said court.

The district court of Chelsea, held at Chelsea; Chelsea and Revere.

The Dorchester division of the Boston municipal court department, held at Dorchester in Boston; ward 24 of Boston as it existed on February 1, 1882, and the territory comprised within the limits of precinct 12 of ward 13 of Boston as it existed on November 2, 1948.

The East Boston division of the Boston municipal court department, held at East Boston in Boston; Winthrop and wards 1 and 2 of Boston as they existed on March 1, 1886; provided, however, that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel and Lieutenant William F. Callahan, Jr. tunnel, including any property, toll plazas and approach roads thereto under the ownership, care, custody and control of the Massachusetts Turnpike Authority as provided in chapter 598 of the acts of 1958.

The Roxbury division of the Boston municipal court department, held at Roxbury in Boston; wards 19, 20, 21 and 22 of Boston as they existed on February 1, 1882, excepting ward 10, save as hereinafter provided, as it existed on February 1, 1976; provided, however, that, notwithstanding any other law, said court shall have jurisdiction over matters arising in precincts 1, 6 and 7 of said ward 10.

The South Boston division of the Boston municipal court department, held at South Boston in Boston; wards 13, 14 and 15 of Boston as they existed on February 1, 1882.

The West Roxbury division of the Boston municipal court department, held at West Roxbury in Boston; ward 23 of Boston as it existed on February 1, 1882, the territory comprised within the limits of the former town of Hyde Park which was annexed to Boston by chapters 469 and 583 of the acts of 1911 and ward 10, except precincts 1, 6 and 7 of said ward 10, as existing on February 1, 1976.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county. The juvenile court located in the city

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of Boston, heretofore known as the Boston juvenile court, shall have the territorial jurisdiction provided in section 57 and, with respect to children in Suffolk county, shall have exclusive jurisdiction of petitions brought under said sections 24 and 39E of said chapter 119.

Worcester

The central district court of Worcester, held at Worcester; Worcester, Auburn and Millbury.

The first district court of northern Worcester, held at Gardner; Gardner, Petersham, Hubbardston and Westminster.

The first district court of eastern Worcester, held at Westborough and Grafton; Westborough, Grafton, Southborough, Northborough and Shrewsbury.

The second district court of eastern Worcester, held at Clinton; Clinton, Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling and West Boylston.

The first district court of southern Worcester, held at Southbridge and Webster; Southbridge, Webster, Sturbridge, Charlton, Dudley and Oxford.

The second district court of southern Worcester, held at Uxbridge; Uxbridge, Blackstone, Douglas, Northbridge, Millville and Sutton.

The third district court of Southern Worcester, held at Milford; Milford, Mendon, Upton, Bellingham and Hopedale.

The district court of western Worcester, held at North Brookfield; East Brookfield, Brookfield, Spencer, North Brookfield, West Brookfield, Warren, Hardwick, Leicester, New Braintree, Barre, Oakham, Paxton and Rutland. Said court may adjourn to any town within its district other than North Brookfield whenever the public convenience seems to the presiding justice to render such adjournment expedient.

The district court of Fitchburg, held at Fitchburg; Fitchburg and Lunenburg.

The district court of Leominster, held at Leominster; Leominster, Holden and Princeton.

The district court at Winchendon, held at Winchendon; Winchendon, Ashburnham, Phillipston, Royalston and Templeton.

Cases of delinquent children under sections 52 to 84, inclusive, of chapter 119 and petitions brought under sections 24 and 39E of said chapter 119 are excepted from the jurisdiction of all of the above courts of this county.

Each division of the district court department may be referred to by the name of the principal place for the holding of that court.

SECTION 2. This act shall take effect as of July 1, 2003.

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on July 17, 2003, and in concurrence by the Senate on July 17, 2003, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 46. AN ACT PROVIDING RELIEF AND FLEXIBILITY TO MUNICIPAL OFFICIALS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide fiscal relief to municipalities in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 172A of chapter 6 of the General Laws is hereby amended by adding the following paragraph:-

The board shall process any request within 30 days of said request. The board shall charge an additional \$10 for any expedited request for criminal record information which shall be processed within 14 days of said request. No fee shall be charged if the board does not process any request within the 30 day or 14 day time period.

SECTION 2. Chapter 7 of the General Laws is hereby amended by striking out section 1, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 1. As used in this chapter the following words shall unless a contrary intention clearly appears, have the following meanings:-

"Commissioner", the commissioner of administration, except that in sections 38A½ to 43H, inclusive, the word "commissioner" shall mean the commissioner of capital asset management and maintenance.

"Eligibility", written criteria established before a request for applications that is used to determine if an application for an award of grant program resources is acceptable.

"Finance committee", the committee of the executive council appointed to consider matters of finance.

"Grant program", financial or technical assistance provided by a state agency or state authority, as defined in section 1 of chapter 29 , available to a city, town or other public or private entity otherwise eligible.

"Grant program fiscal statement", shall include: (1) a description of the substance of the application; (2) the average expected grant amount; (3) a listing of award recipients, including the award amount, if any, the fiscal year of the award and the date of award; (4) the estimated proportion of monies, in-kind match or other monies to be supplied by the award recipient and any other source from which such match will be required; (5) a description of the allocation formula and matching requirements, including whether the grant is distributed on the basis of a specified formula or at the grantor's discretion; (6) a description of any constraints placed on the use of the grant; and (7) contact information, including the telephone number, postal address and internet email address to facilitate the application process.

"Grant program reference", a description in electronic format that is retrievable and

printable that shall include: (1) the grant program application; (2) the grant program eligibility criteria; (3) the application due date; and (4) the grant program fiscal statement.

SECTION 3. Said chapter 7 is hereby further amended by inserting after section 4P the following section:-

Section 4Q. A state agency or state authority which administers a grant program shall publish on the commonwealth's official internet website, in a format that is retrievable and printable all forms necessary for an application, including a grant program reference.

SECTION 4. The first paragraph of section 4I of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "labor", in line 5, the following words:- and 2 of whom shall have prior experience serving as a town administrator, city manager, selectman or city councilor.

SECTION 5. Said chapter 7 is hereby further amended by inserting after section 22B the following section:-

Section 22B½. For the purposes of sections 22C to 22F, inclusive, unless a contrary intention clearly appears, the following words shall have the following meanings:

"Comparable low bid or offer", a responsive and responsible bid or offer which is not more than 10 per cent greater than the lowest bid or offer submitted for goods or services.

"Essential", necessary in order that a state agency or state authority may perform its mission, there being no substitute, to avoid irreparable, harm to the agency or authority programs.

"Person", an individual, partnership, firm, association, corporation or other entity or a subsidiary thereof.

"Secretary", the secretary of administration and finance.

"State agency", awarding authorities of the commonwealth including, but not limited to, executive offices, agencies, departments, commissions and public institutions of higher education.

"State authority" shall include, but not be limited to: the Bay State Skills Corporation, Centers of Excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, government land bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Racing Commission, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resource Authority, Nantucket Land Bank, New England Loan Marketing Corporation, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authori-

ty, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, Victim and Witness Assistance Board, and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

SECTION 6. Section 47 of chapter 10 of the General Laws is hereby repealed.

SECTION 7. Section 12 of chapter 11 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting, after the word "examine", in line 36, the following words:- ; provided, however, that in a town following a majority vote by the board of selectmen or school committee that is ratified by a special or annual town meeting, or in a regional school district following a two-thirds vote of the regional school district committee members, or in a city following a majority vote of the city council and approval by the mayor, or in a county following a majority vote of the county commissioners, the department of the state auditor may make an audit of the accounts, programs, activities and other public functions of said town, district, regional school district, city or county to the extent determined necessary by the state auditor; provided, further, that the expenses incurred for any such audit shall be borne by the city, town or regional school district and the state auditor may charge for the cost of said audit; provided, further, that all funds received for any such audits of said city, town, district, regional school district or county shall be deposited with the state treasurer in a separate account and expended solely for audits of any city, town, district, regional school district or county. On or before April 1 of each year, the state auditor shall submit a report to the house and senate committees on ways and means which shall include, but not be limited to, (i) the number of audits performed under this section; (ii) a summary of findings under said audits; and (iii) the cost of each audit.

SECTION 8. Section 2 of chapter 21E of the General Laws, as so appearing, is hereby amended by inserting after the word "plant", in line 76, the following words:- or the site of a former Massachusetts Bay Transportation Authority right-of-way in which the municipality has acquired an interest for purposes of the installation, operation, maintenance and use of a rail-trail as defined in the definition of Owner or Operator.

SECTION 8A. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "vessel", in line 211, the following words:- except in the case of a discontinued Massachusetts Bay Transportation Authority right-of-way of which a city or town has ownership or possession for rail-trail purposes under clause (1) of subparagraph (d), any person who owned or operated the site or vessel immediately before the Massachusetts Bay Transportation Authority obtaining ownership or possession of the site or vessel.

SECTION 8B. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "respectively", in lines 415 and 416, the following words:- or has acquired an interest in the site by fee, easement, lease, license or otherwise, from the Massachusetts Bay Transportation Authority for purposes of the installation, operation, maintenance and use of a rail-trail, defined as a property converted from former use as a railroad right-of-way to a revitalized use as a publicly owned, improved and maintained corridor for bicycle, pedestrian, and other non-motorized public transportation,

recreation and associated purposes.

SECTION 8C. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by striking out, in lines 431 and 432, the words "or otherwise preventing access to the site or vessel and" and inserting in place thereof the following words:- , paving, installing geo-textile membrane, or otherwise suitably preventing access to the site or vessel or to the oil or hazardous materials present at the site.

SECTION 8D. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "vessel", in line 445, the following words:- or, in the case of a site acquired from the Massachusetts Bay Transportation Authority for purposes of the installation, operation, maintenance and use of a rail-trail, the city or town acts diligently to develop the rail-trail for its intended purpose.

SECTION 8E. Said section 2 of said chapter 21E, as so appearing, is hereby further amended by inserting after the word "paragraph (c).", in line 450, the following sentence:- Whether the city or town is acting or has acted diligently to develop the rail-trail for its intended purpose shall be determined by considering all pertinent circumstances of municipal financing, bidding, and construction of the rail-trail project, and of the availability of and rules governing the applicable state or federal funding program therefor, in light of the discovery of the release or threat of release of oil or hazardous materials at issue.

SECTION 9. Section 19 of chapter 25 of the General Laws, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- Municipal demand side management programs shall include meter reading technologies for the purpose of energy efficiency, conservation and other energy management applications.

SECTION 10. Section 31A of chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after the word "paid", in lines 25, 33 and 40, each time it appears, the following words:- or at the option of the employee, entitled to a contribution to a qualified retirement plan established in the employee's name under section 401(a) of the Internal Revenue Code and under chapter 32 .

SECTION 11. Section 12 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in lines 59 and 60, the words ", and the terms thereof have been approved as reasonable by the emergency finance board".

SECTION 12. The definition of "Employee" in section 2 of chapter 32B of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- A member of a call fire department or other volunteer emergency service agency serving a municipality shall be considered an employee, if approved by vote of the municipal legislative body, and the municipality shall charge such individual 100 per cent of the premium.

SECTION 13. Said chapter 32B is hereby further amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. A county, except Worcester county, by vote of the county commissioners, a city having a Plan D or a Plan E charter by majority vote of its city council,

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any other city by vote of its city council, approved by the mayor, a regional school district by vote of the regional district school committee and a district by vote of the district at a district meeting, may provide that it will pay one-half of the amount of the premium to be paid by a retired employee under the first sentence of section 9. A town shall provide for the payment by vote of the town at a town meeting or if a majority of the votes cast in answer to the following question which shall be printed on the official ballot to be used at an election in said town is in the affirmative:- "Shall the town pay one-half the premium costs payable by a retired employee for group life insurance and for group general or blanket hospital, surgical, medical, dental and other health insurance?"

SECTION 14. Chapter 40 of the General Laws is hereby amended by striking out section 5B, as so appearing, and inserting in place thereof the following section:-

Section 5B. For the purpose of creating 1 or more stabilization funds, cities, towns and districts may appropriate in any year an amount not exceeding, in the aggregate, 10 per cent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property or such larger amount as may be approved by the director of accounts. The aggregate amount in such funds at any time shall not exceed 10 per cent of the equalized valuation of the city or town as defined in section 1 of chapter 44 .

The treasurer shall be the custodian of all such funds and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loans associations situated in the commonwealth.

At the time of creating any such fund the city, town or district shall specify, and at any later time may alter, the purpose of the fund, which may be for any lawful purpose, including without limitation an approved school project under chapter 70 B or any other purpose for which the city, town or district may lawfully borrow money. Such specification and any such alteration of purpose, and any appropriation of funds into or out of any such fund, shall be approved by two-thirds vote, except as provided in paragraph (g) of section 21C of chapter 59 for a majority referendum vote. Subject to said section 21C, in a town or district any such vote shall be taken at an annual or special town meeting, and in a city any such vote shall be taken by city council.

SECTION 15. Section 44F of said chapter 40, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "; provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board".

SECTION 16. Said chapter 40 is hereby further amended by adding the following section:-

Section 60. (a) Notwithstanding any general or special law to the contrary, a city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law, on its own behalf or in conjunction with 1 or more cities or towns and under regulations issued by the director of housing and community development,

in consultation with the department of economic development and the department of revenue, may adopt and prosecute an urban center housing tax increment financing plan, in this section referred to as a UCH-TIF plan, intended to encourage increased residential growth, affordable housing and commercial growth in urban center housing zones and do all things necessary thereto; provided, however, that the UCH-TIF plan shall:-

(i) designate any area of the city or town as an urban center housing tax increment financing zone, in this section referred to as a UCH-TIF zone, which shall be defined as a commercial center characterized by a predominance of commercial land uses, a high daytime or business population, a high concentration of daytime traffic and parking and a need for multi-unit residential properties; provided, however, that the designation of a UCH-TIF zone shall be subject to the approval of the department of housing and community development under regulations adopted by the department consistent with this section; provided further, that a city or town may not enter into any UCH-TIF agreement, as defined in clause (v), unless the area governed by the UCH-TIF agreement is so designated and approved by the department of housing and community development; and provided further, that in the case of a UCH-TIF plan adopted by more than 1 city or town, the areas designated as UCH-TIF zones shall be contiguous areas of those cities and towns;

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

(iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59 , for a specified term not to exceed 20 years, for any parcel of real property which is located in the UCH-TIF zone and for which an agreement has been executed in accordance with clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions expressed as an exemption percentage, not to exceed 100 per cent to be used in calculating the exemption under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that such exemptions shall be calculated for each such parcel as provided in said clause Fifty-first of said section 5 of said chapter 59 using an adjustment factor for each fiscal year since the parcel first became eligible for such exemption under this clause. The inflation factor for each fiscal year shall be a ratio:-

(1) the numerator of which, shall be the total assessed value of all parcels of all residential real estate that are assessed at full and fair cash value for the current fiscal year

minus the new growth adjustment factor for the current fiscal year attributable to the residential real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of said chapter 59; or

(2) the numerator of which, in a UCH-TIF zone where the property includes a mix of residential and commercial uses, shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue under said paragraph (f) of said section 21C of said chapter 59; and

(3) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, that such ratio should not be less than 1.

(iv) establish a maximum percentage of the costs of any public construction, referenced in clause (ii) and initiated subsequent to the adoption of the UCH-TIF plan, that can be recovered through betterments or special assessments against real property eligible for tax increment exemptions from property taxes under clause (iii) during the period of the parcel's eligibility for exemption from annual property taxes under said clause Fifty-first of said section 5 of said chapter 59, notwithstanding chapter 80 or any other general or special law authorizing the imposition of betterments or special assessments;

(v) include executed agreements, hereinafter referred to as UCH-TIF agreements, between a city and town and each owner of real property which is located in a UCH-TIF zone, but each such agreement shall include, but not be limited to, the following: (1) all material representations of the parties which served as a basis for the descriptions contained in the UCH-TIF plan in accordance with clause (ii) and which served as a basis for the granting of a UCH-TIF exemption; (2) any terms deemed appropriate by the city or town relative to compliance with the UCH-TIF agreement including, but not limited to, what shall constitute a default by the property owner and what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (3) provisions requiring that either 25 per cent of the housing units assisted by the UCH-TIF agreement shall be affordable to occupants or families with incomes at or below 80 per cent of the median income for the area in which the city or town is located as defined by the United States Department of Housing and Urban Development or such other requirement of affordable housing as is necessary to achieve financial feasibility for the development pursuant to regulations and guidelines promulgated by the department of housing and community development; (4) provisions stating that housing units that meet the affordability requirements of subclause (3) shall subject to use restrictions as defined in this section; (5) provisions stating that the property shall be subject to an option to purchase and a right of first refusal as defined in subsections (c) and (d); (6) a detailed recitation of the tax increment exemptions and the maximum percentage of the cost of public improvements that can be recovered through betterments or special assessments regarding a parcel of real property pursuant to clauses (iii) and (iv); (7) a detailed recitation of all other benefits and responsibilities

insuring to and assumed by the parties to an agreement; and (8) a provision that the agreement shall be binding upon subsequent owners of the parcel of real property; and

(vi) delegate to a board, agency or officer of the city or town, the authority to execute agreements in accordance with clause (v).

(b) An executed UCH-TIF agreement shall be submitted by the applicable city or town to the department of housing and community development for the approval of the director; provided, however, that the city or town shall, if it has not previously done so, submit a plan showing the boundaries of its urban center housing zone and a report explaining the criteria used by the city or town in establishing the zone; provided, however, that the director shall review each UCH-TIF plan and agreement to determine whether they comply with the terms of this section and any regulations which may be adopted by the director of housing and community development; provided further, that the director shall certify, based upon the information submitted in support of the UCH-TIF plan by the city or town and through such additional investigation as the director shall make, that the plan and agreement are consistent with the requirements of this section and will further the public purpose of encouraging increased residential growth, affordable housing and commercial growth in the commonwealth; provided further, that a city or town may, at any time, revoke its designation of a UCH-TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements under clause (v) of subsection (a); provided, further, that a revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments under said clause (v) of said subsection (a) or use restrictions or options to purchase and rights of first refusal required by this section which were executed before the revocation; provided further, that the board, agency, or officer of the city or town authorized under clause (vi) of said subsection (a) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein; and provided further, that an executed and approved UCH-TIF shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(c) Notwithstanding any other general or special law to the contrary, an affordable housing unit benefiting from a real estate tax exemption under this section that meets the affordability requirements of subclause (3) of clause (v) of subsection (a) shall continue to meet those requirements for 40 years or for its useful life, whichever is longer as may be specified in the recorded restriction. Such restriction shall be approved by the department of housing and community development in accordance with section 32 of chapter 184 and shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies. Upon the expiration of such restrictions, the department of housing and community development or its assignee shall have an option to purchase the property subject to or previously subject to a UCH-TIF agreement.

(d) (1) Within 120 days after the expiration of the affordability restrictions created under this section, the department or its assignee, who shall be a qualified developer selected

pursuant to the terms of this section under the guidelines of the department, shall have an option to purchase the property at its current appraised value reduced by any remaining obligation of the owner. Two impartial appraisers shall determine, within 60 days after the expiration of the affordability restrictions, the current appraised value in accordance with recognized professional standards. Two professionals in the field of multi-unit residential housing shall select each such appraiser. The owner and the department, respectively, shall each designate 1 professional within 30 days after the expiration of the affordability restrictions. If there exists a difference in the valuations provided by the appraisals, the 2 valuations shall be added together and divided by 2 to determine the current appraised value of the property.

(2) Prior to a sale or transfer or other disposition of housing assisted under this section where the department has not previously exercised an option to purchase, an owner shall offer the department or its assignee, who shall be a qualified developer selected under this section under the guidelines of the department, a first refusal option to meet a bona fide offer to purchase the property. The owner shall provide to the department or its assignee written notice, by regular and certified mail, return receipt requested, of his intention to sell, transfer or otherwise dispose of the property. The department or its assignee shall hold a first refusal option for the first 120 days after receipt of the owner's notice of intent to transfer the property. Failure to respond to the written notice of the owner's intent to sell, transfer or otherwise dispose of the property within 120 days after the receipt of the notice shall constitute a waiver of the right of first refusal by the department.

(3) No sale, transfer or other disposition of the land shall be consummated until either the first refusal option period has expired or the owner was notified in writing by the department or assignee in question that the option will not be exercised. Such option may be exercised only by written notice signed by a designated representative of the department or its assignee, mailed to the owner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, within the option period. If the first refusal option has been assigned to a qualified developer selected under this section under guidelines issued by the department, such written notice shall state the name and address of the developer and the terms and conditions of the assignment. An affidavit before a notary public that the notice of intent was mailed on behalf of the owner shall conclusively establish the manner and time of the giving of the notice, but the affidavit, and the notice that the option will not be exercised shall be recorded with the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Each notice of intention, notice of exercise of the option and notice that the option will not be exercised shall contain the name of the record owner of the land and description of the premises to be sold or converted adequate for identification thereof. Each such affidavit before a notary public shall have attached to it a copy of the notice of intention to which it relates. The notices of intention shall be deemed to have been duly mailed to the parties above specified if addressed to them in care of the keeper of records for the party in question.

(4) Upon notifying the owner in writing of its intention to pursue its first refusal option during such 120-day period, the department or its assignee shall have an additional 120 days, beginning on the date of the termination of the first refusal option period, to purchase the property. The time periods may be extended by mutual agreement between the department or its assignee and the owner of the property; provided, however, that any such extension agreed upon shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Within a reasonable time after request, the owner shall make available to the department or its assignee any information, which is reasonably necessary for the department to exercise its rights. The department or its assignee may purchase or acquire the property only for the purposes of preserving or providing affordable housing; provided, however, that such housing shall remain affordable for not less than 40 years. Such use restrictions shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

(e) The owner of property subject to a UCH-TIF plan shall certify to the city or town the income of the families or occupants, upon initial occupancy, of the affordable housing units designated in the UCH-TIF agreement and such certification shall be provided to the department on an annual basis. If the owner fails to provide certification or otherwise fails to comply with the UCH-TIF agreement, including failing to maintain the affordability of housing units assisted under this section, the city or town may place a lien on the property in the amount of the real estate tax exemptions granted pursuant to the UCH-TIF agreement for any year in which the owner is not in compliance with this subsection. If the city or town determines, with the approval of the department of housing and community development, that the owner is unlikely to come into compliance with the affordability requirements of subclause (3) of clause (v) of subsection (a), the city or town may place a lien on the property in the amount of the total real estate tax exemption granted pursuant to the UCH-TIF agreement. Any such lien shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies.

SECTION 17. Section 18 of chapter 40N of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words "of the emergency finance board established under the provisions of chapter 49 of the acts of 1933 or".

SECTION 18. The General Laws are hereby amended by inserting after chapter 40P the following chapter:-

CHAPTER 40Q.

DISTRICT IMPROVEMENT FINANCING.

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

"Base date", the last assessment date of the real property tax immediately preceding the creation of the district.

"Captured assessed value", the valuation amount by which the current assessed value of an invested revenue district exceeds the original assessed value of the district. If the current assessed value is equal to or less than the original, there is no captured assessed value.

"Development district", a specified area within the corporate limits of a city or town which has been designated as provided in section 2 and which is to be developed by the city or town under a development program.

"Development program", a statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within a development district. Means and objectives designed to increase or improve residential housing, both affordable and market rate, may also be addressed within a district and shall be considered part of a development program. The statement shall include:

- (1) a financial plan;
- (2) a complete list of public facilities to be constructed;
- (3) the use of private property;
- (4) plans for the relocation of persons displaced by the development activities;
- (5) plans, if any, for the development of housing, both affordable and market rate;
- (6) the proposed regulations and facilities to improve transportation;
- (7) the proposed operation of the district after the planned capital improvements are completed; and
- (8) the duration of the program which shall not exceed 30 years from the date of designation of the district.

"Financial plan", a statement of the costs and sources of revenue required to accomplish the development programs which shall include: (1) cost estimates for the development program; (2) the amount of indebtedness to be incurred; and (3) sources of anticipated capital.

"Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of all parcels of all residential and commercial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential and commercial real estate as determined by the commissioner of revenue pursuant to paragraph (f) of section 21C of chapter 59 ; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1.

"Invested revenue district", a type of development district or portion of a district that uses tax increment financing under section 3.

"Invested revenue district development program", a statement which, in addition to the information required for a development program, shall also include: (1) estimates of the captured assessed value of the district; (2) a projection of the tax revenues to be derived from the invested revenue district in the absence of a development program; (3) the method of calculating the tax increment together with any provisions for adjustment of the method of calculation; (4) the board or officer of the city or town responsible for calculating the tax increment; (5) a statement as to whether the issuance of bonds contemplated under this chapter shall be general or special obligation bonds; (6) the portion of the captured assessed

value to be applied to the development program and resulting tax increments in each year of the program; and (7) a statement of the estimated impact of tax increment financing on all taxing jurisdictions in which the district is located.

"Original assessed value", the aggregate assessed value of the district as of the base date, increased each year by a percentage equal to the inflation factor. The original assessed value shall be increased or decreased annually as a result of a change in the tax-exempt status of property within the district.

"Project", a project to be undertaken in accordance with the development program.

"Project costs", any expenditure made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city or town which are listed in a project plan as costs of improvements including, but not limited to, public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to residential, commercial or industrial users within a development district plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the city or town in connection with the implementation of this plan.

Project costs shall include, but not be limited to:-

(1) "administrative costs", any reasonable charges for the time spent by city or town employees in connection with the implementation of a project plan;

(2) "capital costs", the actual costs of the construction of public works or improvements, new buildings, structures and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures; the acquisition of equipment; and the grading and clearing of land;

(3) "discretionary costs", those payments made by the appropriate body of a city or town that in its discretion are found to be necessary or convenient to the creation of development districts or the implementation of project plans.

(4) "financing costs", including, but not be limited to, all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(5) "improvement costs", those costs associated with developing new employment opportunities, promoting public events, advertising cultural, educational and commercial activities, providing public safety, establishing and maintaining administrative and managerial support and such other services as are necessary or appropriate to carry out the development program;

(6) "organizational costs", all reasonable costs relating to the conduct of environmental impact and other studies and informing the public about the creation of development districts and the implementation of project plans;

(7) "professional service costs", including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice or services;

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(8) "real property assembly costs", any deficit incurred resulting from the sale or lease by the city or town, as lessor, of real or personal property within a development district for consideration which is less than its cost to the city or town;

(9) "relocation costs", all reasonable relocation payments made pursuant to a condemnation;

(10) "training costs", costs associated with providing skills, development and training for employees of businesses within the development district; provided, however, that these costs shall not exceed 20 per cent of the total project costs and shall be designated as training funds within 5 years of the issuance of bonds pursuant to this chapter for the project or the designation of the district, whichever occurs later; and

(11) "water and sewer line costs", which shall include the costs related to the construction or alteration of sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines or amenities on streets or the rebuilding or expansion thereto so long as required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district;

Project costs shall not include the cost of a building or a portion of a building used predominantly for the general conduct of government, such as a city hall, courthouse, jail, police or fire station or other state or local government office buildings.

"Project revenues", receipts of a city or town with respect to a project including, without limitation, tax increments, investment earnings and proceeds of insurance or disposition of property.

"Tax increment", that portion of all real and personal property taxes assessed by a city or town upon the captured assessed value of property in the development district. The portion of the tax levy attributable to the increased valuation after the base date shall be calculated using the same classification factors as were used as of the base date, or without classification factors, if property was not classified for tax purposes as of the base date. If the base date is earlier than the date as of which the commissioner of revenue makes the certification required by subsection (c) of section 2A of chapter 59, the project plan may provide for such further adjustment in calculating the tax increment as may be deemed appropriate to reflect changes of practice after the base date with respect to the valuation of property in order to achieve assessment at full and fair cash valuation.

Section 2. (a) Notwithstanding any general or special law to the contrary, any city or town by vote of its town meeting, town council or city council with the approval of the mayor where required by law may designate development districts within the boundaries of the city or town provided, however, that: (1) a development district may consist of 1 or more parcels or lots of land, whether or not contiguous, or 1 or more buildings or structures, whether or not adjacent, on 1 or more parcels of land, provided that the total area of all development districts shall not exceed 25 per cent of the total area of a city or town; and provided that the boundaries of a development district may be altered only after meeting the

requirements for adoption under this subsection; (2) the development district has been certified as an approved development district by the economic assistance coordinating council established in section 3B of chapter 23A and pursuant to regulations adopted by said council. The economic assistance coordinating council shall find, based on the information submitted to it in support of the designation of the development district by the city or town and additional investigation as the economic assistance coordinating council shall make, and incorporate into its minutes, that the designation of the development district is consistent with the requirements of this section and will further the public purpose of encouraging increased residential, industrial and commercial activity in the commonwealth.

(b) The city or town shall adopt a development program for each development district. The program shall be adopted at the same time as the district, as part of the district adoption proceedings or, if at a different time, in the same manner as adoption of the district, with the same certification requirements of subsection (a). Once approved, the program shall be altered or amended only after meeting the requirements for adoption.

(c) Within development districts and consistent with the development program, the city or town may acquire, construct, reconstruct, improve, preserve, alter, extend, operate, maintain or promote development intended to meet the objectives of the development program. In addition to the powers granted by any other law, for the purpose of carrying on a project as authorized by this chapter, a city or town may:

(1) incur indebtedness as hereinafter provided and pledge tax increments and other project revenues for repayment thereof;

(2) create a department, designate an existing department, board officer, agency, municipal housing or redevelopment authority of the city or town or enter into a contractual agreement with a private entity to administer the activities authorized by this chapter;

(3) make and enter into all contracts and agreements necessary in order to carry out the development program;

(4) receive from the federal government or the commonwealth loans or grants for, or in aid of, a project and receive contributions from any other source to defray project costs;

(5) purchase or acquire by eminent domain pursuant to chapter 79 or chapter 80A, insofar as those laws may be applicable, and pursuant to all preliminary requirements prescribed by law, such property or interests therein within a district as the city or town may deem necessary in order to carry out the development program; provided, however, that any taking of property by eminent domain for any purpose for which the taking by the city or town could not be made in the absence of this chapter shall be authorized by a two-thirds vote as defined in section 1 of chapter 44;

(6) make relocation payments to persons, businesses or organizations that may be displaced as a result of carrying out the development program;

(7) clear and improve property acquired by it pursuant to the development program and construct public facilities thereon, or contract for the construction, development, redevelopment, rehabilitation, remodeling, alteration or repair of such property;

(8) cause parks, playgrounds or schools, water or sewer drainage facilities or any other public improvements that it is otherwise authorized to undertake, to be laid out, constructed or furnished in connection with the development program;

(9) lay out, construct, alter, relocate, change the grade of, make specific repairs upon or discontinue public ways and sidewalks in or adjacent to the development district;

(10) cause private ways, sidewalks, ways for vehicular travel and similar improvements to be constructed within the development district for the particular use of the development district or those dwelling or working therein;

(11) adopt ordinances or by-laws under section 5 of chapter 40A, or repeal or modify the ordinances or by-laws or establish exceptions to existing ordinances and by-laws, regulating the design, construction and use of buildings;

(12) sell, mortgage, lease as lessor, transfer or dispose of any property or interest therein acquired by it pursuant to the project plan for development, redevelopment or rehabilitation in accordance with the development program;

(13) invest project revenue as hereinafter provided; and

(14) do all things reasonably necessary or convenient to carry out the powers granted in this chapter.

Section 3. (a) The city or town may retain all or part of the tax increment of an invested revenue district for the purpose of financing the development program. The amount of tax increment to be retained shall be determined by designating the amount of captured assessed value to be retained. When a development program for an invested revenue district is adopted, the city or town shall adopt a statement of the percentage of captured assessed value to be retained in accordance with the development program. The statement of percentage may establish a specific percentage or percentages or may describe a method or formula for determination of the percentage. The assessor shall certify the amount of the captured assessed value to the city or town each year.

(b) On or after the formation of an invested revenue district, the assessor of the city or town in which it is located shall, on request of the city or town, certify the original assessed value of the taxable property within the boundaries of the invested revenue district. Each year, after the formation of an invested revenue district, the assessor of the city or town shall certify the amount by which the assessed value has increased or decreased from the original value.

(c) If a city or town has elected to retain all or a percentage of the retained captured assessed value under subsection (a), the city or town shall:

(1) establish a development program fund that consists of: (i) a development sinking fund account that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the costs of the development program fund; and (ii) a project cost account that is pledged to and charged with the payment of project costs as outlined in the financial plan and paid in a manner other than as described in subclause (i).

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(2) set aside annually all tax increment revenues on retained captured assessed values and deposit all such revenues in the appropriate development program fund account in the following priority:

(i) to the development sinking fund account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual debt service on bonds and notes issued under section 4 and the financial plan; and

(ii) to the project cost account, an amount sufficient, together with estimated future revenues to be deposited to the account and earnings on the amount, to satisfy all annual project costs to be paid from the account;

(3) to be permitted to make transfers between development program fund accounts as required; provided, however, that the transfers shall not result in a balance in the development sinking fund account that is insufficient to cover the annual obligations of that account; and

(4) annually return to the general fund of the city or town any tax increment revenue in excess of those estimated to be required to satisfy the obligations of the development sinking fund account.

Section 4. (a) A city or town may, by a two-thirds vote as defined in section 1 of chapter 44 , authorize, issue and sell bonds including, but not limited to, general obligation or revenue bonds or notes, to finance all project costs needed to carry out the development program within a development district. Without limiting the generality of the foregoing, such bonds may be issued for the payment of project costs, which may include interest before and during the carrying out of a project and, for a reasonable time thereafter, such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out and financing the project.

(b) The bonds of each issue shall be dated and may be made redeemable before maturity with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds shall determine: the date of the bonds which shall mature within 30 years from their respective dates; their denomination; the place of payment of the principal and interest, which may be at a bank or trust company within or without the commonwealth; their interest rate; maturity; redemption privileges, if any, and the form and other details of the bonds. Notwithstanding a municipal charter or any general or special law to the contrary, bonds issued hereunder may provide for annual or more frequent installments of principal in equal, diminishing or increasing amounts with the first installment of principal to be due at any time within 5 years after the date of issuance of the bonds and, subject to the authorizing vote, may provide for such rates of interest as the officers authorized to sell the bonds shall deem proper, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be specified in such bond. The bond shall be signed by the mayor or city manager as the case may be of a city or by a majority of the board of selectmen or town council of a town either manually or by facsimile thereof. Any coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

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(c) If an officer whose signature, or a facsimile of whose signature, shall appear on any bonds, coupons or notes issued under this chapter shall cease to be such officer before the delivery thereof, his signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery.

(d) The bonds shall be issued in registered form. Subject to the authorizing vote, the officers authorized to sell the bonds may sell the bonds in such manner, either at public or private sale, and for such price as they may determine shall best effect the purposes of this chapter.

(e) Before the preparation of definitive bonds, the city or town may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Provision may be made for the replacement of any bonds that shall have become mutilated or shall have been destroyed or lost.

(f) Bonds or notes issued hereunder may be secured in whole or in part by letters or lines of credit or other credit facilities. An insurance letter or line of credit or credit facility may provide for reimbursement to be made over a period of time, not to exceed 2 years, beyond the maturity date of the bonds or notes so secured.

(g) In the discretion of the officers authorized to sell the bonds but subject to the vote authorizing the bonds, bonds issued hereunder may be secured by trust agreements between the city or town and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the commonwealth. A trust agreement hereunder shall be in such form and executed in such manner as may be determined by such officers. A trust agreement may pledge or assign project revenue, in whole or in part, and may provide that the owner or holder of bonds issued thereunder may have a lien or mortgage on a facility acquired, improved or constructed with the proceeds of the tax increment bonds, may contain provisions for protecting and enforcing the rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of the law 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, and covenants setting forth the duties of, and limitations on, the city or town in relation to carrying out and otherwise administering the projects; the custody, safeguarding, investment and application of project revenues; the issuance of additional bonds hereunder; the determination of tax increments; the fixing of fees and charges, if any, in relation to the projects; the collection of project revenues; the use of any surplus bond proceeds; the establishment of reserve and the replacement of bonds or coupons which shall become mutilated, destroyed or lost. Subject to this chapter, moneys subject to the trust agreement shall be held, invested and applied as provided therein, but moneys not deposited in trust with a corporate trustee shall be in the custody of the city or town treasurer.

(h) A bank or trust company may act as a depository or trustee of proceeds of bonds or of other monies under a trust agreement and furnish such indemnifying bonds or pledge

securities required by the trust agreement. Any such trust agreement or resolution may set the rights and remedies of the bondholders and of the trustees and may restrict the individual right of action by a bondholder. All expenses incurred in carrying out the trust agreement or resolution may be treated as operating expenses.

(i) Notwithstanding chapter 106 or any other general or special law to the contrary: (1) any pledge hereunder shall be valid and binding and shall be deemed continuously perfected from the time it is made; (2) no filing shall be required under said chapter 106 or otherwise; (3) unless otherwise provided in the financing instruments, a pledge of project revenues shall be deemed to include a pledge of any accounts or general intangibles from which such revenues are derived whether existing at the time of the pledge or thereafter acquired by the city or town and the proceeds of such accounts or general intangibles; and (4) the pledged project revenue accounts and general intangibles shall be subject to the lien of the pledge without delivery or segregating and the lien of the pledge shall be valid and binding against all parties having claims in contract, tort or otherwise against the city or town.

(j) A pledge of project revenues under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation and such revenues may be applied as required by the pledge without further appropriation. Notwithstanding this subsection, administrative expenses shall be subject to appropriation.

(k) In anticipation of the issuance of bonds under this chapter and subject to the vote authorizing the bonds, the officers authorized to sell bonds may without further authorization issue temporary notes. The notes may be secured as in the case of bonds, and except as otherwise provided in this section, subsections (i), (k), (l) and (n) referring to bonds shall also be deemed to refer to the notes. The notes shall not require the seal of the city or town or a facsimile thereof. The notes shall be payable within 2 years from their respective dates, but the principal of and interest on notes issued for a short period may be refunded from time to time by the issuance of other notes maturing within 2 years from the original date of issuance of the indebtedness being refunded.

(l) A city or town may, when authorized by a majority vote as defined in section 1 of chapter 44 , issue refunding bonds for the purpose of paying any of its bonds issued hereunder at maturity or upon acceleration of redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the city or town deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of the bonds, the expense of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other purposes from the proceeds of such refunding bonds as may be required by an agreement securing the bonds. The issuance of refunding bonds, the maturities and other details thereof, the security thereof, the rights of holders thereof and the rights, duties and obligations of the city or town with respect thereto

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shall be governed by this chapter relating to the issuance of bonds other than refunding bonds insofar as the same may be applicable.

(m) The bonds and notes issued under this chapter shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity. Except as otherwise provided in this chapter, such bonds and notes shall not be subject to chapter 44.

(n) Subject to an agreement securing bonds or notes issued under this chapter, the proceeds of bonds or notes pledged for tax increments and other project revenues may be deposited or invested in such investments as may be lawful for fiduciaries in the commonwealth.

(o) All project revenues received pursuant to this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

(p) A holder of bonds or notes issued under this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing the same, except to the extent the rights herein given may be restricted by an agreement securing the same, may bring suit upon the bonds, notes or coupons and may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights under the laws of the commonwealth or granted under this chapter or under any such agreement and may enforce or comply with the performance of all duties required by this chapter or by an agreement to be performed by the city or town or by any officer thereof.

(q) Bonds and notes issued under this chapter shall be securities in which insurance companies, trust companies, banking associations, savings banks, cooperative banks, investment companies, executors, trustees and other fiduciaries and all other persons whatsoever who are or may hereafter be authorized to invest in bonds or notes or other obligations of a similar nature may properly and legally invest funds, including capital deposits or other funds in their control and belonging to them. The debt obligations shall be securities which may properly and legally be deposited with and received by a state or municipal office, agency or political subdivision of the commonwealth for any purpose for which the deposits of bonds or other obligations of the commonwealth may now or hereafter be authorized by law.

(r) Notwithstanding this chapter or any recitals in any bonds or notes issued under this chapter, all bonds and notes shall be deemed to be investment securities under chapter 106.

(s) The bonds and notes issued under this chapter, their transfer and the income therefrom, including any profits made on the sale thereof, shall be at all times free from taxation within the commonwealth.

SECTION 19. Section 41 of chapter 41 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- Except as otherwise provided in a collective bargaining agreement, the treasurer or other fiscal officer may pay the payroll to an employee on a biweekly or semimonthly basis.

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SECTION 20. Said chapter 41 is hereby further amended by inserting after section 95 the following 2 sections:-

Section 95A. Constables appointed pursuant to the provisions of sections 91, 91A and 91B or otherwise elected to serve as such in a city or town shall deposit with the city or town treasurer 50 per cent of the fees collected by them for the service of civil process in excess of the fee structure established in section 8 of chapter 262 prior to July 1, 2003. The treasurer shall deposit such funds into the General Fund of the city or town and they shall be expended, subject to appropriation by a majority vote of the city council in a city or by a majority vote of town meeting in a town, for any purpose for which the city or town deems necessary.

Section 95B. Each constable shall annually on or before April 15 file with the city or town treasurer an account signed under the penalties of perjury of all fees and money received by him under section 8 of chapter 262 for the service of civil process. Such account shall include an itemization of all civil process fees charged by the constable's civil process office, all revenue received from said fees, the compensation structure for personnel engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. The account shall also include the number of civil process transactions by nature and quantity performed by such constable, fee schedule per transaction for those transactions where section 8 of chapter 262 permit the constable discretion to set the fee, the role of the city or county treasurer in the operation of the civil process division, the number of full-time and part-time employees and independent contractors utilized for the service of civil process, and the compensation structure used to compensate civil process employees and independent contractors.

SECTION 21. Section 99E of said chapter 41, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 20 to 22, inclusive, the words "; provided, however, that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board".

SECTION 22. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (3A) and inserting in place thereof the following clause:-

(3A) For remodeling, reconstructing or making extraordinary repairs to public buildings owned by the city or town, including original equipment and landscaping, paving and other site improvements incidental or directly related to such remodeling, reconstruction or repair, for a term not exceeding 20 years.

SECTION 23. Said section 7 of said chapter 44, as so appearing, is hereby amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) For the cost of equipment, 5 years or for such maximum term, not exceeding 15 years, based upon the maximum useful life of the equipment as determined by the board of selectmen or the mayor or city manager of the city or town.

SECTION 24. Section 8 of said chapter 44, as so appearing, is hereby amended by

striking out, in lines 26 and 27, the words ", such amounts as may be approved by the emergency finance board".

SECTION 25. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 54 and 55, the words "emergency finance board, established under section 47 of chapter 10 " and inserting in place thereof the following words:- majority of the members of a board composed of the attorney general, the state treasurer, the state auditors, and the director of accounts, or their designees.

SECTION 26. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 63 and 64, the words "emergency finance board, established under section 47 of chapter 10 " and inserting in place thereof the following words:- majority of the members of a board composed of the attorney general, the state treasurer, the state auditor and the director of accounts, or their designees.

SECTION 27. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out clause (15) and inserting in place thereof the following clause:-

(15) For the construction of sewers, sewerage systems and sewage treatment and disposal facilities, or for the lump sum payment of the cost of tie-in to such services in a contiguous city or town, for a period not exceeding 30 years; provided, however, that the city or town has an enterprise or special revenue fund for sewer services and that the accountant or auditor or other officer having similar duties in the city or town, shall have certified to the treasurer that rates and charges have been set at a sufficient level to cover the estimated operating expenses and debt service related to the fund.

SECTION 28. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 139 and 140, the words "and shall be subject to the approval of the emergency finance board".

SECTION 29. Said section 8 of said chapter 44, as so appearing, is hereby amended by striking out, in line 143, the words "the emergency finance board,".

SECTION 30. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in line 152, the words "with the approval of the Emergency Finance Board, for the portion of the project so financed and for such amounts as so approved".

SECTION 31. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 176 to 179, inclusive, the words "such amounts as may be approved by the emergency finance board established under section one of chapter forty-nine of the acts of nineteen hundred and thirty-three, and for such maximum term, not exceeding ten years, as said board shall fix" and inserting in place thereof the following words:- for such maximum term not exceeding 10 years.

SECTION 32. Section 10 of said chapter 44, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Except as otherwise provided by law, a city or town shall not authorize indebtedness to an amount exceeding 5 per cent of the equalized valuation of the city or town. A city or town may authorize indebtedness in excess of 5 per cent but not in excess of 10 per cent, of

the aforesaid equalized valuation; provided, however, that the amount of indebtedness so authorized shall be subject to the approval of the members of a board comprised of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees, which approval may be given either before or after such authorization.

SECTION 33. Section 20 of said chapter 44, as so appearing, is hereby amended by adding the following 2 sentences:- Effective with the fiscal year 2005 tax rate approval process, additions to the levy limit for a debt exclusion are restricted to the true interest cost incurred to finance the excluded project. Premiums received at the time of sale shall be offset against the stated interest cost in computing the debt exclusion.

SECTION 34. The first paragraph of section 21A of said chapter 44, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The city council of a city, the board of selectmen of a town, the school committee of a regional school district and the prudential committee, if any, otherwise, the commissioners of a district may provide for the issuance of refunding bonds or notes of the city, town, regional school district or district for the purpose of paying or refunding all or any designated part of an issue of bonds or notes then outstanding, including the amount of any redemption premium thereon; provided, however, that no such refunding bonds shall be payable over a period longer than the period during which the original bonds or notes so refunded shall be paid pursuant to law.

SECTION 35. Said chapter 44 is hereby further amended by inserting after section 42 the following section:-

Section 42A. The department of the state auditor, in accordance with section 12 of chapter 11, shall establish a 2 year pilot program for the audit of the accounts, programs, activities, and other public functions of a particular city, town, county, district, or regional school district where there are suspected irregularities or illegal acts. Any audit undertaken under this section shall include an audit of any accounts, programs, activities and functions of a city, town, county, district or regional school district for the purpose of identifying any irregularities or illegal acts by a department, office or agency of the respective city, town, county, district or regional school district. On or before April 1 of each year, the department of the state auditor shall submit a report to the house and senate committees on ways and means which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit. Nothing in this section shall require the department of the state auditor to perform an audit of a city, town, county, district or regional school district.

SECTION 36. Section 53G of said chapter 44, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 2 to 5, inclusive, the words "section nine or twelve of chapter forty A or section eight-one Q of chapter forty-one, section twenty-one of chapter forty B or section thirty one of chapter one hundred and eleven" and inserting in place thereof the following words:- section 8C of chapter 40, section 9 or 12 of chapter 40A, section 21 of chapter 40B, section 81Q of chapter 41 or section 31 of chapter 111.

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SECTION 37. Section 1 of chapter 44A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Board" and inserting in place thereof the following definition:-

"Board", a board comprised of the attorney general, the state treasurer, the state auditor, and the director of accounts, or their designees.

SECTION 38. Section 5 of chapter 44B of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee and, notwithstanding section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

NO SECTION 39.

SECTION 40. Section 4 of chapter 51 of the General Laws, as so appearing, is hereby amended by adding the following subsection:- (e) The name and address of any law enforcement or public safety personnel who so requests shall not appear on the street list and such names shall not be disclosed to any person.

SECTION 41. Section 2D of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "In any city or town which accepts the provisions of this section pursuant to subsection (f), whenever" and inserting in place thereof the following word:- Whenever.

SECTION 42. Said section 2D of said chapter 59, as so appearing, is hereby further amended by striking out subsection (f) and inserting the following subsection:-

(f) The local appropriating authority, as defined in section 21C, may reject this section by written notification to the department of revenue.

SECTION 43. Section 5 of said chapter 59, as so appearing, is hereby amended by striking out, in line 569, the word "cent." and inserting in place thereof the following words:- cent; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 44. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "unmarried", in line 609, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 45. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "granted", in line 643, the following words:- ; provided, however, that the assessors may refuse to grant an exemption in any subsequent year if they

become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 46. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "allowed", in line 685, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 47. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "allowed", in line 731, the words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the soldier or sailor did not satisfy all of the requisites of this clause at the time the exemption was first granted.

SECTION 47A. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "fifty-nine", in lines 1347, 1351, 1355, and 1359, the following words:- or section sixty.

SECTION 48. Section 5 of said chapter 59 is hereby further amended by adding the following clause:-

Fifty-fifth. With respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member pursuant to a proprietary lease as the member's domicile shall be deemed to be real property owned by such member for the purposes of this section, provided, that such portion of the real estate is represented by the member's share or shares of stock in the cooperative corporation and the percentage of such portion to the whole is determined by the percentage of the member's shares to the total outstanding stock of the corporation, including shares owned by the corporation. Such portion of such real property shall be eligible for any exemption provided in this section if such member meets all requirements for such exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation; provided, however, that the reduction in taxes realized thereby shall be credited by the cooperative corporation against the amount of such taxes otherwise payable by or chargeable to such member. Nothing in this clause shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but shall apply to the land on which such manufactured home or mobile home is located if all other requirements of this clause are met. This clause shall take effect in a city or town upon its acceptance by the city or town.

SECTION 49. Section 5C of said chapter 59, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

For purposes of this section, with respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member pursuant to a proprietary lease as such member's domicile and is used as such member's principal residence for income tax purposes shall be deemed to be real property

owned by such member for purposes of this section, provided that the portion of the real estate is represented by the member's share or shares of stock in the cooperative corporation and the percentage of such portion to the whole is the percentage of such member's shares in the cooperative corporation to the total outstanding stock of the corporation, including shares owned by the corporation. Such portion of such real property shall be eligible for exemption from taxation pursuant to this section if such member meets all requirements for such exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation; provided, however, that the reduction in taxes realized thereby shall be credited by the cooperative corporation against the amount of such taxes otherwise payable by or chargeable to such member. Nothing in this paragraph shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but shall apply to the land on which such manufactured home or mobile home is located if all other requirements of this paragraph are met. This paragraph shall take effect in a city or town upon its acceptance by the city or town.

SECTION 50. Paragraph (g) of section 21C of chapter 59, as so appearing, is hereby amended by adding the following paragraph:-

If a question as aforesaid shall provide for assessing taxes for the purpose of funding a stabilization fund established pursuant to section 5B of chapter 40, the assessors shall in each successive fiscal year assess property taxes for the same purpose in an amount equal to 102.5 per cent of the amount assessed in the next preceding year in which additional taxes were assessed for such purpose, but only if the local appropriating authority votes by a 2/3 vote to appropriate such increased amount in such year for such purpose. The voters of the city or town, by majority vote at a referendum, may alter the purpose of a stabilization fund or authorize the assessment of such additional property taxes for another purpose. In any year in which the local appropriating authority does not vote to appropriate such amount as aforesaid, the total property tax levy for such year shall be reduced by the amount that could otherwise have been assessed, so that such additional taxes may not be assessed for any other purpose. The maximum levy limit under paragraph (f) shall not be affected by any such reduction in the levy for such year.

SECTION 51. Section 25 of said chapter 59, as so appearing, is hereby amended by striking out, in line 1, the words ", except Boston".

SECTION 52. Section 57 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of the tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.

SECTION 53. Section 57C of said chapter 59, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

This section shall be applicable in any city or town which accepts this section, notwithstanding section 57. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out not later than July 1 of each year. In the

case of cities and towns with quarterly tax payments, the preliminary tax shall be due and payable in 2 installments, the first installment due on August 1 and the second installment on November 1, after which dates, if unpaid, they shall become delinquent and subject to interest as provided herein.

SECTION 54. Said section 57C of said chapter 59, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, and in the case of cities and towns with quarterly payments, shall be due and payable in 2 installments, on February 1 and on May 1 respectively, after which dates, if unpaid, they shall become delinquent and, in the case of cities and towns with semi-annual payments, shall be due and payable on April 1, after which date, if unpaid, they shall become delinquent. A tax bill sent out pursuant to this section shall contain information indicating the amount, if any, of the tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charges which is overdue more than 90 days.

SECTION 55. Chapter 60 of the General Laws is hereby amended by inserting after section 3D the following section:-

Section 3E. Partial payments of bills for taxes, excises or municipal charges and fees, including partial payments under sections 22 and 62, shall be applied first to any interest due, then to collection charges, that have been added to the bills, unless the amount of the interest and charges taken together may be waived and the collector or other officer responsible for collecting the bills determines that the partial payment should be first applied to the underlying obligation.

SECTION 56. Section 15 of said chapter 60, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 6, the words "two dollars" and inserting in place thereof the following figure:- \$10.

SECTION 57. Said section 15 of said chapter 60, as so appearing, is hereby further amended by inserting after the word "advertisement", in line 7, the following words:- and the necessary legal fees for search of title.

SECTION 58. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 9, the words "two dollars" and inserting in place thereof the following figure:- \$5.

SECTION 59. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 11, the words "one dollar" and inserting in place thereof the following figure:- \$10.

SECTION 60. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 12 and 13, the words "two dollars for each parcel of land included therein" and inserting in place thereof the following words:- the cost thereof.

SECTION 61. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 14, lines 15 and 16, and in lines 23 and 36, the words "five dollars" and inserting in place thereof, in each instance, the following figure:- \$10.

SECTION 62. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 18 the words "nine dollars" and inserting in place thereof, the following figure:- \$12.

SECTION 63. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 21 and 22, the words "fourteen dollars" and inserting in place thereof the following figure:- \$17.

SECTION 64. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 26 to 28, inclusive, the words "not more than ten dollars for each day or not more than eight hours for the keeper while he is in charge, and twenty dollars a day for the officer" and inserting in place thereof the following words:- the cost thereof.

SECTION 65. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 32 and 33, the words "ten dollars, and a sum, not exceeding fifteen dollars for travel, at the rate of fifteen cents" and inserting in place thereof the following words:- the necessary costs of the arresting officer and the cost of travel, at the rate of \$.30.

SECTION 66. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 37, the words "fifteen cents" and inserting in place thereof the following figure:- \$.30.

SECTION 67. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in lines 42 to 44, inclusive, the words "one dollar, and travel at the rate of fifteen cents per mile from the office of the collector to the place where service is made, but in no event more than fifteen dollars" and inserting in place thereof the following words:- the cost thereof, but not more than \$40.

SECTION 68. Said section 15 of said chapter 60, as so appearing, is hereby further amended by striking out, in line 52, the words "five dollars" and inserting in place thereof the following figure:- \$15.

SECTION 69. Said section 15 of said chapter 60, as so appearing, is hereby further amended by adding the following clause:-

19. For the recording of the instrument of taking under section 54, the cost thereof.

SECTION 70. Section 65 of said chapter 60, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "; provided, however, that such legal fees shall not exceed five hundred dollars".

SECTION 71. Section 1 of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting after the word "allowed", in line 124, the following words:- ; provided, however, that the assessors may refuse to allow an exemption in any subsequent year if they become aware that the veteran or person did not satisfy all of the requisites of this

section at the time the exemption was first granted.

SECTION 72. Section 12 of chapter 64J of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "semi-annually" and inserting in place thereof the following word:- quarterly.

SECTION 73. Section 1I of chapter 69 of the General Laws, as so appearing, is hereby amended by inserting after the sixth paragraph the following 5 paragraphs:-

For the purposes of improving the performance of school districts and individual public schools and the efficacy and equity of state and federal programs and for the purposes of reducing the amount of paperwork to relieve the administrative burden on local districts, each district shall file with the commissioner once in each 3 year period a comprehensive, 3 year district improvement plan. The plan shall be developed and submitted in a manner and form prescribed by the department of education.

The plan shall, to the extent feasible, be designed to fulfill all planning requirements of state and federal education laws, and shall include, but not be limited to: (a) an analysis of student and subgroup achievement gaps in core subjects; (b) identification of specific improvement objectives; (c) a description of the strategic initiatives the district will undertake to achieve its improvement objectives; and (d) performance benchmarks and processes for evaluating the effect of district improvement initiatives. Also the plan shall describe the professional development activities that will support each district improvement initiative and the teacher induction and mentoring activities that will be undertaken to support successful implementation of the district's improvement efforts.

On an annual basis, not later than September 1 of each year, each district shall prepare and have available for state review an annual action plan. The district annual action plan shall enumerate the specific activities, persons responsible, and timelines for action to be taken as part of the strategic initiatives set forth in the district's 3 year improvement plan, and shall identify the staff and financial resources allocated to support these initiatives.

Annually, the principal of each school, in consultation with the school council established pursuant to this section, shall adopt student performance goals for the schools consistent with the school performance goals established by the department of education pursuant to state and federal law and regulations and, consistent with any educational policies established for the district shall assess the needs of the school in light of those goals and formulate a school plan to advance such goals and improve student performance. The school's plan to support improved student performance shall include, but not be limited to, the same components required for district improvement plans and shall conform to department and district specifications to ensure that such school improvement plans meet state and federal law requirements. Each school improvement plan shall be submitted to the superintendent and the school committee for review and approval not later than July 1 of the year in which the plan is to be implemented, according to a plan development and review schedule established by the district superintendent.

The 3-year comprehensive district plan, annual district action plan and annual school improvement plan shall replace any district and school plans previously required under the

education reform including, but not limited to, the school improvement plans required by section 59C of chapter 71, the provisional educator program plan required by section 38G of chapter 71, the professional development plan required by section 38Q of chapter 71, the curriculum accommodation plan required by section 38Q½ of chapter 71, the MCAS success plan, if any, required under this section and any other report or plan called for by the General Laws or regulation, which, in the professional opinion of the commissioner, would be most effectively presented as part of the coordinated district or school plan for improving student achievement. The department shall identify any additional reports or plans called for by any general law or regulation which can be incorporated into this single filing in order to reduce paperwork and eliminate duplication.

SECTION 74. Section 6 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words "emergency finance board established under section 7 of chapter 10" and inserting in place thereof the following words:- board of selectmen or mayor or city manager of the city or town.

SECTION 75. Section 14B of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Copies of such agreement shall be submitted to the department of education, and subject to its approval, to the several towns for their acceptance.

SECTION 76. Section 16 of said chapter 71, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words ", that any indebtedness so incurred shall not exceed an amount approved by the emergency finance board; and provided, further,".

SECTION 77. Said section 16 of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 100 and 101, the words "not exceeding an amount approved by the emergency finance board".

SECTION 78. Said section 16 of said chapter 71, as so appearing, is hereby further amended by inserting after clause (n) the following clause:-

(o) To refinance any debt incurred under paragraphs (d), (e), or (n), in accordance with the provisions of section 21A of chapter 44.

SECTION 79. Section 16G½ of said chapter 71, as so appearing, is hereby amended by striking out, in line 8, the words "emergency finance board" and inserting in place thereof the following words:- director of accounts.

SECTION 80. Section 16H of said chapter 71 is hereby repealed.

SECTION 81. Section 55B of said chapter 71 is hereby repealed.

SECTION 82. Section 59C of said chapter 71, as appearing in the 2002 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The principal of each school, in consultation with the school council established pursuant to this section, shall on an annual basis, in conformity with the provisions of section

11 of chapter 69, develop and submit for approval by the district superintendent a plan for improving student performance. Said plan shall be prepared in a manner and form prescribed by the department of education and shall conform to any policies and practices of the district consistent therewith.

SECTION 83. Section 68 of said chapter 71, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- In the case of transportation provided to students that is not required by this section or by any other general or special law, a school committee may assess fees to the transported student up to an amount sufficient to cover the costs incurred by the district; provided, however, that no student eligible for free or reduced lunch, under the federal school lunch program, shall be required to pay the fee; and provided further, that a school committee may choose to exempt families at other income levels as it may determine.

SECTION 84. Chapter 74 of the General Laws is hereby amended by striking out section 8A, as so appearing, and inserting in place thereof the following section:-

Section 8A. A town where a person resides who is admitted to a day school in another town under section 7, may, through its school committee, when necessary, provide for the transportation of such person and may provide the transportation for a fee, regardless of where the pupil lives, but a student eligible for a free or reduced lunch under the federal school lunch program, shall not be required to pay a fee; provided, that a school committee may choose to exempt families at other income levels as it may determine.

SECTION 85. Section 9 of chapter 89 of the General Laws, as so appearing, is hereby amended by striking out, in line 56, the words "fifty dollars" and inserting in place thereof the following figure:- \$150.

SECTION 86. Section 11 of said chapter 89, as so appearing, is hereby amended by striking out, in line 17, the words "one hundred dollars" and inserting in place thereof the following figure:- \$150.

SECTION 87. Section 2F of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 63 and 64, the words "and the rider education program to promote driver and motorcycle safety" and inserting in place thereof the following words:- ; and cities and towns for the purpose of supporting local programs as organized by a single city or town or a state-wide organization on behalf of all cities and towns.

SECTION 88. Section 3 of said chapter 90, as so appearing, is hereby amended by striking out, in line 39, and in lines 55 and 56, the word "triplicate" and inserting in place thereof, in each instance, the following word:- quadruplicate.

SECTION 89. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "and", in line 43, the second time it appears, the following words:- local and out-of-state.

SECTION 90. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "vehicles", in line 56, the following words:- , 1 copy to

the local assessor's office.

SECTION 91. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 59, the words "fifty dollars" and inserting in place thereof the following figure:- \$200.

SECTION 92. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 64, the word "officers, and" and inserting in place thereof the following:- officers. Each such school or college shall provide to all nonresident students the following warning in bold type not less than ½ inch in height: "IT IS UNLAWFUL FOR A NONRESIDENT STUDENT TO FAIL TO FILE A NONRESIDENT DRIVER STATEMENT WITH THE POLICE DEPARTMENT LOCATED IN THE SAME CITY OR TOWN AS THE SCHOOL OR COLLEGE ATTENDED, IN ACCORDANCE WITH SECTION 3 OF CHAPTER 90 OF THE MASSACHUSETTS GENERAL LAWS. FAILURE TO FILE SUCH STATEMENT IS PUNISHABLE BY A FINE NOT TO EXCEED \$200." A written acknowledgment of receipt of this warning shall be required. Each such school or college.

SECTION 93. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "the", in line 67, the first time it appears, the following words:- written acknowledgement of receipt of the nonresident driver statement warning, the.

SECTION 94. Said section 3 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "vehicle", in line 74, the following words:- , which information shall be forwarded by the school or college to the assessor's office of the municipality listed as the student's local residence.

SECTION 95. Said section 3 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 75 and 76, the words "or to issue a decal as required by this paragraph" and inserting in place thereof the following words:- , to issue a decal as required by this paragraph or to forward register data to the assessor's office of a municipality in which a nonresident student resides.

SECTION 96. Subsection (c) of section 3½ of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

As an alternative to criminal prosecution, violation of this section may be disposed of as a civil motor vehicle infraction in the amount of \$500 under chapter 90C, fines recovered under this paragraph shall be divided as follows: 50 per cent of the fines shall be paid over to the treasury of the city or town in whose jurisdiction the motor vehicle is customarily garaged, of which not less than 40 per cent of the city or town share shall be appropriated to the police department in the city or town; and 50 per cent of the fines shall be paid over to the treasurer of the commonwealth to be deposited in the Highway Fund to offset costs associated with the implementation of this section.

SECTION 97. The fifth paragraph of section 20A of said chapter 90, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof

the following sentence:- The schedule of fines shall be uniform for the same offense committed in the same zone or district, if any, and shall not exceed \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided below, and \$50 if paid thereafter.

SECTION 98. Section 20E of said chapter 90, as so appearing, is hereby amended by striking out, in lines 64 and 72, the words "thirty cents" and inserting in place thereof, in each instance, the following figure:- \$.60.

SECTION 99. Section 2 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out, in line 61, the word "fourth" and inserting in place thereof the following word:- sixth.

SECTION 100. Section 2 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "fifty dollars" and inserting in place thereof the following figure:- \$75.

SECTION 100A. Said section 2 of said chapter 140 is hereby further amended by striking out the figure "\$75", inserted by section 100, and inserting in place thereof the following figure:- \$100.

SECTION 101. Section 59 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 5 and 6, the following words "one hundred dollars" and inserting in place thereof the following figure:- \$200.

SECTION 102. Clause (9) of section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the firearm identification card application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

SECTION 103. The first paragraph of subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, licensing authorities shall deposit quarterly such portion of the license application fee as is to be deposited into the General Fund, not later than January 1, April 1, July 1 and October 1 of each year.

SECTION 104. The first paragraph of section 10A of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A fee of \$25, unless otherwise set in a town by the board of selectmen or town council, and in a city by the mayor, may be charged by the head of the fire department for any permit granted under authority of this section, and any such permit may be revoked for cause by him or by the marshal, but in no event shall any such fee be greater than \$50.

SECTION 105. Paragraph (a) of subsection (1) of section 44D of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:- The bidder or offeror shall also include in its bid or offer and update statement the list of completed construction projects submitted to the division in its most re-

cent application for contractor certification.

SECTION 106. Subsection (3) of said section 44D of said chapter 149, as so appearing, is hereby amended by adding the following sentence:- Said certificate shall include the number of prior construction projects evaluated by the division of capital asset management and maintenance, the contractor's average numerical value on those projects evaluated, and the number of projects given numerical values below a passing score, as defined by the division's regulations or guidelines, during each of the previous 5 years.

SECTION 107. The first paragraph of section 6B of chapter 159B of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any general or special law to the contrary, a city or town by vote of its council or selectmen may establish the maximum rate that may be charged for the towing away of motor vehicles within its jurisdiction, but the maximum rate charged by a city or town shall not exceed the maximum rate established by the department.

SECTION 108. Chapter 200A of the General Laws is hereby amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. (a) On or before November 1 of each year, the treasurer of a city or town holding checks issued by the city or town which have not been cashed and which are deemed abandoned under section 5 may issue a written determination that it is in the best interests of the city or town to follow the procedures set out in this section rather than the procedures set out in sections 7, 7A, 7B, 8, 8A, 8B, 9, 10, 10A and 11. In the event that the treasurer of a city or town issues a written determination that it is in the best interests of the city or town to follow the procedures set out in this section, all checks in the possession of the city or town which were issued by that city or town and which are deemed abandoned under section 5 shall be governed by subsections (b), (c), (d) and (e) rather than said sections 7, 7A, 7B, 8, 8A, 8B, 9, 10, 10A and 11.

(b) The treasurer of a city or town holding checks each in an amount of less than \$100 issued by the city or town, which have not been cashed and which are deemed abandoned under section 5, shall send a notice to the last known address of each apparent owner by first class mail and, if the city or town maintains an official Internet website, it shall post conspicuously on the website, for a period of not less than 60 days, a notice to inform the apparent owner of each check of the process necessary to rebut the presumption of abandonment, provided that the records of the city or town do not disclose that the address is inaccurate. After 60 days from the mailing or posting of the notice, if the apparent owner fails to respond, the amount may be credited to the general treasury of the city or town.

(c) The treasurer of a city or town holding checks each in an amount of \$100 or more issued by the city or town which have not been cashed and are deemed abandoned under section 5, shall send a notice to the last known address of each apparent owner by first class mail and, if the city or town maintains an official Internet website, it shall post conspicuously on the website for a period of not less than 60 days, a notice to inform the apparent owner of each check of the process necessary to rebut the presumption of abandonment, provided that the records of the city or town do not disclose that the address is inaccurate. After 60

days from the mailing or posting of the notice, if the apparent owner fails to respond, the treasurer shall cause a notice of the checks to be published in a newspaper of general circulation which is printed in English in the county in which the city or town is located.

Each published notice or Internet website posting shall be entitled, "Notice of Names of Persons Appearing to be Owners of Checks Issued by (city or town), Which Have Not Been Cashed and are Deemed Abandoned" and shall contain the names in alphabetical order and last known address of each of the apparent owners.

Each published or posted notice shall also contain a statement that information about each check may be obtained by a person expressing an interest in the check by addressing an inquiry to the treasurer of the city or town whose name and address shall be included in the notice.

(d) Any person claiming an interest in a check issued by a city or town, which has not been cashed and which has been deemed abandoned under section 5, may establish a claim at any time on or before 1 year after the date of the publication. The treasurer of the city or town shall determine all such claims and shall send a written notice of his determination to the claimant immediately following such determination. At any time within 20 days after such notice, the claimant may apply for a hearing and redetermination of his claim. After an appropriate hearing before the treasurer of the city or town or his designee, the treasurer shall make a final determination.

The treasurer of a city or town or his designee may take testimony under oath and may subpoena and require the attendance of witnesses and the production of books, papers and documents which may be pertinent to the hearing. The treasurer of the city or town shall render a decision within 30 days after a hearing. A claimant adversely affected by a decision may appeal within 20 days to the district, municipal or superior court of the county in which the city or town is located. The claimant shall have a trial de novo. An appeal shall be perfected by the claimant within 20 days after receiving notice of an adverse determination from the treasurer of the city or town. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

If the validity of a claim shall be determined in favor of the claimant, the treasurer of the city or town shall pay over to the claimant the amount of the check at issue in the claim, with interest at the rate of $\frac{1}{12}$ of 1 per cent per month from the date that the claimant first made his claim.

If the claimant is domiciled in a country or state outside the United States or its territories and the treasurer of a city or town determines that there is no reasonable assurance that the claimant will actually receive the payment to which he is entitled under this section in substantially full value, the superior court, in its discretion or upon a petition by the city or town treasurer, may order that the city or town retain such payment.

(e) A city or town in possession of a check issued by the city or town which has not been cashed and which has been deemed under section 5 to be abandoned and which has not been determined to belong to a claimant within 1 year of the date the check has been deemed

abandoned may retain the check. The check shall thereafter be credited to the general treasury of the city or town.

NO SECTION 109.

SECTION 110. Notwithstanding any general or special law to the contrary, within 120 days of the effective date of this act, the department of telecommunications and energy shall hold a public hearing and issue a report relative to reducing the number of double poles within the commonwealth pursuant to section 34B of chapter 164 of the General Laws. The report shall include the department's recommendations and proposed legislation for enforcement of this section and waivers from this section. The department shall report to the committees on ways and means and the joint committee on government regulations its recommendations and proposed legislation to provide penalties for the enforcement of this section. The department shall also provide an analysis of whether local enforcement by ordinance or by-law is preferable to statewide enforcement of this section.

SECTION 111. Section 5 of chapter 717 of the acts of 1957 is hereby repealed.

SECTION 112. The commissioner of revenue shall investigate and study the economic impact on each city and town of the tax exemption granted to nonprofit, charitable and educational institutions including, but not limited to, private secondary schools, under clause Third of section 5 of chapter 59 of the General Laws. The study shall include an assessment of the amelioration afforded to the respective city or town of any payments in lieu of taxes made by respective charitable organizations within each jurisdiction and an assessment of the property taxes that would be owed to the city or town if the tax exempt status of the charitable organization were terminated. The commissioner shall report the findings of this study to the legislature's joint committee on taxation not later than December 31, 2003; provided, that the commissioner of revenue shall consult with any mayor or town manager who hosts a private college in their community and the Massachusetts Municipal Association when conducting this study.

SECTION 113. The legislative body in a city or town that has not accepted section 73 of chapter 4 of the acts of 2003 may vote to establish a municipal tax amnesty program under said section 73, and may vote to extend the amnesty period until a date not later than June 30, 2004. The legislative body of a city or town that has accepted said section 73 may vote to extend the amnesty period until a date not later than June 30, 2004.

SECTION 114. (a) A city or town (1) in Barnstable, Dukes or Nantucket County, (2) that has a municipal light department or plant or that owns the poles and wires, and (3) that accepts this section as provided in subsection (b), may incur debt under section 8 of chapter 44 of the General Laws for 10 years, for the underground utility construction necessary to provide replacement facilities for poles and overhead wires and associated overhead structures removed pursuant to an ordinance or by-law adopted under section 22D of chapter 166 of the General Laws.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, may submit to the voters at any city or town election the following question,

which the city or town clerk shall cause to be printed on the municipal ballot: "Shall (the city or town) accept the law that allows (the city or town) to incur debt for certain underground utility construction?" If a majority of the votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

SECTION 115. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state retirement board, shall establish and implement a retirement incentive for certain employees of the abolished Essex county, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by said board for any of the benefit options under this retirement incentive program, an employee: (i) shall be an employee of the commonwealth at the Essex county sheriff's department on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1, 2 or 4 of said retirement system in accordance with clause (g) of subsection (2) of section 3 of chapter 32 of the General Laws; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32, or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with said board; (v) shall have filed a written application with the board in accordance with paragraph (b).

The total number of eligible employees who may receive the benefit of the retirement incentive program shall be limited to 40. Employees with the greater number of years of creditable service on the effective date of this act shall be approved by the state retirement board before approval may be given to employees with a lesser number of years of creditable service on the effective date of this act. The application filed for retirement under this act may be delivered in person or by mail to the state retirement board. No employee shall be eligible for more than 1 incentive by virtue of the application of a different incentive.

Words used in this section shall have the same meaning as they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this section shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

(b) Notwithstanding any provision of section 5 of said chapter 32 that requires a retirement date within 4 months of the filing of an application for superannuation, in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than August 15, 2003. All applicants must be retired no later than September 30, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this paragraph. Each such employee shall request and receive a combination of years of creditable service and years of age, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General

Laws. Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this section, an election of a retirement option under section 12 of said chapter 32 shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a comparison of the expected lifetime retirement benefits provided by this section; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of the cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not desire to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this section. Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 90 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement.

(f) The sheriff may fill a position vacated as a result of an applicant's participation in

the retirement incentive program if said sheriff determines that the position is vital to the public health, public safety or other critical operations of the commonwealth and Essex county sheriff's department. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the Essex county sheriff's department shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the Essex county sheriff's department pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal 2005 for refilled positions in the Essex county sheriff's department shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the Essex county sheriff's department pursuant to the retirement incentive program had such positions not been vacated.

(g) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by September 26, 2003 the total value of compensation of the last pay period prior to August 29, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(h) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this section. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before December 31, 2003.

(i) The Essex county sheriff's department shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each employee.

(j) Notwithstanding any general or special law or collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this section, an employee who elects to retire under this section and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive $\frac{1}{3}$ of such payment upon retirement in 2003, $\frac{1}{3}$ of such payment on July 1, 2004 and $\frac{1}{3}$ on July 1, 2005. Each employee shall sign a statement that he has agreed to receive said scheduled payments prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this section. The state board of retirement shall deny an application for early retirement under this section by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this paragraph is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such provision of the agreement on behalf of all members of the bargaining unit who file applications

under this section.

SECTION 116. (a) (1) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary and upon the acceptance of this section on or before November 1, 2003 by the legislative and executive authorities within a city, town or county or an authority or district within a city, town or county or regional retirement system, this section shall apply to an eligible employee who: (i) shall be an employee of the city, town, county, authority or district and an active member in service of the appropriate city, town, county or regional retirement system or shall be an employee of a regional school district and an active member in service of the state retirement system, but not a member of the state teachers' retirement system or Boston teachers' retirement system on the date of the regional school district's acceptance of this section or on the date of the city, town, county, authority or district's acceptance of this section; (ii) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the effective retirement date specified in his written application to the retirement system; (iii) shall have filed a written application with the retirement system in accordance with paragraph (7); and (iv) shall be classified in Group 1, Group 2 or Group 4 in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32. If the legislative authority in a town fails to accept this section by October 1, 2003, then the executive authority in a town may accept this section without the approval of the legislative authority. Notwithstanding the notice provisions in section 10 of chapter 39 of the General Laws or any other general or special law to the contrary, at least 7 days notice shall be given of any special town meeting that may be called in pursuance of a warrant to accept this section. Notwithstanding said section 10 of said chapter 39, or any other general or special law to the contrary, the selectmen shall call such special town meeting, upon request in writing of 200 registered voters or by 10 per cent of the total number of registered voters of the town, whichever number is lesser, and such meeting shall be held not later than 30 days after the receipt of such request.

Notwithstanding this section or any general or special law to the contrary, the legislative and executive authorities within a city, town, county or regional retirement system may designate the departments which the early retirement incentive program shall apply.

(2) For the purposes of this section, "legislative authority" shall mean a town meeting in a town or in a town having a town council form of government, the town council or the town meeting if the town council so deems, the city council subject to its charter in a city and the county advisory board in a county other than the counties of Suffolk, Nantucket and Barnstable, in which cases the county commissioners shall serve as the legislative authority, the governing body of the authority in an authority and the district meeting in a district, except for a regional school district, in which case the regional district school committee shall be the legislative authority, and "Executive authority" shall mean the board of selectmen in a town, the mayor in a city, the county commissioners in a county, the governing body of the authority in an authority and the district meeting in a district, except for a regional school district in which case the regional district school committee shall be the

executive authority. Any additional retirement benefits provided by this section for employees of regional school districts who are active members in service of the state retirement system shall be funded by the appropriate regional school districts. The early retirement incentive program shall be administered by the appropriate city, town, county, state or regional retirement system and each system shall promulgate regulations to implement the program.

(3) Notwithstanding said chapter 32 to the contrary, the normal yearly amount of the retirement allowance for an eligible employee shall be based on the average annual rate of regular compensation as determined under paragraph (a) of subdivision (2) of section 5 of said chapter 32 and shall be computed according to the table contained in said paragraph (a) based on the age of such member and his number of years and full months of creditable service at the time of his retirement increased either by adding up to 5 years of age or by adding up to 5 years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than 5, but the executive authority in a city, town, county, authority or district may limit the amount of additional credit for service or age or a combination of service or age offered. The executive authority in a city, town, county, authority or district may limit the total number of employees for whom it will approve a retirement calculated under this section or the total number of employees within each group classification for whom it will approve a retirement calculated under this section and, if participation is limited, the retirement of employees with greater years of creditable service shall be approved before approval shall be given to employees with lesser years of creditable service.

(4) Words used in this section shall have the same meaning as they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An eligible employee who retires and receives an additional benefit in accordance with this section shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32, except that for the purposes of this section and notwithstanding subdivision (1) of section 10 of said chapter 32 requiring a member classified in Group 2 to have attained age 55 on the date of his termination of service in order to receive a Group 2 benefit, any employee eligible pursuant to the criteria established in this section, who is classified in Group 2 and who is at least 50 years of age but not yet 55 years of age, shall be eligible for a retirement allowance equal to that prescribed for a member classified in Group 2 upon the application for the additional benefit in accordance with this section.

(5) The total normal yearly amount of the retirement allowance, as determined in accordance with section 5 of said chapter 32, of an eligible employee who retires and receives an additional benefit under the early retirement incentive program in accordance with this section shall not exceed 80 per cent of the average annual rate of his regular compensation received during any period of 3 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last

3 years of creditable service preceding retirement, whichever is greater.

(6) Employees eligible to participate in the judiciary retirement incentive program pursuant to chapter 218 of the acts of 2001, employees eligible to participate in the retirement incentive program pursuant to chapter 219 of the acts of 2001, members of the state employees' retirement system, members of the teachers' retirement system and teachers who are members of the State- Boston retirement system, and employees of sheriff's departments shall not be eligible to receive any additional benefit provided pursuant to this section.

(7) Notwithstanding any provision of said section 5 of said chapter 32 that requires a retirement date within 4 months of the filing of an application for superannuation retirement in order to receive the retirement benefit provided by this section, an eligible employee shall file his application for retirement not later than a date determined by the executive authority, which shall be not later than December 2, 2003. The retirement date for eligible employees shall be determined by the executive authority and shall be not earlier than the effective date of this section and shall be not later than December 31, 2003. The retirement date for any elected official retiring under this section shall not be earlier than December 1, 2003. Notwithstanding subsection (b), the date of retirement for employees of a city retirement board and town retirement board shall be 30 days after the retirement date determined by the executive authority in the city or town. Notwithstanding said subsection (b), the retirement date for eligible employees of a county retirement board and regional retirement board shall be January 30, 2004.

(8) The executive director of the public employee retirement administration commission shall analyze, study and value the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the early retirement incentive program established by this section for each retirement system. The executive director shall file a report of his findings to the board, in writing, on or before December 31, 2004, together with copies thereof to the county commissioners, the regional retirement board, the mayor, the board of selectmen, the governing body of an authority, the district committee or the regional school district committee, as the case may be.

(9) In accordance with section 22D of said chapter 32, the retirement board of a system which administers this section shall revise its retirement funding schedule to reflect the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with this section. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be an obligation of the applicable city, town, county, authority or district to fund such liability and there shall be appropriated to the applicable pension reserve fund in each such fiscal year the amount required by the funding schedule and the updates thereto.

(b) (1) A city, within a city retirement system, whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such city retirement system the same rights and privileges of the early retirement incentive program as provided in this section under the same terms and conditions of that retirement

program. A town, within a town retirement system, whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such town retirement system the same rights and privileges of the early retirement incentive program as provided in this section under the same terms and conditions of that retirement program. A county whose legislative and executive authorities have accepted this section, shall provide to employees of the retirement board of such county the same rights and privileges of the early retirement incentive program as provided in this section, under the same terms and conditions of such retirement program.

(2) Employees of the retirement board of a regional retirement system, upon acceptance by the legislative and executive authorities of the regional retirement system, shall be eligible to receive the rights and privileges of the early retirement incentive program as provided in subsection (a), under the same terms and conditions as provided in said subsection (a) except that for the purposes of this paragraph and the paragraphs (3) and (7) of said subsection (a), the executive authority of the regional retirement system shall be the regional retirement board and the legislative authority shall be the regional retirement board. Notwithstanding chapter 34B of the General Laws, any person serving as the fifth member of a county retirement board shall, on the effective date of this section, be eligible for re-election as such fifth member notwithstanding that such member is an employee, retiree or official of a constituent governmental unit within the system.

(3) Employees of the Essex Agricultural and Technical Institute who are members of a regional retirement system, upon acceptance by the legislative and executive authorities, shall be eligible to receive the rights and privileges of the early retirement incentive program as provided in subsection (a), under the same terms and conditions as provided in said subsection (a) except that for the purposes of this paragraph and paragraphs (3) and (7) of said subsection (a), the executive authority of the Essex Agricultural and Technical Institute shall be the board of trustees and the legislative authority shall be the board of trustees.

(4) Employees of the Minuteman Regional School District, Blue Hills Regional School District and Greater Lawrence Sanitary District who are members of the Minuteman Regional School District Retirement System, Blue Hills Regional School District Retirement System or the Greater Lawrence Sanitary District Retirement System, upon acceptance by the legislative and executive authorities, shall be eligible for the early retirement incentive program as provided in said subsection (a). For the purposes of this section, the executive and legislative authority for the Greater Lawrence Sanitary District shall be the district board.

(c) The executive authority in consideration of the benefits conferred in this section, shall negotiate to agreement any proposed changes of any payment due to the employees for total accrued vacation time and unused sick leave in accordance with chapter 150E.

SECTION 117. Notwithstanding section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, during fiscal years 2004 and 2005, in a town, following a majority vote by the board of selectmen that is ratified by a special or annual town meeting, or in a city, following a majority vote of the city council and approval by the

mayor, the proceeds of the sale or other disposal of real estate, including the taking by eminent domain by another governmental unit, but other than that acquired through tax title foreclosure, by a city, town or district, that exceed \$500, may be applied for any purpose or purposes for which the city, town or district deems necessary during said fiscal years, except that the proceeds of a sale in excess of \$500 of any park land by a city, town, or district shall be used only by said city, town, or district for acquisition of land for park purposes or for capital improvements to park land.

SECTION 118. Notwithstanding section 72 of chapter 44 of the General Laws or any other general or special law to the contrary, any funds received by a city, town or regional school district pursuant to said section 72 shall be considered unrestricted revenue of the city, town or regional school district. During fiscal year 2005 and fiscal year 2006, a city or town shall deposit in a separate account for expenditures by the school committee no less than 50 per cent of any such funds received. A school committee may receive a percentage of such amount that is larger than said 50 per cent if the committee negotiates an agreement with the executive body of the city or town to receive such a larger percentage. A school committee may make expenditures from the separate account for any lawful educational purpose without further appropriation. Any expenditure from said account on items qualifying as net school spending shall supplement the net school spending requirement of the district. The receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section 2 of chapter 70 of the General Laws. This section shall apply, during fiscal years 2005 and 2006, only to cities, town, or regional school districts: (a) which receive a reduction of chapter 70 school aid of 15 to 20 per cent, as such aid is distributed in chapter 26 of the acts of 2003 and (b) whose net school spending requirement for fiscal year 2004 is less than its net school spending requirement for fiscal year 2003 as such spending requirement has been calculated pursuant to section 3 of the general appropriation act for fiscal year 2004. This section shall not apply to any city or town that has finally approved its fiscal year 2004 budget before the effective date of this act.

SECTION 119. Notwithstanding any general or special law to the contrary, cities and towns may be eligible bidders on state contracts for maintenance of public ways, including, but not limited to, snow and ice removal. The secretary of transportation and construction shall file a report with the house and senate committees on ways and means and the secretary of administration and finance on the progress of this initiative no later than February 1, 2004. The report shall include, but not be limited to, the following: the number of municipalities which have bid for said contracts, the number of municipalities which have been awarded said contracts, the total mileage of the state highway system which is being maintained through such contracts, and a progress report on the promptness and quality of the maintenance work being carried out by said municipalities.

SECTION 120. (a) Notwithstanding any general or special law to the contrary, the department of housing and community development, in consultation with the department of revenue, shall establish a pilot mixed-use building rehabilitation abatement program for the

purpose of stimulating the development of affordable housing in mixed-use structures. The department of housing and community development may approve applications from cities and towns for the creation of not more than 300 units of housing in each of the 3 fiscal years beginning in fiscal year 2004.

(b) No application shall be accepted unless it is accompanied by a signed agreement, approved by the department, between the owner and the municipality and binding on subsequent owners of the property, stating that 50 per cent of the housing units assisted by the abatement program shall be affordable to occupants whose income is less than 80 per cent of the median income for the area in which the city or town is located as defined by the United States Department of Housing and Urban Development. A unit that meets the affordability requirements of the previous sentence shall continue to meet those requirements for 20 years or for the useful life of the property, whichever is longer. If the owner of property benefited by the pilot program fails to certify to the city or town and to the department of housing and community development compliance with these affordability restrictions, the city or town may place a lien on the property in the amount of the real estate abatements granted pursuant to the pilot program.

(c) Abatements granted shall be for the commercial portion of the property and shall not exceed 7 years duration. The amount of abatement granted shall be equivalent to the difference between the commercial and residential rate established by the city or town, unless the department of housing and community development finds that an additional amount is necessary to make the rehabilitation project economically feasible. In no case shall the amount of the abatement exceed 50 per cent of the established residential tax rate for the property.

(d) The department of housing and community development shall promulgate rules and regulations to implement the pilot mixed-use building rehabilitation abatement program.

SECTION 121. Notwithstanding any general or special law, rule, or regulation to the contrary, the Quabbin regional school committee may conduct a pilot program to provide additional flexibility in scheduling. The district may reduce the school year requirements contained in 603 CMR 27.03, but the district shall maintain a 5 day work week and it must fully comply with the structured learning time requirements contained in 603 CMR 27.04. The pilot program shall be subject to collective bargaining law, and to the approval of town meetings in each member town of the district. The district, in conjunction with the department of education, shall issue a report on the success of the initiative no later than March 1, 2004, to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees and the house and senate clerks.

SECTION 122. Notwithstanding any general law or special law to the contrary, any city or town or combination of cities and towns may use any existing alternate financing structure including, but not limited to, those established pursuant to section 53F½ of chapter 44 of the General Laws for police, solid waste, fire, sewer and water, without requiring the

municipality or municipalities to seek approval by way of a local referendum question or other ballot initiative to implement the alternate financing structure. Approval by the officer or body granted executive authority and legislative authority in each city or town shall be considered sufficient. If a city or town uses an alternate financing structure pursuant to this section, there shall be no effect on any collective bargaining agreements.

SECTION 123. Notwithstanding any general or special law to the contrary, the city council of a city may, on recommendation of the mayor, transfer within the last 2 months of fiscal years 2003, 2004 and 2005, any amount appropriated for the use of any department to the appropriation for any other department. In a town, the selectmen or town council, with the concurrence of the finance committee or other entity established under section 16 of chapter 39 of the General Laws, may transfer within the last 2 months of fiscal years 2003, 2004 and 2005 any amount appropriated for the use of any department to the appropriation for any other department. Transfers under this section may not exceed, in the aggregate, 3 per cent of the annual budget of the department from which the transfer is made. A transfer under this section shall not be made from any appropriation for a municipal light department under chapter 164 of the General Laws or for a school district as defined in section 2 of chapter 70 of the General Laws.

SECTION 124. Notwithstanding any general or special law to the contrary, each sheriff receiving an appropriation in items 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, 8910-0619 or 8910-0000 shall file a report with the house and senate committees on ways and means no later than February 1, 2004 detailing the civil process fees charged by said sheriffs civil process office, all revenue received from said fees, the compensation structure for deputy sheriffs engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. Said report shall include, but not be limited to, the number of civil process transactions by nature and quantity performed by each civil process office or division annually, fee schedules per transaction for those transactions where section 8 of chapter 262 of the General Laws afford the sheriff discretion to set the fee, the organizational/corporate structure of the civil process office or division in relation to the sheriff's office, the role played by the state or county treasurer in the financial operation of the civil process office or division, an income statement for calendar year 2002, a breakdown of the types and amount of civil process served in 2002, a fee schedule for calendar year 2002, including a list of fees set at the sheriffs discretion, the number of full-time, part-time employees and independent contractors utilized by sheriffs for the service of civil process, the compensation structure used to compensate for such civil process employees and independent contractors, the amount and nature of sheriff's office resources used to support the civil process operation in fiscal year 2002 and fiscal year 2003, the amount and nature of civil process resources used to support the operations and functions of the sheriff's office in fiscal year 2002 and fiscal year 2003, the amount of civil process revenues, if any, deposited into the General Fund of the commonwealth pursuant to section 5 of chapter 34B of the General Laws, the amount of civil process revenues, if any, deposited

with the county treasurer pursuant to section 22 of chapter 37 of the General Laws, the amount of revenues retained by said civil process division or sheriff's office and the statutory authorization relied upon to so retain that amount, a five-year history of all revenues collected from civil process fees, revenues collected per civil process transaction for fiscal year 2003 and, a comprehensive list of all expenditures associated with all revenues generated from the collection of civil process fees.

SECTION 125. Notwithstanding any general or special law to the contrary, the commissioner of education and the chancellor of higher education shall prepare a report on vocational education programs at the postsecondary level offered or to be offered pursuant to sections 37B and 37C of chapter 74 of the General Laws for the purpose of determining the success and necessity of such programs, including but not limited to, an evaluation of the number of certificates or diplomas awarded, the demographic makeup of the student participants, and how and by whom such programs should be funded, including but not limited to, an evaluation of discounts and scholarships available and the level of contributions, if any, from the state, municipalities, and students. In preparing such report the commissioner of education and the chancellor of higher education, may consult with such parties as they deem necessary, including but not limited to, the Massachusetts Association of School Superintendents, the Massachusetts Federation of Teachers, the Massachusetts AFL-CIO, the Massachusetts Municipal Association, the Massachusetts Association of School Committees, and the Massachusetts Community Colleges Executive Office. Such report, together with any recommendations, shall be submitted to the joint committee on education, arts and humanities on or before December 31, 2003.

SECTION 126. Notwithstanding any general or special law to the contrary, the civil service commission shall carry forward for the period of 1 year the exam grades of applicants for municipal fire and police departments who are residents of the commonwealth and serving in any branch of the United States military outside the United States, and who are unable to take those exams during calendar year 2003 because of said military duty; provided, however, that only passing grades shall be carried forward; and provided further, that the grades shall appear on the commission's list of eligible applicants for appointment to municipal fire and police departments.

SECTION 127. Notwithstanding any general or special law to the contrary, the division of purchased services of the department of procurement which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4) and provided further, that upon request of a program said division shall authorize a fiscal year 2004 price for the program to charge out-of-state purchasers at the price determined on the first Wednesday in February 2003 or pursuant to this section, whichever is greater.

SECTION 128. (a) Notwithstanding any general or special law in a city, town, district, or authority which accepts the provisions of this subsection, the appropriation for fis-

cal year 2004 and 2005 for the unfunded portion of said city or town's unfunded pension liability may be less than the amount required by the funding schedule adopted pursuant to this section or subsection 6A of section 22 or pursuant to a special act; provided, however, that in no event may the appropriation for such year be less than the normal cost component of the appropriation required by such schedule nor shall said appropriation be reduced by an amount more than the amount by which said city or town was reduced in local aid payments, either in the aggregate or only the amounts appropriated for the purposes of lottery aid and additional assistance in the aggregate, received pursuant to section 3 of chapter 184 of the acts of 2002, as further reduced pursuant to section 3 of chapter 26 of the acts of 2003. No city or town shall implement the provisions of this section without the approval of the department of revenue and the public employee retirement administration commission; and furthermore, no municipality may implement the provisions of this section if it has available a special statutory emergency reserve that requires at least a balance of 2.5% of prior year non-school departmental appropriations and said balance is fully unexpended.

(b) The decision to accept the provisions of this section shall be made by both the executive and legislative bodies of the governmental unit in which the employees are members of the system. For purposes of this subsection, "executive body" shall mean the mayor in a city, the board of selectmen in a town or whoever is designated as such by a city or town charter, and "legislative body" shall mean the city council in a city, the town meeting in a town or the town council in a city or town that has a council form of government. A notice from the retirement board shall be provided to the respective legislative body notifying them of the option. Included in the notice shall be a summary of the existing funding schedule setting forth the normal cost and the amortization component of fiscal year 2004 and fiscal year 2005 appropriations and a description of the estimated impact of reducing that appropriation on future appropriations. This notice shall be submitted on or before the fifteenth day after the acceptance of this section.

(c) Upon notification by the clerk of the legislative body of the amount so appropriated, the retirement board shall notify the actuary who shall issue a revised appropriation letter in accordance with paragraph (c) of subsection (7) of said section 22 of said chapter 32. Notwithstanding any general or special law to the contrary, the amount of the reduction in the appropriation resulting from the acceptance of this section shall be expended solely for the direct benefit of the employees and retirees of the governmental unit who are members of the system.

(d) In any city, town, district, or authority which accepts the provisions of this subsection, the retirement board of said system, shall, on or before January 1, 2004, submit to the actuary a revised funding schedule that incorporates the impact of reducing the appropriation for fiscal year 2004 and 2005; provided however that, notwithstanding the provisions of this section or any general or special law, said revised schedule and any future updates thereto may be designed to reduce the unfunded actuarial liability of said system to 0 no later than 1 year after said fully funded due date if 1 year is taken, but in no case shall the due date extend beyond June 30, 2028.

(e) In a city, town, district, or authority, the employees of which are members of a county or regional system, the retirement board of said system shall provide the notice of the option to adopt this subsection. In any such system in which the appropriation is allocated in accordance with the proportion that the aggregate of the annual rates or regular compensation of all members of such system who are employees of any such governmental unit bears to the total of all such aggregates for all such members of such system, the actuary shall provide the retirement board with an estimate of the normal cost component of the appropriation and the amortization component of the appropriation required by such city or town for fiscal year 2004 and fiscal year 2005.

SECTION 129. (a) Notwithstanding any general or special law to the contrary, any city or town within the counties of Barnstable, Nantucket, Dukes and Bristol which accepts this section pursuant to subsections (b) and (c) may impose an embarkation fee upon all passenger ferry trips, excluding those ferries that transport less than 100 passengers per day, originating from a port located within such city or town, at a rate up to, but not exceeding \$1 dollar per purchased ticket, whether the purchased ticket is for one way or roundtrip.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, in each city and town with a port may submit to the voters at the next city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: "Shall the (city or town) accept the law that allows (city or town) to impose an embarkation fee of up to (amount not exceeding \$1) on certain passenger ferry trips?" If a majority of votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

(c) The operator of the ferry service shall pay the embarkation fee imposed under this section to the commissioner of revenue on a quarterly basis. The commissioner shall credit 100 per cent of the monies to any city or town which has accepted this section and does not share any harbor with any other city or town. For a city or town which itself has no ferry service but shares a harbor with a city or town which has accepted this section, 25 per cent shall be paid to said city or town, the remaining 75 per cent is to be distributed to the city or town which voted to accept the provisions of this section. All sums received by the commissioner under this section as embarkation fees, penalties or forfeitures, interest, costs of suit and fines shall be distributed, credited and paid by the state treasurer at least quarterly upon certification of the commissioner to each city and town that has adopted this section.

(d) Any city or town which receives monies from this section shall deposit said monies in a special fund, to be solely appropriated for the purpose of mitigating the impacts of ferry service on said city or town. Monies deposited may be appropriated for services including, but not limited to, providing harbor services, public safety protection, emergency services or infrastructure improvements within and around the harbor of any city or town which receives monies from this section.

(e) This section shall take effect on the first day of the calendar quarter following 30 days after such acceptance of subsections (b) and (c), or on the first day of such later calendar quarter as the city or town may designate.

(f) Any city or town that votes to accept this section may also vote, in the manner prescribed above, to exempt commuter excursion fares from the embarkation fee and the text of the ballot question in subsection (b) shall so indicate. For the purposes of this section, commuter fare shall mean any fare paid for through the purchase of a book of multiple tickets, through the Steamship Authority's "Islands Preferred Excursion Program," or through the purchase of a pass.

SECTION 130. There shall be a special commission to study the sale of tax receivables pursuant to section 2C of chapter 60 of the General Laws and other matters relative to petitions for foreclosure pursuant to section 65 of said chapter 60. The commission shall examine the existing procedures for the sale of tax receivables and make recommendations on potential improvements. The commission shall consult with appropriate professionals with expertise in the field. The commission shall consist of the commissioner of the department of revenue or designee; the commissioner of the department of housing and community development or designee; the chairpersons of the house and senate committees on taxation who shall serve as co-chairs; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; and 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 1 member appointed by the Massachusetts municipal association; 1 member of the citizen's housing and planning association; and 1 member appointed by the Massachusetts treasurers and collectors association.

SECTION 131. Within 60 days after passage of this act, the contiguous municipalities of the South Central Massachusetts Economic Target Area shall take steps necessary to approve the inclusion of East Brookfield in the South Central Massachusetts Economic Target Area, subject to chapter 23A of the General Laws.

SECTION 132. Within 60 days after the passage of this act, the contiguous municipalities of the Ware River Valley Economic Target Area shall take steps necessary to approve the inclusion of the town of Brookfield in the Ware River Valley Economic Target Area, subject to the provisions of chapter 23A of the General Laws.

SECTION 133. Any person who was employed by a municipality as an administrative hearing officer, paid as an independent contractor and whose title was later determined by said municipality to be classified as an employee pursuant to the provisions of section 1 of chapter 32 of the General Laws may establish credit for time in service to said municipality before said position's reclassification; but no credit shall be allowed unless such person has paid into the Annuity Savings Fund of the retirement system of said municipality, in one sum or in installments, upon such terms and conditions as the board prescribe an amount equal to that which would have been withheld as regular deductions for such previous period he had been a member of the retirement system during the period the service was rendered, plus regular interest. The maximum creditable service allowable under this paragraph for any member shall not exceed 3 years.

SECTION 134. The executive office of public safety shall provide a grant to the cities and towns that are required to provide services to nuclear power plants as "host com-

munities" as defined under the radiological emergency response plan of the commonwealth approved on January 10, 2003, utilizing if available, but not limited to, federal Department of Homeland Security funds or other existing federal or state monies available to the Executive office of public safety or any of its agencies, departments or divisions. The grant shall be sufficient to provide for public safety service equal to the levels of public safety service provided for as of January 10, 2003, and shall be awarded only if the host community meets the following criteria, as determined by the division of local services of the department of revenue: (1) the community has exhausted all available reserves; (2) the community is taxing to its levy limits; and (3) the local aid reductions for fiscal year 2004 for the community would cause a reduction in the number of public safety employees in the city or town.

SECTION 135. The joint committee on taxation shall study the residential tax factor and the alternative tax factor of chapter 58 of the General Laws and all proposed changes to the motor vehicle excise of chapter 60A of the General Laws. The committee shall file a report of its findings and any proposed legislation to the clerks of the house and the senate not later than December 1, 2004.

SECTION 136. The committee on state administration shall study and make recommendations for changes to the procurement thresholds as defined in chapter 30B of the General Laws and any other aspects of existing laws and regulations to assist municipalities. The committee shall file recommendations for changes, if any, with the house and senate clerks by October 1, 2003.

SECTION 137. There shall be a special commission to investigate, study, and make a report on the annual municipal census conducted under section 4 of chapter 51 of the General Laws. The report shall assess the necessity of continuing an annual municipal census and include recommendations to the legislature on alternative methods for achieving the results currently derived from the "municipal census". The commission shall consist of 13 members; the house and senate chairs of the joint committee on election laws who shall serve as co-chairpersons; the secretary of the commonwealth or designee; the jury commissioner or designee; 2 representatives of the Massachusetts Town Clerks Association, 1 of whom shall be from a rural community; a representative of the Massachusetts City Clerks Association; a representative of the Massachusetts Municipal Association; the director of the Massachusetts Institute of Social and Economic Research or designee; 1 member of the house of representatives to be appointed by the speaker and 1 member of the house of representatives to be appointed by the minority leader; 1 member of the senate to be appointed by the president of the senate and 1 member of the senate to be appointed by the minority leader. The commission shall file its report, including its recommendations and a draft of any legislation necessary to carry out its recommendations, by filing the same with the clerks of the house of representatives and the senate not later than December 1, 2003.

SECTION 138. There shall be established a special commission to investigate, study, and make legislative recommendations on the adequacy and efficiency of laws and

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regulations governing public construction projects. The commission shall consist of 19 members, 1 of whom shall be appointed by the governor who shall serve as the co-chairman of the commission; 3 of whom shall be members of the senate, 2 of whom shall be appointed by the president of the senate, of which 1 shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader of the senate; 3 of whom shall be members of the house of representatives, 2 of whom shall be appointed by the speaker of the house, of which 1 shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader of the house of representatives; the commissioner of the department of capital asset management and maintenance; the inspector general; the chairperson or his designee of the Massachusetts Municipal Association; the president or his designee of the Massachusetts Building Trades Council; the president or his designee of the Associated General Contractors of Massachusetts; the president or his designee of the Building Trades Employers Association; the president or his designee of Associated Subcontractors of Massachusetts; the president or his designee of Construction Industries of Massachusetts; the president or his designee of the Massachusetts AFL-CIO; the president or his designee of Women in the Building Trades; the president or his designee of the New England Chapter of the National Association of Minority Contractors; and the executive director or his designee of the Boston Society of Architects. The commission shall file a report on the results of its study, together with its recommendations, if any, and any legislation necessary to carry such recommendations into effect, with the clerks of the house of representatives and the senate not later than September 30, 2003.

SECTION 139. Chapter 49 of the acts of 1933 is hereby repealed.

SECTION 140. Chapter 356 of the acts of 1992 is hereby amended by striking out, in line 3, the word "ten" and inserting in place thereof the following figure:- 20.

SECTION 141. Sections 51 and 111 shall not apply retroactively and shall not affect loans, loan orders, or bonds currently issued. Any re-issue, re-financing, or extension of currently issued loans, loan orders, or bonds, however, shall be subject to said sections 51 and 111.

SECTION 142. Section 100A shall take effect on July 1, 2007.

Approved July 31, 2003.

Chapter 47. AN ACT RELATIVE TO THE PRESERVATION OF MEDICAL SERVICES IN THE CITIES OF WALTHAM AND QUINCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to preserve forthwith the medical services in the cities of Waltham and Quincy, therefore 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 2A of chapter 101 of the acts of 1999 is hereby amended by striking out item 1599-1499 and inserting in place thereof the following item:-

1599-1499 For a one-time loan to the city of Quincy for the purpose of facilitating the conversion of Quincy Hospital from ownership by the city of Quincy to ownership by a private nonprofit corporation; provided, that such loan shall be repaid by the city in 4 equal annual installments, without interest, commencing in fiscal year 2007 and ending in fiscal year 2010; provided, further, that the terms of the loan shall be established by and subject to the terms of an agreement to be negotiated between the city, represented by the mayor, and the secretary of administration and finance; provided, further, that the state comptroller shall intercept cherry sheet payments due to the city from the commonwealth upon certification by the secretary that the city is in default on the loan or any other terms of the agreement; provided, further, that the proceeds of the loan shall be used by the city for the costs associated with the conversion, including, but not limited to, obligations of the hospital to the city for employee benefits and for any indebtedness incurred by the city on behalf of the hospital; provided, further, that in the event that the financial commitments of the city to the hospital in fiscal years 2000 to 2006, inclusive, terminate for any reason prior to fiscal year 2007, the annual installment payments of the loan shall become due in the fiscal year following the fiscal year in which the financial commitments terminate; provided, further, that the city, in collaboration with the corporation, shall file annually with the secretary of administration and finance and with the secretary of health and human services, the house and senate committees on ways and means and the joint committee on health care a report delineating the benchmarks and milestones established by the corporation to achieve financial viability and the status of the corporation in achieving the benchmarks and milestones, including changes in patient volume and payer mix, the establishment and maintenance of community benefits by the corporation and the results of affiliations with other health care providers and health care entities; and provided, further, that the report shall be filed not later than the January 1 following the end of each

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hospital fiscal year 2000 to 2006, inclusive \$12,100,000

SECTION 2. Notwithstanding any general or special law or regulation to the contrary, a non-acute care hospital licensed as a chronic disease hospital and located in the city of Waltham may transfer all or part of its beds to the campus of any health care facility, as defined in section 70E of chapter 111 of the General Laws, that is licensed by the department of public health and located in the city of Waltham or to a campus of an ambulatory care provider located in said city without regard to whether such beds have been in service during the 6 months immediately preceding the date of any proposed transfer.

Approved August 7, 2003.

Chapter 48. AN ACT DESIGNATING REGATTA FIELD IN THE CITY OF LOWELL AS THE ANNE DEAN WELCOME FIELD.

Be it enacted, etc., as follows:

The parcel of land known as Regatta Field in the city of Lowell shall be designated and known as the Anne Dean Welcome Field, in honor of Anne Dean Welcome of the Pawtucketville section of the city, who devoted her adult life to the preservation of open space and improving the quality of life of the residents of the city. The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved August 7, 2003.

Chapter 49. AN ACT FURTHER EXTENDING THE TIME FOR WHICH CERTAIN LAND IN NORFOLK COUNTY MAY BE USED AS A TEMPORARY MINIMUM SECURITY ALTERNATIVE CORRECTION CENTER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith further to extend the time for which certain land in Norfolk county may be used as a temporary minimum security alternative correction center, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 109 of the acts of 1987 is hereby amended by striking out the second paragraph, as appearing in section 1 of chapter 42 of the acts of 2001, and inserting in place thereof the following paragraph:-

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The center shall remain in operation until June 30, 2005. If the operation of the facility or the placement of inmates within the facility is removed from the control of the sheriff of Norfolk county, this act shall terminate 90 days after such removal.

SECTION 2. This act shall take effect as of June 30, 2003.

Approved August 15, 2003.

Chapter 50. AN ACT RELATIVE TO THE PRELIMINARY ELECTIONS IN THE CITY OF MALDEN IN THE YEAR 2003.

Be it enacted, etc., as follows:

Notwithstanding the charter of the city of Malden or any general or special law to the contrary, there shall be no preliminary election in the city of Malden, as otherwise required on September 16, 2003 for the office of mayor for a 4-year term, for the office of city councilor for a 2-year term and for the office of school committee member for a 2-year term. The candidates whose nomination papers for these offices have been duly certified shall be considered nominated.

Approved August 15, 2003.

Chapter 51. AN ACT AUTHORIZING THE TOWN OF MAYNARD TO GRANT 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 of the town of Maynard may grant 1 additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

Approved August 20, 2003.

Chapter 52. AN ACT AUTHORIZING THE TOWN OF MILTON TO ISSUE A LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

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Notwithstanding sections 11 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the town of Milton may issue to Wharf Street LLC or its successor in interest a license for the sale of all alcoholic beverages to be drunk on the premises of a restaurant located on the property shown on the town of Milton Assessors' Maps as Section F, Block 11, Lot 9, owned now or formerly by Wharf Street LLC. The license shall not be transferable to another licensed premises. Said license shall be subject to all of said chapter 138, except said sections 11 and 17.

Approved August 20, 2003.

Chapter 53. AN ACT VALIDATING THE ACTIONS TAKEN AT THE ANNUAL ELECTION HELD IN THE TOWN OF BRIDGEWATER.

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 to the contrary, the acts and proceedings taken by the town of Bridgewater at the annual town election held on April 26, 2003, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any failure in publishing and posting a warrant for that election.

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

Approved August 20, 2003.

Chapter 54. AN ACT RELATIVE TO CERTAIN SCHOOL CONSTRUCTION DEBT IN THE TOWN OF READING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Reading may incur debt payable within 30 years for the renovation and construction of the Reading Memorial High School and any other projects subsidiary or incidental to this project. For purposes of determining the amount of any reimbursement to the town under chapter 70 B of the General Laws, the debt under this act shall be deemed payable in no more than 20 years.

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

Approved August 20, 2003.

Chapter 55. AN ACT MAKING APPROPRIATIONS FOR FISCAL YEAR 2003 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 appropriations for the fiscal year ending July 1, 2003, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2003, the sums set forth in section are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in said appropriation acts for the several purposes and subject to the conditions specified in this act or in said appropriation acts, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2003. The sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0321-0001 \$224,000

Committee for Public Counsel Services.

0321-1510 \$7,109,300
0321-1512 \$5,758,400
0321-1520 \$2,618,000

Worcester District Attorney.

0340-0400 \$350,000

Plymouth District Attorney.

0340-0800 \$145,745

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0610-0100 \$286,469

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.
Metropolitan District Commission.

2444-9001 \$106,000

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

6005-0015 \$5,555,806

SECTION 2A. To provide for certain unanticipated obligations of the common-wealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sum set forth in this section is hereby appropriated from the General Fund unless specifically designated otherwise, for the several purposes and subject to the conditions specified in this section, and subject to laws regulating the disbursement of public funds for the fiscal year ending June 30, 2003. The sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

Department of Education.

7061-0010 For supplemental school aid to cities, towns, regional school districts, counties maintaining agricultural schools, independent vocational schools and independent agricultural and technical schools to be distributed pursuant to chapters 70 and 76 of the General Laws; provided, that the funding shall be used to ensure that no district's net school spending is less than the district's foundation budget level set forth in section of said chapter 70 as a result of data errors or statistical discrepancies in the calculation of the foundation budget corrected by the department of education prior to enactment of chapter of the acts of 2003; provided further, that \$2,759,096 shall be provided to the Lawrence School District; provided further, that \$79,608 shall be provided to the Monson School District; and provided further, that \$144,967 shall be provided to the Greater New Bedford School District \$2,983,671

NO SECTION 2B.

SECTION 2C. I. For the purpose of making available in fiscal year 2004 balances of appropriations which otherwise would revert on June 30, 2003, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item and the unexpended balance of all appropriations in the Massachusetts management accounting and reporting system with a secretariat code of 01, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section of chapter of the acts of 2003; provided, however, that for items which do not appear in said section of said chapter, the amounts in this section are re-appropriated for the

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purposes of and subject to the conditions stated for the corresponding item in section or 2A of this act or in prior appropriation acts. Amounts re-appropriated in this section for which an item has changed in said chapter shall be re-appropriated for the purposes of and subject to the conditions stated for in the successor item. Amounts in this section are re-appropriated from the funds designated for the corresponding items in said section of said chapter; provided, however, that for items which do not appear in said section of said chapter, the amounts in this section are re-appropriated from the funds designated for the corresponding items in section or 2A of this act or in prior appropriation acts. The sums re-appropriated in this section shall be in addition to any amounts available for these purposes.

JUDICIARY.
Supreme Judicial Court.

0321-0001 \$224,000

Committee for Public Counsel Services.

0321-1510 \$7,109,392
0321-1512 \$5,758,481
0321-1520 \$2,618,000

Worcester District Attorney.

0340-0400 \$350,000

Plymouth District Attorney.

0340-0800 \$145,745

TREASURER AND RECEIVER-GENERAL.
Office of the Treasurer and Receiver-General.

0610-0100 \$286,469

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.
Metropolitan District Commission.

2444-9001 \$106,000

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

6005-0015 \$5,555,806

Department of Education.

7061-0010 \$2,983,671

SECTION 3. Chapter 8 of the General Laws is hereby amended by striking out section 9A, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 9A. The state superintendent of state office buildings shall establish and charge a fee or service charge to nongovernmental individuals, entities and groups using the state house for meetings, receptions or exhibits, which may be waived at the discretion of the superintendent. The superintendent or his designee shall establish such fee or charge based upon the actual cost of use, including personnel, requests for security, preparation, equipment replacement, cleanup, utilities used and compensation for wear on the building. The superintendent or his designee may, in their discretion, require a nongovernment entity to enter into a written agreement indemnifying the commonwealth against any claims for casualty liability and may require the posting of an insurance bond. All monies received by the superintendent under this section shall be by check made payable to the State House Special Event Fund and shall be deposited in that Fund, established by section 35P of chapter 10; provided, however, that the superintendent may retain an amount not to exceed \$200,000 annually to be expended after consultation with the state secretary for equipment replacement and educational and cultural programs at the state house.

SECTION 4. Chapter 10 of the General Laws is hereby amended by striking out section 35P, as so appearing, and inserting in place thereof the following section:-

Section 35P. There shall be established upon the books of the commonwealth a separate fund to be known as the State House Special Event Fund. The state superintendent of state office buildings shall establish and charge a fee or service charge to nongovernmental individuals, entities and groups using the state house for meetings, receptions or exhibits, which may be waived at the discretion of the superintendent. The superintendent or his designee shall establish such fee or charge based upon the actual cost of use, including personnel requests for security, preparation, equipment replacement, cleanup, utilities used and compensation for wear on the building. The superintendent or his designee may, in their discretion, require a nongovernmental entity to enter into a written agreement indemnifying the commonwealth against any claims for casualty liability and may require the posting of an insurance bond. All monies received by the superintendent under this section shall be by check made payable to and deposited in said fund; provided, however, that the superintendent may retain an amount not to exceed \$200,000 annually to be expended after consultation with the state secretary for equipment replacement and educational and cultural programs at the state house.

SECTION 5. The first paragraph of section 11 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out the last sentence.

SECTION 6. Section 34 of chapter 262 of the General Laws is hereby amended by striking out clause (42), as amended by section 504 of chapter 24 of the acts of 2003.

SECTION 7. Said chapter 262 is hereby further amended by inserting after section 34 the following section:-

Section 34B. The fee for entering notice of intention to marry and issuing certificates thereof shall be at least \$50 of which \$46 shall be deposited in the General Fund of the commonwealth. A town by town meeting action, a city by city council action and a town with no town meeting by town council action may, by adoption of appropriate by-laws and ordinances, set a fee in excess of \$50 but in no case shall an amount less than \$46 be transferred quarterly to the commonwealth for deposit into its General Fund in accordance with the guidelines established by the commissioner of revenue. Cities and towns that have set fees in excess of \$4 that are in effect on September 1, 2003 may add such excess to the \$50 fee established in this section.

SECTION 8. Item 1108-5200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by adding the following words:- ; provided, that notwithstanding the provisions of this item or any general or special law to the contrary, the authority's share of such premiums for employees of the Massachusetts Bay Transportation Authority, to whom a collective bargaining agreement in force on July 1, 2002, other than because of a rollover, applies, shall be as provided in that agreement until that agreement expires but not including any rollover period.

SECTION 9. Said section of said chapter is hereby further amended by striking out item 8400-0222 and inserting in place thereof the following item:-

8400-0222 The registry of motor vehicles may expend not more than \$3,500,000 from revenues collected from registry renewal fees for the purpose of maintaining registry services, including the operation of branch offices \$3,500,000

SECTION 10. Said chapter 26 is hereby further amended by inserting after section 713 the following section:-

Section 713A. Section 5 of this act shall take effect on November 1, 2003.

SECTION 11. Chapter 46 of the acts of 2003 is hereby amended by striking out section 129 and inserting in place thereof the following section:-

Section 129. (a) Notwithstanding any general or special law to the contrary, any city or town within the counties of Barnstable, Nantucket, Dukes and Bristol which accepts this section pursuant to subsections (b) and (c) may impose an embarkation fee upon all passenger ferry trips, excluding those ferry boats that are licensed to transport not more than 100 passengers, originating from a port located within such city or town, at a rate of \$.50 per passenger per departing trip.

(b) The local appropriating authority, as defined in section 21C of chapter 59 of the General Laws, in each city and town with a port may submit to the voters at the next city or town election the following question, which the city or town clerk shall cause to be printed on the municipal ballot: Shall the (city or town) accept the law that allows the (city or town) to impose an embarkation fee of \$.50 per passenger per departing ferry trip?" If a majority of votes cast on this question is in the affirmative, the city or town shall have accepted this section, but not otherwise.

(c) The operator of the ferry service shall pay the embarkation fee imposed under this section to the commissioner of revenue on a quarterly basis. The operator shall keep records on the number of passengers subject to the embarkation fee departing from each port that has accepted this section, and forward the records to the commissioner of revenue at the time of payment of the fee in order to determine how the money is to be distributed to each participating port municipality. The commissioner shall credit 100 per cent of the monies to a city or town which has accepted this section and does not share any harbor with any other city or town. If a city or town has no ferry service but shares a harbor with a city or town which has accepted this section, 25 per cent shall be paid to that city or town, and the remaining 75 per cent shall be distributed to the city or town which voted to accept this section. All sums received by the commissioner under this section as embarkation fees, penalties or forfeitures, interest, costs of suit and fines shall be distributed, credited and paid by the state treasurer at least quarterly upon certification of the commissioner to each city or town that has accepted this section.

(d) Any city or town which receives monies from this section shall deposit them in a special fund, to be solely appropriated for the purpose of mitigating the impacts of ferry service on the city or town. Monies deposited may be appropriated for services including, but not limited to, providing harbor services, public safety protection, emergency services or infrastructure improvements within and around the harbor of any city or town which receives monies from this section.

(e) Commuter excursion fares and school-related rates shall be exempt from the embarkation fee. For the purposes of this section, "commuter fare" shall mean any fare paid for through the purchase of a book of multiple tickets or through the Steamship Authority's Islands Preferred Excursion Program.

(f) This section shall take effect in a city or town on January 1 of the calendar year following its acceptance of subsections (b) and (c).

SECTION 12. Said chapter 46 is hereby further amended by striking out section 138 and inserting in place thereof the following section:-

Section 138. There shall be a special commission to investigate, study and make legislative recommendations on the adequacy and efficiency of laws and regulations governing public construction projects. The commission shall consist of 20 members, 1 of whom shall be appointed by the governor who shall serve as co-chairman of the commission; 3 members of the senate, 1 of whom shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 1 of whom shall serve as co-chairman of the commission and 1 of whom shall be appointed by the minority leader; the commissioner of capital asset management and maintenance; the inspector general; the chairperson of the Massachusetts Municipal Association or his designee; the president of the Massachusetts Building Trades Council or his designee; the president of the Associated General Contractors of Massachusetts or his designee; the president of the Building Trades Employers Association or his designee; the president of Associated Subcontractors of Massachusetts or his designee; the president of Construction

Industries of Massachusetts or his designee; the president of the Massachusetts AFL-CIO or his designee; the president of Women in the Building Trades or his designee; the president of the New England Chapter of the National Association of Minority Contractors or his designee; the president of the Massachusetts Chapter of Associated Builders and Contractors or his designee and the executive director of the Boston Society of Architects or his designee. The commission shall file a report on the results of its study, together with its recommendations, if any, and drafts of legislation necessary to carry such recommendations into effect, with the clerks of the house of representatives and the senate not later than January 15, 2004.

SECTION 13. Notwithstanding section 18 of chapter 91 of the General Laws, or any other general or special law to the contrary, the department of environmental protection may enter into memoranda of understanding with any political subdivision concerning the development or use of property owned by that political subdivision for nonwater dependent uses and the licensure of any project involving any such property. If such a memorandum of understanding has been approved by the secretary of environmental affairs and published in accordance with section 2C of chapter 30 of the General Laws, it shall have the full force and effect of law, and any adjudicatory hearing or judicial review concerning a decision of the department to grant or deny a license under said chapter 91 for any project covered by such a duly approved and published memorandum of understanding shall be limited in scope to the question whether the project meets the criteria and conditions set forth in the memorandum of understanding. This section shall apply to projects and licenses covered by memoranda of understanding that exist as of the effective date of this act and to adjudicatory hearings or judicial reviews concerning licenses issued for any project covered by such memoranda.

SECTION 14. Sections 6 and 7 of this act shall take effect as of September 1, 2003.

This bill was returned on August 21, 2003, 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 7, 8, 10 and 14

Pursuant to Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, Section 13, 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 21, 2003 at eight o'clock and thirty-five minutes, A.M.

Chapter 56. AN ACT RELATIVE TO THE EARLY RETIREMENT INCENTIVE PROGRAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend the enrollment period for the early retirement incentive program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

The first sentence of the first paragraph of subsection (b) of section 616 of chapter 26 of the acts of 2003 is hereby amended by striking out the words "September 1, 2003" and inserting in place thereof the following words:- September 8, 2003.

Approved September 3, 2003.

Chapter 57. AN ACT AUTHORIZING THE TOWN OF TOPSFIELD TO GRANT SPECIAL LIQUOR LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 11 and 14 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Topsfield may grant special licenses for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to responsible managers of nonprofit organizations conducting indoor or outdoor activities or enterprises for gatherings of less than 500 persons. The licenses shall be subject to all of said chapter 138 except said sections 11 and 14 in addition to any other requirements that the board of selectmen may deem appropriate.

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

Approved September 5, 2003.

Chapter 58. AN ACT AUTHORIZING THE TOWN OF TOPSFIELD TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT 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 or any other general or special law to the contrary, the licensing authority of the town of Topsfield

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may grant a license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138; provided, however, that said premises shall have a seating capacity of less than 100 and not contain a lounge or bar; provided, further, that the serving of wines and malt beverages shall be incidental to the serving of meals. 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 September 5, 2003.

**Chapter 59. AN ACT PROVIDING FOR THE ELIMINATION OF THE
RESIDENCY REQUIREMENT FOR THE TOWN ADMINISTRATOR
OF THE TOWN OF DEDHAM.**

Be it enacted, etc., as follows:

SECTION 1. Section 4-1 of Article 4 of the charter of the town of Dedham, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the words "or of the commonwealth at the time of appointment, but, unless the board of selectmen shall, by a majority of its members extend such time or waive such requirement, said administrator shall establish a residence within the town of Dedham within 12 months following his appointment." in lines 7 to 11, inclusive.

SECTION 2. This act shall be submitted to the voters of the town of Dedham for acceptance at an annual or special town election in the form of the following question which shall be placed on the official ballot: "Shall an act passed by the General Court in the year 2003, entitled, 'An Act providing for the elimination of the residency requirement for the town administrator of the town of Dedham', be accepted?" If a majority of the votes cast in answer to the question is in the affirmative, this act shall take effect, but not otherwise.

Approved September 5, 2003.

**Chapter 60. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY
KNOWN AS THE TOWN OF METHUEN AS THE PATRIOTS'
BRIDGE.**

Be it enacted, etc., as follows:

SECTION 1. The bridge on Lowell street in the center of the city known as the town of Methuen shall be designated and known as the Patriots' Bridge, in honor of those persons who were born or were residing in the town, who died in the September 11, 2001 terrorist

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attack. The department of highways shall erect and maintain a suitable marker on the bridge bearing such designation in compliance with the standards of the department.

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

Approved September 5, 2003.

**Chapter 61 AN ACT AUTHORIZING THE TOWN OF TOPSFIELD TO GRANT
A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES
NOT TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Topsfield may grant a license for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138; provided, however, that the serving of wines and malt beverages shall be incidental to the sale of food or other products. The license shall be subject to all of said chapter 138 except said section 17.

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

Approved September 5, 2003.

**Chapter 62. AN ACT VALIDATING THE ACTIONS TAKEN AT CERTAIN
SPECIAL ELECTIONS HELD IN THE TOWN OF DEDHAM.**

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 to the contrary, the acts and proceedings taken by the town of Dedham at the special election held on January 4, 2003 and the special election held on May 31, 2003, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, to the same extent as if the warrants for these elections had been executed in full compliance with law.

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

Approved September 5, 2003.

Chapter 63. AN ACT RELATIVE TO THE ELECTION OF MEMBERS OF THE SCHOOL COMMITTEE OF THE GREATER LOWELL REGIONAL VOCATIONAL SCHOOL FROM THE CITY OF LOWELL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, the charter of the city of Lowell or any agreement among the member communities of the Greater Lowell Regional Vocational School District to the contrary, because the number of persons filing nomination papers for the office of school committee of the Greater Lowell Regional Vocational School from the city of Lowell is not more than 5, as certified by the city of Lowell election commission, for the election of 2 persons to that office to be held in the year 2003, there shall be no preliminary election in the city of Lowell for that office and all persons whose nomination papers have been duly certified shall be considered to have been nominated.

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

Approved September 5, 2003.

Chapter 64. AN ACT VALIDATING A CERTAIN VOTE TAKEN BY THE TOWN OF WRENTHAM.

Be it enacted, etc., as follows:

SECTION 1. The vote taken by the town of Wrentham at the special election held on June 23, 2003 to exempt from section 21C of chapter 59 of the General Laws the amounts required to pay the town's share of the principal and interest on the borrowing authorized by the King Philip Regional School District for the cost of the construction of an addition to and remodeling and renovations to the King Philip Regional High School, including equipment and furnishings and demolition of portions of existing facilities related thereto, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the calling of said election.

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

Approved September 5, 2003.

Chapter 65. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CEYLIN GUILLERMO, AN EMPLOYEE OF THE DEPARTMENT OF SOCIAL 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 social services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public good.

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Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of social services shall establish a sick leave bank for Ceylin Guillermo, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Ceylin Guillermo. Whenever Ceylin Guillermo terminates employment with the department or requests to dissolve the sick leave bank established by this act, the balance of the sick leave time shall be transferred to the extended illness leave bank.

Approved September 5, 2003.

Chapter 66. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DUARTE O. RAPOSO, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Duarte O. Raposo, an employee of the trial court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Duarte O. Raposo. Whenever Duarte O. Raposo terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

Approved September 5, 2003.

Chapter 67. AN ACT RELATIVE TO THE PRESCRIPTION ADVANTAGE PROGRAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to extend the enrollment period for the prescription advantage program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

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SECTION 1. Subsection (A) of section 614 of chapter 26 of the acts of 2003 is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) The open enrollment period which began on August 1, 2003 shall expire on August 31, 2003. There shall also be an open enrollment period from January 1, 2004 through January 31, 2004; provided, however, that the secretary of elder services may establish a cap on the number of individuals enrolled during the open enrollment period if the secretary certifies to the house and senate committees on ways and means not later than December 1, 2003 that without the cap and under the current benefit structure program costs are projected to exceed the fiscal year 2004 appropriation set forth within item 9110-1455. A person shall also be eligible to enroll in the program at any time within a year of reaching age 65. During the open enrollment period, individuals shall be enrolled in the program in the order in which the program receives their completed application.

SECTION 2. The introductory paragraph of subsection (B) of said section 614 of said chapter 26 is hereby amended by striking out the words "Steps that may be taken shall include, but are not limited to" and inserting in place thereof the following words:- In addition to limiting open enrollment as provided in paragraph (i) of subsection (A), steps that may be taken shall include, but be limited to.

SECTION 3. Said subsection (B) of said section 614 of said chapter 26 is hereby further amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) Enrollment: A person shall not be eligible to enroll in the program at any time within a year of reaching age 65.

Approved September 5, 2003.

Chapter 68. AN ACT DECLARING SEPTEMBER 11 AS UNITY DAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for declaring September 11 as Unity Day, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15RRRR, inserted by chapter 20 of the acts of 2003, the following section:-

Section 15SSSS. The governor shall annually issue a proclamation setting apart September 11 as Unity Day, the official state day honoring all September 11, 2001 victims and heroes and promoting peace, unity and social action, and recommending that the day be observed in an appropriate manner by the people.

Approved September 10, 2003.

Chapter 69. AN ACT ESTABLISHING THE MADELINE AMY SWEENEY AWARD FOR CIVILIAN BRAVERY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by adding the following section:-

Section 214. There shall be presented annually on September 11 an award for civilian bravery in memory of Madeline Amy Sweeney, a victim on American Airlines Flight 11. The award shall be presented to citizens of the commonwealth who have displayed extraordinary courage, bravery and heroism without regard for personal safety, in an effort to save the life of another.

Nominations for the award shall be made to an award selection committee in the Executive Office of Public Safety. The committee shall consist of the lieutenant governor, who shall be chairperson; 6 members to be appointed by the governor including: the surviving spouse or offspring of Madeline Amy Sweeney, or a designee, 2 members of the public safety community, and 3 members to include past Sweeney award recipients; and representatives of the Massachusetts 9/11 Fund, Inc.; 2 members appointed by the speaker of the house of representatives and 2 members appointed by the senate president.

Approved September 11, 2003.

Chapter 70. AN ACT AUTHORIZING THE MERGER OF MOBY DICK COUNCIL, INC. AND THE BOY SCOUTS OF AMERICA INTO THE NARRAGANSETT COUNCIL, BOY SCOUTS OF AMERICA.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the merger of certain charitable corporations, therefore 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 section 10A of chapter 180 of the General Laws or any other general or special law to the contrary, the Moby Dick Council, Inc. and the Boy Scouts of America, a nonprofit charitable corporation may merge into the Narragansett Council, Boy Scouts of America, a Rhode Island nonprofit charitable corporation.

This merger shall take effect only if the merged corporation files with the state secretary corrected and restated articles of merger, providing that (a) the merged corporation may be sued in the commonwealth for any prior obligation of the Moby Dick Council, Inc., and any other obligation incurred by the merged corporation, so long as any liability remains outstanding against the corporation in the commonwealth, and (b) the merged corporation shall be bound by, and the prior obligations under clause (a) shall include, any restrictions,

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whether in the nature of a contract or in the nature of an express or implied trust, on the use or disposition of assets held for charitable purposes by the Moby Dick Council, Inc., and the merged corporation shall irrevocably appoint the state secretary as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the manner provided in chapter 181 of the General Laws. These corrected and restated articles of merger may be effective as of the date that the original articles of merger were filed with the state secretary, but only if the corrected and restated articles state that the corporation has fully complied with the preceding sentence at all times after that date.

Approved September 11, 2003.

Chapter 71. AN ACT RELATIVE TO THE UNITED WE STAND DISTINCTIVE REGISTRATION PLATES.

Be it enacted, etc., as follows:

Section 2E of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 44 to 49, inclusive, the words "toward the design, construction and maintenance of a permanent memorial to such Massachusetts victims, or both; 25 per cent shall be deposited within 90 days of receipt thereof to the Rewards for Justice Fund, to be contributed to the United States State Department's Rewards for Justice program and used solely to apprehend terrorists and bring them to justice" and inserting in place thereof the following words:- to establish a permanent memorial to such Massachusetts victims or both; 25 per cent shall be directed to the Massachusetts 9/11 Fund, Inc. to be used solely for the purposes of the design, construction and maintenance of a memorial to the victims of the September 11, 2001 terrorist attack on America.

Approved September 11, 2003.

Chapter 72. AN ACT DESIGNATING A CERTAIN PARCEL OF LAND IN THE CITY OF BOSTON AS THE GUIDO SALVUCCI BOCCI COURT.

Be it enacted, etc., as follows:

The land controlled by the department of conservation and recreation within and adjacent to the Leo Birmingham Parkway in the city of Boston now used as a bocci court shall be designated and known as the Guido Salvucci Bocci Court. The department shall erect and maintain suitable markers at the bocci court bearing this designation, in compliance with the standards of the department.

Approved September 19, 2003.

Chapter 73. AN ACT DESIGNATING THE CHIEF OF POLICE OF THE TOWN OF EAST BRIDGEWATER AS THE APPOINTING AUTHORITY FOR THE POLICE DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the chief of police of the town of East Bridgewater shall be the appointing authority for all appointments and promotions within the police department of the town of East Bridgewater below the rank of chief.

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

Approved September 19, 2003.

Chapter 74. AN ACT ESTABLISHING A SICK LEAVE BANK FOR EMANUEL ROQUE, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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 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 any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Emanuel Roque, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Emanuel Roque. Whenever Emanuel Roque terminates employment with the department or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the extended illness leave bank.

Approved September 19, 2003.

Chapter 75. AN ACT AUTHORIZING THE DEVENS ENTERPRISE COMMISSION TO GRANT CERTAIN LICENSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, in addition to any licenses issued pursuant to clause (h) of paragraph (5) of section 11 of chapter 498 of the acts of 1993, the Devens Enterprise Commission may grant: (1) a license for the sale of

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all alcoholic beverages to be drunk on the premises, to a restaurant; and (2) a license for the sale of wines and malt beverages to be drunk on the premises, to a hotel. Licenses granted under this section shall not decrease the number of such licenses authorized to be granted by the towns of Ayer, Harvard and Shirley.

SECTION 2. Except as provided in section 1 and notwithstanding any other general or special law to the contrary, the Devens Enterprise Commission shall not grant any additional licenses for the sale of all alcoholic beverages or for the sale of wines and malt beverages for a period of 5 years following the effective date of this act. After the expiration of the 5-year period, the Devens Enterprise Commission shall not grant any licenses for the sale of all alcoholic beverages or for the sale of wines and malt beverages unless local approval is first received from the board of selectmen in each of the towns of Ayer, Harvard and Shirley.

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

Approved September 19, 2003.

Chapter 76. AN ACT AUTHORIZING DANIEL P. MURPHY TO WITHDRAW FROM A CERTAIN RETIREMENT PROGRAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow forthwith a certain individual to withdraw from a certain retirement program, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding clause (i) of subdivision (4) of section 5 of chapter 32 of the General Laws, Daniel P. Murphy may withdraw from participation in the RetirementPlus program established by said subdivision (4); but, he shall not receive a return of any additional retirement contributions made pursuant to the RetirementPlus program from the date of his entrance into the program to the effective date of this act. Upon the effective date of this act, Mr. Murphy shall pay a retirement contribution amount equal to that which he would have paid had he not participated in the RetirementPlus program.

Approved September 30, 2003.

Chapter 77. AN ACT RELATIVE TO IMPROVEMENT OF THE SEX OFFENDER REGISTRY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote public safety in accordance with the Wetterling Act, 42 USC section 14071,

thereby avoiding reduction of the commonwealth's Byrne Memorial Grant award, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Section 178C of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition of "Agency" the following 2 definitions:-

"Employment", includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether compensated or uncompensated.

"Institution of higher learning", a post secondary institution.

SECTION 2. Said section 178C of said chapter 6, as so appearing, is hereby further amended by striking out, in line 27, the words "or works" and inserting in place thereof the following words:- , works or attends an institution of higher learning.

SECTION 3. Said section 178C of said chapter 6, as so appearing, is hereby further amended by inserting after the figure "265", in lines 51 and 77, each time it appears, the following words:- ; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265.

SECTION 4. Section 178D of said chapter 6, as so appearing, is hereby amended by inserting after the word "address", in line 13, the following words:- and, if the sex offender works at or attends an institution of higher learning, the name and address of the institution.

SECTION 5. Section 178E of said chapter 6, as so appearing, is hereby amended by striking out, in lines 26 and 27, lines 55 and 56, lines 82 and 83, lines 127 to 129, inclusive, lines 137 and 138, and lines 175 and 176, each time they appear, the words "home address or intended home address, work address or intended work address" and inserting in place thereof, in each instance, the following words:- date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of the institution, and, if the sex offender is or intends to become a part-time or full-time student of an institution of higher learning, the name and address of the institution.

SECTION 6. Said section 178E of said chapter 6, as so appearing, is hereby further amended by inserting after the word "work", in line 131, the following words:- and, if the sex offender intends to work at or become a student at an institution of higher learning, to the police departments in the municipalities where the sex offender will work or attend such institution.

SECTION 7. Subsection (h) of said section 178E of said chapter 6, as so appearing,

is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The board shall transmit notice of such change of address to all the police departments in the municipalities where the offense was committed, where the sex offender last registered and where the sex offender intends to live or attend an institution of higher learning and shall transmit the same to the Federal Bureau of Investigation.

SECTION 8. Said section 178E of said chapter 6, as so appearing, is hereby further amended by inserting after the word "address", in line 161, the following words:- and, if the sex offender is or intends to become employed part-time or full-time at an institution of higher learning, the name and address of the institution.

SECTION 9. Said section 178E of said chapter 6, as so appearing, is hereby further amended by inserting after the word "commonwealth", in line 172, the following words:- or working at or attending an institution of higher learning in the commonwealth.

SECTION 10. Said section 178E of said chapter 6, as so appearing, is hereby further amended by inserting after the word "committed", in line 178, the following words:- and, if the sex offender intends to work at or become a student at an institution of higher learning, to the police departments in the municipalities where the sex offender will work or attend such institution.

SECTION 11. Said section 178E of said chapter 6, as so appearing, is hereby further amended by adding the following 3 subsections:-

(o) A sex offender who plans to work at or attend an institution of higher learning part-time or full-time in the commonwealth shall, within 10 days prior to commencing employment or enrollment in classes at an institution of higher learning, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the sex offender's name, date of birth, home address or intended home address, work address or intended work address, and the name and address of the institution of higher learning. The board shall transmit notice of such change of address to all police departments in the municipalities where the sex offender plans to work at or attend an institution of higher learning and shall transmit the same to the Federal Bureau of Investigation.

(p) A sex offender required to register pursuant to section 178C to 178P, inclusive, who intends to transfer from the institution of higher learning he is attending or shall notify the board in writing not later than 10 days before leaving the present institution of higher learning and shall provide the board with the name and address of the new institution of higher learning, if applicable. The board shall transmit notice of any such change of address to all police departments in the municipalities where the sex offender previously attended an institution of higher learning and, if applicable, to the police department in the municipality where the sex offender plans to attend an institution of higher learning. The board shall transmit notice of any change of address for the institution of higher learning to the Federal Bureau of Investigation.

(q) Any nonresident person enrolled on a full-time or part-time basis, in any public or private education institution in the commonwealth, including any secondary school, trade or professional institution, shall register with the board if such person is required to register

as a sex offender in the state in which he resides. Such student shall, within 10 days of attending such institution, register by mailing to the board on a form approved by the board and signed under the pains and penalties of perjury, the student's name, date of birth, home address and the name and address of the educational institution he is attending.

SECTION 12. Section 178F of said chapter 6, as so appearing, is hereby amended by striking out, in line 7, the words "home address and work address" and inserting in place thereof the following words:- date of birth, home address or intended home address, work address or intended work address and, if the sex offender is or intends to become a part-time or full-time employee of an institution of higher learning, the name and address of said institution and, if the sex offender is a part-time or full-time student at an institution of higher learning or intends to become a part-time or full-time student of an institution of higher learning, the name and address of said institution of higher learning.

SECTION 13. Said section 178F of said chapter 6, as so appearing, is hereby further amended by inserting after the word "name", in line 11, the following words:- , date of birth.

SECTION 14. Said section 178F of said chapter 6, as so appearing, is hereby further amended by inserting after the word "work", in line 31, the following words:- or attend an institution of higher learning.

SECTION 15. Section 178F½ of said chapter 6, as so appearing, is hereby amended by inserting after the word "works", in lines 6, 34 and 45, each time it appears, the following words:- or attends an institution of higher learning.

SECTION 16. Section 178G of said chapter 6, as so appearing, is hereby further amended by striking out the fourth, fifth, sixth and seventh sentences.

SECTION 17. Section 178J of said chapter 6, as so appearing, is hereby amended by striking out, in lines 29, 33 and 38, the words "live or work" and inserting in place thereof, in each instance, the following words:- live, work or attend an institution of higher learning.

SECTION 18. The first paragraph of subsection (c) of said section 178J of said chapter 6, as so appearing, is hereby amended by adding the following clause:-

(7) the name and address of the institution of higher learning where the sex offender works or is enrolled as a student, if located in the areas described in clause (2) or (3) of subsection (b).

SECTION 19. Section 178K of said chapter 6, as so appearing, is hereby amended by inserting after the word "works", in lines 103, 119, and 131, the following words:- and attends an institution of higher learning.

SECTION 20. Said section 178K of said chapter 6, as so appearing, is hereby further amended by inserting after the word "work", in lines 104, 120, and 132, each time it appears, the following words:- and attend an institution of higher learning.

SECTION 21. Said section 178K of said chapter 6, as so appearing, is hereby further amended by inserting after the word "police", in line 108, the following words:- and the board.

SECTION 22. Paragraph (c) of subsection (2) of said section 178K of said chapter 6, as so appearing, is hereby amended by adding the following clause:-

(vii) the name and address of the institution of higher learning that the sex offender is attending.

SECTION 23. The sex offender registration board shall establish procedures to accept sex offender registrations from nonresidents who are in the commonwealth to work, to carry on a vocation or to attend school. Such workers shall include those who are employed either part-time or full-time for more than 14 days or for an aggregate period exceeding 30 days in a calendar year, whether compensated or uncompensated. Such students shall include those who attend any type of school in the commonwealth on either a part-time or full-time basis. The board shall collect, at a minimum, a worker's or a student's name, date of birth, address and place of employment or school attended. The board shall inform such registrants of their duty to register in any state where they are employed, carry on a vocation or attend school.

Approved September 30, 2003.

Chapter 78. AN ACT RELATIVE TO CERTAIN CAPITAL SPENDING AUTHORIZATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for improvements and repairs 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 the continued availability of certain bond-funded spending authorizations which otherwise would expire on September 30, 2003, the balances of the following items of appropriation and any allocations thereof are hereby extended through June 30, 2004, for the purposes of and subject to the conditions stated for those items in the original authorizations and any amendments to those authorizations:

Appropriation			
0330-0951	0332-5962	1100-7982	1102-2204
0330-2204	0332-8811	1100-7985	1102-2992
0330-2206	0431-8833	1100-8880	1102-3203
0330-2208	0511-0251	1100-9101	1102-4940
0330-2209	0526-0103	1100-9520	1102-4994
0330-8890	0526-8998	1102-0890	1102-5996
0330-8891	0526-9961	1102-1960	1102-6896
0330-8968	1100-1993	1102-1991	1102-7881
0332-5961	1100-7981	1102-1992	1102-7888

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1102-7890	2120-8882	2440-7875	3722-8898
1102-7891	2120-8883	2440-7958	4000-8000
1102-7893	2120-8951	2440-8885	4000-8100
1102-7894	2120-8962	2240-8886	4000-8200
1102-7896	2121-8888	2440-8889	4010-8831
1102-7930	2121-9885	2440-8950	4180-0013
1102-7960	2150-6966	2440-8952	4180-7890
1102-7967	2150-6967	2440-8956	4180-7891
1102-7979	2150-9951	2440-8963	4190-7883
1102-8791	2150-9963	2440-8965	4200-8968
1102-8862	2150-9969	2440-9101	4238-8871
1102-8869	2200-8969	2440-9102	4311-7880
1102-8872	2240-8820	2440-9104	4311-7881
1102-8880	2240-9101	2440-9112	4313-8841
1102-8883	2240-9105	2440-9800	4315-8841
1102-8888	2240-9106	2440-9990	4315-8891
1102-8890	2240-9107	2443-7967	4536-7890
1102-8968	2250-8820	2490-0010	4537-7891
1102-8969	2250-8822	2490-0012	5011-8811
1102-9897	2250-8881	2490-0013	5011-8841
1102-9960	2250-9959	2490-0014	5011-8842
1102-9980	2260-9881	2490-0015	5095-8870
1102-9981	2260-9882	2490-0016	5095-8872
1599-3914	2260-9884	2490-0017	5500-8300
1599-4994	2260-9965	2490-0019	5500-8400
1599-8000	2270-8772	2495-8968	5500-8500
2000-1962	2300-0961	2495-8969	5500-8893
2000-1997	2300-7967	2495-8998	5500-9000
2000-6966	2300-8961	2495-9968	5500-9100
2000-6967	2300-8970	2496-8967	5500-9220
2000-6969	2320-8960	3722-7870	5500-9400
2000-7968	2320-8978	3722-7871	5800-8100
2000-9963	2410-7872	3722-8865	5800-8120
2100-0950	2410-8802	3722-8871	5800-8300
2100-0951	2420-1420	3722-8872	5800-8810
2100-0952	2420-7881	3722-8873	5800-9000
2100-1122	2420-7882	3722-8875	6000-7967
2100-1961	2420-7961	3722-8891	6001-8800
2120-6996	2420-8936	3722-8892	6033-8828
2120-8861	2420-8960	3722-8894	6033-9113
2120-8881	2420-8961	3722-8896	6033-9500

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6033-9581	7004-8986	7220-0960	7510-7960
6033-9615	7004-8987	7220-0961	7510-7961
6033-9617	7004-9980	7220-7893	7511-7960
6033-9646	7066-0013	7220-7894	7512-7960
6033-9660	7109-0961	7310-0960	7512-7961
6033-9669	7109-0962	7410-7960	7514-7960
6033-9716	7109-7893	7411-7960	7514-7961
6035-9513	7112-0960	7452-7960	7516-7960
6035-9515	7112-0961	7452-7961	8000-0019
6035-9516	7113-0960	7452-7963	8000-7950
6035-9517	7113-0964	7452-7964	8095-5968
6036-9616	7114-0960	7452-7965	8100-8958
6036-9617	7114-0961	7502-0960	8195-8968
6036-9698	7114-8998	7503-7892	8199-7966
6037-9916	7115-0960	7503-7960	8199-7967
6037-9917	7115-0961	7504-7960	8200-8842
7000-1991	7116-0960	7504-7961	8900-1981
7000-3993	7116-0961	7505-7960	8900-7967
7000-9952	7116-0962	7506-7961	8995-8968
7000-9995	7117-0960	7506-7962	9000-8968
7004-6666	7118-0960	7507-7960	9300-3905
7004-8984	7118-0961	7508-0960	9300-3909
7004-8985	7118-7962	7509-7960	

SECTION 2. To provide for the continued availability of certain bond-funded spending authorizations which otherwise would expire on September 30, 2003, the unobligated balances of the following items of appropriation, not to exceed the amount listed below, are hereby extended through June 30, 2004:

Appropriation	
1102-0961	\$755,342
1102-0964	\$191,982
1102-7886	\$65,369
1102-7887	\$4,217
1102-7897	\$164,896
1102-7977	\$87,365
1102-8819	\$257,480
1102-8894	\$152,529
7110-0960	\$73,276

SECTION 3. Notwithstanding any general or special law to the contrary, the unexpended balances of any capital account, with the exception of those listed in section 2, which otherwise would revert on June 30, 2003 but which are necessary to fund obligations

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during fiscal year 2004 are hereby re-authorized until October 30, 2003 at which time the re-authorizations shall be terminated and shall revert.

SECTION 4. Any appropriations referenced in sections 1, 2, or 3 of this act which are for an agency that was merged under chapters 26 and 41 of the acts of 2003 shall be deemed to reference appropriations for the successor agency.

SECTION 5. This act shall take effect September 30, 2003.

Approved September 30, 2003.

Chapter 79. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY AN EASEMENT IN CERTAIN LAND LOCATED IN THE TOWN OF CONCORD.

Whereas , The deferred operation of this act would tend to defeat its purpose, which is to forthwith grant an easement in certain lands located in the town of Concord for highway 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:

The commissioner of capital asset management and maintenance, acting in consultation with the state police and the department of highways, may, subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws, grant an easement in certain land located in the town of Concord for highway purposes. The consideration to be paid to the division by the grantee of such easement shall be for a nominal fee as determined by the commissioner of the division. The property interest established by the granting of the easement shall revert to the commonwealth if the property described in this act is used for a purpose other than the purpose set forth in this act. The parcel is approximately 0.6 acres and is part of a larger tract of land owned by the commonwealth shown as "Lot 1 24,861 S.F." and a portion of the "Driveway Easement (1,400 S.F.)" on a plan entitled "Easement Plan of Land in Concord, MA prepared for the Town of Concord, scale 1" = 50' June 27, 2002". The exact boundaries of the easements shall be determined by the commissioner in consultation with the department of state police after completion of a survey.

Approved October 2, 2003.

Chapter 80. AN ACT RELATIVE TO THE CITY OF BROCKTON'S CONTRIBUTIONS TO THE HEALTH INSURANCE PREMIUMS OF ITS RETIREES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the percentage of contribution of the city of Brockton to the health insurance premiums of its retirees shall not exceed 75 per cent, but the percentage of contribution of the city of Brockton to the health insurance premiums of retirees who as of the effective date of this act are 65 years of age and older and have household incomes of 200 per cent of the federal poverty level or lower shall not be reduced below the per cent contribution for health insurance made to such retirees before the effective date of this act.

SECTION 2. This act shall take effect as of June 30, 2003.

Approved October 2, 2003.

Chapter 81. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOHN NOURSE, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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 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 any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for John Nourse, an employee of said department. Any employee of said department may voluntarily contribute 1 or more of his sick, personal or vacation days to said sick leave bank for use by said John Nourse. Whenever said John Nourse terminates employment with said department or requests to dissolve said sick leave bank, the balance of the sick leave time shall be transferred to the extended illness leave bank.

Approved October 3, 2003.

Chapter 82. AN ACT DESIGNATING A CERTAIN TRAIL IN THE TOWN OF MANSFIELD AS THE WORLD WAR II VETERANS TRAIL.

Be it enacted, etc., as follows:

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The trail presently under construction by the department of highways in the town of Mansfield shall be designated and known as the World War II Veterans Trail. The department shall erect suitable markers bearing the designation in compliance with the standards of the department. The town of Mansfield may maintain the markers.

Approved October 9, 2003.

Chapter 83. AN ACT VALIDATING THE ACTION TAKEN AT A SPECIAL TOWN MEETING HELD BY THE TOWN OF ROCKLAND.

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, all acts and proceedings taken by the town of Rockland at the special town meeting held on May 12, 2003 and all actions taken pursuant thereto are hereby ratified, validated and confirmed, to the same extent as if the warrant for that meeting had been posted in full compliance with law and applicable by-law.

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

Approved October 9, 2003.

Chapter 84. AN ACT AUTHORIZING THE TOWN OF LEE TO ENTER INTO CONTRACTS FOR CONSTRUCTION, OPERATION AND MAINTENANCE, LEASE AND MODIFICATION OF ITS WATER AND WASTEWATER TREATMENT FACILITIES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law to the contrary, the town of Lee may enter into contracts for the lease, operation and maintenance, financing, design and construction of new facilities or modifications and installation of new equipment and systems at its water and wastewater treatment facilities, its collection, distribution and disposal systems, sources of water supply, and pump stations in this act referred to as facilities to ensure adequate services and to ensure the ability of the town's facilities to operate in full compliance with all applicable requirements of federal, state and local laws; provided, however, that such contracts shall not be subject to the competitive bid requirements set forth in sections 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; provided, further, that each such contract shall be awarded pursuant to chapter 30B of the General Laws except for clause (3) of paragraph (b), clause (3) of paragraph (e) and paragraph (g) of section 6, and sections 13 and 16 of said chapter 30B.

(b) 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. 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.

(c) The request for proposals shall set forth mandatory performance guarantees that the selected offeror will be required to meet in designing, constructing or operating the facilities. The contract which is negotiated with the selected offeror based on the request for proposals shall obligate the selected offeror to meet such mandatory 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 facilities are capable of meeting the performance guarantees.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, contracts awarded under section 1 may provide for a term not exceeding 20 years and an option for renewal or extension of operations and maintenance services for 1 additional term not exceeding 5 years. The renewal or extension shall be at the sole discretion of the town of Lee 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 under this act may provide that, subject to a majority vote of town meeting, the town shall not be exempt from liability for payment of the costs to finance, permit, design and construct new facilities, modifications or installation of new equipment and systems at the facilities necessary to ensure the ability of the facilities to operate in full compliance with all applicable requirements of federal, state and local laws; provided, however, that such costs shall be amortized over a period that is no longer than the useful life of such facilities. 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 under 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 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 facilities, and the management, operation, maintenance, and repair thereof.

SECTION 3. The chief procurement officer of the town of Lee shall solicit proposals through requests 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 proposed key contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or nonnegotiable; provided, however, that the requests for proposals may request proposals or offer options for fulfillment of other contractual terms and such other matters as may be determined by the town. 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 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 nonnegotiable with such offeror. If, after negotiation with such offeror, the chief procurement officer determines that it is in the town's best interests, the chief procurement officer may determine the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and other evaluation criteria set forth in the request for proposals and may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. The chief procurement officer shall recommend to the board of selectmen the award of 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. If the board of selectmen approves the recommendation of the chief procurement officer, the board of selectmen shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. With respect to any contract in excess of 5 years, such award shall be subject to authorization by town meeting. The award shall be subject to sections 5 and 6. The parties may extend the time for acceptance by mutual agreement.

SECTION 5. Notwithstanding any other provisions of this act, it shall be a mandatory term of any request for proposals issued by the town regarding the subject matter of this act, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the facilities and to preserve the health, safety and environmental conditions of residents of the town of Lee and surrounding communities, that any and all employees, as applicable, hereinafter referred to as facility employees, working on the operation and maintenance of the facilities, be offered employment by any party entering into a contract with the town for the operation and maintenance of the facilities, and it shall be a mandatory term of any request for proposals, that any party entering into a contract shall employ all facility employees employed at the facilities 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, it shall be a mandatory term of any such request for proposals that any party entering into such contract with the town shall provide a salary and benefits package to all facility employees, which is equivalent to the combined value of the salary and benefits package provided to such employees by the town and that the party shall accept assignment and assume existing collective bargaining agreements and adopt all terms and conditions of employment provided by the collective bargaining agreements. It shall also be a mandatory term of any request for proposals that during the unexpired term of any existing collective bargaining agreement and upon the termination of such collective bargaining agreements that the party shall meet its legal obligations, including bargaining in good faith, with regard to

any labor organization representing facility employees engaged in the operation and maintenance of the sewer works system. Notwithstanding any other provisions of this act, any proposal submitted to the town regarding the subject matter of this act not complying with the above terms, shall be disqualified from further consideration by the town.

SECTION 6. Subject to the provisions of this act, a contract awarded shall be subject to such terms and conditions as the board of selectmen of the town of Lee shall determine to be in the best interests of the town. A contract shall provide that, before the construction of modifications or installation of equipment and systems, the town shall cause a qualified engineer to independently review and approve plans and specifications for such modifications, equipment and systems. A contract shall further provide that before the town's acceptance of any modifications, equipment or systems, including work undertaken under section 8 and estimated to cost more than \$100,000, adjusted in accordance with adjustment factors as determined by the town, the town shall cause a qualified engineer to inspect such modifications, equipment and systems and certify that the construction or installation has been completed in accordance with the approved plans and specifications.

SECTION 7. Notwithstanding 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 Lee for 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, and any future revolving loan fund programs established by the commonwealth or the department of environmental protection.

SECTION 8. 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, 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 under 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, adjusted in accordance with adjustment factors as determined by the town, not specifically included in the initial contract for the lease, operation and maintenance or design and construction of the facilities shall be procured on the basis of advertised sealed bids; provided, however, that bids need not be solicited if the contractor causes such construction, renovation, modernization, installation or replacement work to be completed without direct or indirect reimbursement from the town of Lee or other adjustment to the fees or costs paid by the town including, but not limited to, any adjustment to 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 under this section; provided, however, that the town shall cause a qualified engineer to independently assess the need for such capital improvement,

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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 engineer, the town may approve, modify or reject the contractor's proposed plans and specifications.

SECTION 9. The selected offeror shall furnish to the town performance bonds, payment bonds, or other forms of security for the selected offeror's obligations, and insurance, satisfactory to the town.

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

Approved October 9, 2003.

Chapter 85. AN ACT VALIDATING ACTION TAKEN AT AN ANNUAL TOWN MEETING AND A SPECIAL TOWN MEETING HELD IN THE TOWN OF LEICESTER.

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 Leicester at the annual town meeting and the special town meeting held on May 5, 2003, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrants for the annual and special town meetings had been published in full compliance with law and town by-law.

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

Approved October 9, 2003.

Chapter 86. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CERTAIN EMPLOYEES OF THE TRIAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith sick leave banks for certain employees of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Natasha Searcy, an employee of the Worcester division of the district court department of the trial court. Any employee of the

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trial court may voluntarily contribute 1 or more sick, personal or vacation days to said sick leave bank for use by Natasha Searcy. Whenever Natasha Searcy terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Annemarie Terramagra, an employee of the Malden division of the district court department of the trial court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Annemarie Terramagra. Whenever Annemarie Terramagra terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of sick leave shall be transferred to the trial court paid leave bank.

Approved October 9, 2003.

Chapter 87. AN ACT RELATIVE TO THE FINANCES OF THE COMMON-WEALTH.

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

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, for the purposes of section 5C of chapter 29 of the General Laws for fiscal year 2003 the definition of "consolidated net surplus in the operating funds", as defined in section 1 of said chapter 29, shall be the definition used in fiscal year 2002.

SECTION 2. Section 179 of chapter 184 of the acts of 2002 is hereby amended by striking out the word "July" and inserting in place thereof the following word:- August.

SECTION 3. This act shall take effect as of June 30, 2003.

Approved October 10, 2003.

Chapter 88. AN ACT RELATIVE TO A CERTAIN LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES IN THE TOWN OF MILFORD.

Be it enacted, etc., as follows:

Chapter 480 of the acts of 2002 is hereby amended by adding the following paragraph:-

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The license authorized shall be granted to James G. and Mary L. Guido of said town, or an entity under their ownership and control, and shall be subject to such conditions as the licensing authority may impose, which conditions may provide for hours more restrictive than those provided in said section 15 and may restrict or prohibit sales to pedestrian clientele.

The foregoing was laid before the Governor on the Second day of October, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 89. AN ACT PLACING THE FIRE DEPARTMENT OF THE TOWN OF DRACUT UNDER THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the positions of regular and permanent members of the fire department, including the position of chief of the fire department, in the town of Dracut shall be subject to chapter 31 of the General Laws. The tenure of any incumbent regular and permanent member of the fire department including the position of chief on the effective date of this act shall be unlimited, subject to said chapter 31.

SECTION 2. Firefighter personnel of the Dracut fire department hired during the 6-month period preceding the effective date of this act shall be included as civil service employees under chapter 31 of the General Laws, subject to any applicable probationary period.

SECTION 3. Incumbents of the Dracut fire department shall not be required to pass a qualifying examination for their current positions but shall be required to pass a competitive examination under chapter 31 of the General Laws to obtain a higher rank.

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

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on September 30, 2003, and in concurrence by the Senate on October 7, 2003, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution and therefore has the force of law.

Chapter 90. AN ACT RELATIVE TO EXEMPTIONS FOR RESIDENTIAL REAL PROPERTY IN THE CITY OF CAMBRIDGE.

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 Cambridge 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 city manager, with 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 Cambridge. This 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 said chapter 59; but 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 said section 5 of said chapter 59. Where, under 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 Cambridge 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 3 months after the date on which the bill or notice of assessment was sent.

A timely application filed under this act shall, for the purposes of this act, be treated as a timely filed application under section 59 of chapter 59 of the General Laws.

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

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House on October 8, 2003, and in concurrence by the Senate on October 8, 2003, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 91. AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARK LAND IN THE TOWN OF YARMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 16 of chapter 30B of the General Laws, or any other general or special law to the contrary, the town of Yarmouth may exchange equal amounts of land at Wilbur Park, off Highbank Road, South Yarmouth, with an abutter as shown on a plan entitled "Plan of Land in South Yarmouth for the Town of Yarmouth, Scale:

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1"=21, December 11, 2000, Town of Yarmouth Engineering Department". The terms and conditions of such land exchange shall be determined by the board of selectmen of the town of Yarmouth.

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

Approved October 16, 2003.

Chapter 92. AN ACT ESTABLISHING A SEWER SYSTEM CAPITAL IMPROVEMENT FUND IN THE TOWN OF CHELMSFORD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the town of Chelmsford may establish a special account to be known as the town of Chelmsford Sewer System Capital Improvement Fund. The purpose of the fund is to provide the revenue for the increase of capacity of the system to treat wastewater by purchasing of additional treatment plant capacity within the sewer system servicing the town of Chelmsford, the funding of engineering, construction and rehabilitation of sewerage treatment works, pumping stations, and facilities serving the town of Chelmsford, and to provide revenues to do all things necessary to correct, remedy, repair, prevent and prohibit any and all forms of infiltration or inflow from groundwater and other sources of leakage into pipes, facilities and system. The special account shall be maintained by the treasurer of the town of Chelmsford in a banking institution doing business in the commonwealth and expenditures from the special account shall be made subject to appropriation initiated by the sewer commission and approved by a majority vote of the town meeting.

SECTION 2. Payments to such account shall be made by applicants for connection to the sewer system of the town who are constructing or erecting new buildings or developing land for industrial, commercial and residential uses. The method and amount of such payments from such private sources shall be as determined by a schedule of fees to be set by the sewer commission. The schedule shall provide for the method of determining the amount of each payment from such applicants based upon their anticipated water and sewer use as provided in section 3.

SECTION 3. The sewer commissioner shall assess a sewer improvement fee for all connections to the town sewer system which will generate a wastewater flow rate in excess of the flow rate contemplated for the relevant property as determined by the sewer commission based on the 1995 facilities plan. The sewer improvement fee assessed shall equal the estimated cost of constructing, reconstructing, reducing infiltration or inflow or purchasing additional capacity at the wastewater treatment plant serving the Chelmsford sewer system or any other source, to handle an incremental amount of wastewater equal to the excess flow to be generated by the increase in use of the property.

SECTION 4. There shall be a schedule of estimated costs of constructing such wastewater facilities or purchasing additional capacity as are described in section 1, expressed in dollars per gallon of daily flow rate, established by the commissioner, which schedule will not be established until the proposed schedule is first published in a newspaper in general circulation in the town and considered at a public hearing held for such purpose.

SECTION 5. All sewer improvement fees collected shall be deposited into the special fund. Monies deposited into the special fund shall be used only for the purposes set forth in this act, as may be determined by the commissioner. The commissioner may accept grants or gifts for deposit into the fund. The treasurer of the town of Chelmsford may invest monies in the special account and the income and interest accruing shall inure to the benefit of the special account.

SECTION 6. The sewer system improvement fees imposed under this act shall be in addition to any other fees permitted by law, including without limitation, sewer connection fees, betterment fees, privilege fees and user charges.

SECTION 7. Additional appropriation may be made by a majority vote of town meeting into the special account for the purpose of providing additional funds for the purposes set forth in this act.

SECTION 8. The sewer commission for the town of Chelmsford may make applications for available state and federal government grants for the engineering, construction and rehabilitation of wastewater treatment works, pumping station and facilities, and to pledge any and all such sums of money in said account with the approval of the town meeting for any such matching grants for engineering, construction and rehabilitation of wastewater treatment works, pumping stations and facilities.

SECTION 9. The town accountant shall file jointly with the sewer commission, the treasurer, finance committee and the bureau of accounts, a written report relative to such special account. The report shall be made within 120 days after the books of account are closed for each fiscal year.

SECTION 10. The sewer commission shall promulgate rules and regulations for the implementation and administration of the special account and set fees in accordance with this act.

Approved October 16, 2003.

Chapter 93. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO CONVEY CERTAIN LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Mashpee, acting by and through its board of selectmen,

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may convey, for nominal consideration, certain land located in the town to the Mashpee Affordable Housing Trust for the construction of affordable housing under the local incentive program. The land is shown on the 2001 Mashpee assessors' maps as Map 62, Blocks 28 and 29.

SECTION 2. No deed conveying, on behalf of the town of Mashpee, the land described in section 1 shall be valid unless the deed provides that the land shall be used for the purposes described in section 1. The deed shall include a reversionary clause that requires the land to revert to the town of Mashpee if the land ceases to be used for the express purpose for which it was conveyed.

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

Approved October 16, 2003.

Chapter 94. AN ACT RELATIVE TO DRAG RACING IN THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17B of chapter 90 of the General Laws or any other general or special law to the contrary, the state police and the Springfield police department may impound any motor vehicle used in the city of Springfield by an owner or operator to accelerate at a high rate of speed in competition with another operator, whether or not there is an agreement to race, whether or not there is increased noise from skidding tires or amplified noise from racing engines, so-called drag racing, until such time as a forfeiture hearing can be heard in the manner set forth in sections 2 and 3.

SECTION 2. (1) The following items shall be subject to forfeiture:-

(a) any motor vehicle used or intended to be used to violate section 17B of chapter 90 of the General Laws or used to facilitate a violation of said section 17B of said chapter 90 in the city of Springfield, but no forfeiture under this act shall extinguish a perfected security interest held by a creditor in a motor vehicle at the time of filing of the forfeiture action; and

(b) any money, negotiable instrument, securities or other thing of value furnished or intended to be furnished in exchange for violating said section 17B of said chapter 90 or for facilitating a violation of said section 17B of said chapter 90 in the city of Springfield.

(2) The following exemptions shall apply:-

(a) no motor vehicle used as a common carrier in the transaction of business as a common carrier shall be subject to forfeiture, unless the owner or other person lawfully in charge of such motor vehicle consented to or participated or intended to participate in the violation or facilitation of a violation of section 17B of chapter 90 of the General Laws;

(b) no motor vehicle used or intended to be used to violate said section 17B of said chapter 90 or to facilitate a violation of said section 17B of said chapter 90 shall be subject

to forfeiture by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such motor vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, the commonwealth or any state; and

(c) no motor vehicle shall be subject to forfeiture unless the owner knew or should have known that such motor vehicle was used or intended to be used to violate or to facilitate a violation of said section 17B of said chapter 90.

SECTION 3. The Hampden county superior court shall have jurisdiction under any action brought pursuant to this act.

(a) The city may petition the superior court in the name of the city in the nature of a proceeding in rem to order forfeiture of a motor vehicle, money or other things of value subject to forfeiture under section 2. Such proceeding shall be deemed a civil suit. Any person claiming a right in the property subject to forfeiture shall have the right to claim a trial by jury, but if such right is not claimed, the right to trial by jury shall be waived. In all such suits where the property is claimed by any person other than the city, the city shall have the burden of proving the existence of probable cause to institute the action, and any such claimant shall then have the burden of proving that the property is not forfeitable pursuant to section 2. The court shall order the city to give notice by certified mail to the owner of the motor vehicle, moneys or other things of value and to other persons who appear to have an interest therein, and the court shall promptly hold a hearing on the petition. Upon motion of the owner of said motor vehicle, moneys or other things of value, the court may continue the hearing on the petition pending the outcome of any criminal trial related to the violation of section 17B of chapter 90 of the General Laws, and upon a finding of not guilty, the court shall dismiss the forfeiture petition. At such forfeiture hearing the court shall hear evidence and, if no jury has been requested, make findings of fact and conclusions of law, and shall thereupon issue a final order, from which the parties shall have such right of appeal as is provided by law. In all such suits where a final order results in a forfeiture, said final order shall provide for disposition of the motor vehicle, moneys or other things of value by the city in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency; or by sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and the balance thereof shall be deposited in the general fund of the city pursuant to section 53 of chapter 44 of the General Laws and shall be appropriated to the police department.

SECTION 4. Whoever violates section 17B of chapter 90 of the General Laws in the city of Springfield shall, in addition to forfeiture of the motor vehicle as set forth in section 3, also be punished by a fine of not less than \$500 nor more than \$1,000, and the registrar shall suspend such operator's license for a period of not less than 60 days. A subsequent violation shall be punished by a fine of not less than \$2,000 nor more than \$5,000 and a suspension of such license for a period of not less than 6 months.

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

Approved October 16, 2003.

Chapter 95. AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO ISSUE CERTAIN GENERAL OBLIGATION BONDS WITH LEVEL DEBT SERVICE.

Be it enacted, etc., as follows:

SECTION 1. The city of Somerville may issue bonds in 1 or more series for the renovation of the Homan's building maturing no later than 20 years from their date. Such bonds may be issued as serial bonds maturing in annual or semiannual installments of principal that shall substantially equalize the aggregate amount of principal and interest due in each annual period commencing with the first annual period in which an installment of principal is due or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal. Except as otherwise provided in this act, such bonds shall be subject to chapter 44 of the General Laws.

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

Approved October 17, 2003.

Chapter 96. AN ACT RELATIVE TO THE DEVELOPMENT OF PROPERTY OWNED BY A POLITICAL SUBDIVISION FOR NONWATER DEPENDENT USES.

Be it enacted, etc., as follows:

Notwithstanding section 18 of chapter 91 of the General Laws or any other general or special law to the contrary, a memorandum of understanding between the department and any political subdivision concerning the development or utilization of property owned by that political subdivision for nonwater dependent uses and the licensure of any project involving any such property and published in accordance with section 62C of chapter 30 of the General Laws shall have the full force and effect of law. Any adjudicatory hearing or judicial review concerning a decision of the department to grant or deny a license under this act for any project covered by such a duly approved and published memorandum of understanding shall be limited in scope to the question of whether the project meets the criteria and conditions set forth in the memorandum of understanding.

This act shall apply only to projects and licenses covered by memoranda of understanding that exist on the effective date of this act and to adjudicatory hearings or judicial reviews concerning licenses issued for any project covered by such memoranda.

Approved October 17, 2003.

Chapter 97. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO PAY A CERTAIN UNPAID BILL.

Be it enacted, etc., as follows:

SECTION 1. The treasurer of the town of Abington may pay from available funds in the water department accounts to Glenn R. LaPointe, Inc. the sum of \$80,220 for the installation of a new water main, notwithstanding the failure of the town to comply with the appropriate laws relative to competitive bidding in the awarding of the contract.

SECTION 2. This act shall take effect upon its passage.
Approved October 24, 2003.

Chapter 98. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO TRANSFER CERTAIN FUNDS.

Be it enacted, etc., as follows:

The treasurer of the town of Abington may transfer a sum not to exceed \$175,000 in fiscal year 2004 from the Strawberry Valley Golf Course Enterprise Fund to the Stabilization Fund to be expended for open space and recreational purposes.
Approved October 24, 2003.

Chapter 99. AN ACT RELATIVE TO THE ISSUANCE OF PENSION FUNDING BONDS BY THE CITY OF FALL RIVER.

Be it enacted, etc., as follows:

SECTION 1. The city of Fall River may issue bonds or notes from time to time for the purpose of funding all or a portion of the unfunded pension liability of the retirement system of the city of Fall River. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms not in excess of 30 years from their date of issue and, except as otherwise provided in this act, shall be subject to the applicable provisions of said chapter 44. Any bonds or notes authorized by the city pursuant to this act shall not be subject to any referendum requirements of the city charter or ordinances. The aggregate amount of bonds or notes which may be issued by the city of Fall River under this act shall not exceed the amount which the retirement board of the city of Fall River, with the approval of the city treasurer and mayor, determines to be necessary to be issued to fund the unfunded pension liability of the retirement system of the city of Fall River as of a particular date and to provide for issuance costs and other expenses necessary or incidental to those costs. Such

determination of the retirement board of the city of Fall River of the unfunded pension liability shall be based upon the report of a nationally recognized independent consulting firm, which may be the consulting actuary generally retained by the retirement board of the city of Fall River.

SECTION 2. The maturities of bonds or notes issued under this act (i) shall be arranged so that for each issue the annual combined payments of principal and interest shall be as nearly equal as practicable, in the opinion of the treasurer and mayor, or in accordance with a schedule providing for a more rapid amortization of principal, or (ii) shall be arranged so that for each issue the annual combined payments of principal and interest shall be in amounts specifically approved by the secretary for administration and finance.

SECTION 3. Proceeds of any bonds or notes issued under this act, other than amounts to be applied to issuance costs or other expenses, shall be paid by the city of Fall River to the retirement board of the city of Fall River, shall be allocated solely to reduce the unfunded pension liability to which the bonds or notes relate, shall be invested in any investments which are permitted under chapter 32 of the General Laws, and shall otherwise be held and expended by the retirement board of the city of Fall River in accordance with law.

SECTION 4. Before the issue of any bonds or notes under this act, the city of Fall River shall submit to the executive office for administration and finance a plan showing the amount of the bonds and notes to be issued, the amount of the unfunded pension liability to be funded with the proceeds of the bonds and notes, the proposed maturity schedule of the bonds and notes, the proposed allocation of, if any, and plan to finance the principal of and interest on the bonds and notes, the present value savings reasonably expected to be achieved as a result of the issue of the bonds or notes, and any other information requested by the secretary for administration and finance relating to the bonds or notes. No bonds or notes shall be issued under this act until the secretary has approved the plan and specifically approved the maturity schedule of the bonds or notes if required by section 2.

SECTION 5. If the unfunded pension liability to be funded with the proceeds of an issue of bonds or notes issued under this act relates in part to employees of a governmental unit other than the city of Fall River, the employees of which are members of the retirement system of the city of Fall River, each such governmental unit shall be responsible for reimbursing the city of Fall River for the proportion of the annual debt service expense paid by the city of Fall River for bonds or notes issued under this act that is equal to the proportion of the total unfunded pension liability to be funded with the proceeds of the bonds or notes that relates to that governmental unit. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each such governmental unit other than the city of Fall River by each such governmental unit's proportionate share of the annual debt service expense as determined in this act. The city of Fall River shall have the same legal rights and authority

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as the retirement board of the city of Fall River to collect any amount so assessed to any such governmental unit.

SECTION 6. Notwithstanding chapter 70 of the General Laws or any other general or special law to the contrary, the portion of the annual debt service paid by the city of Fall River for bonds or notes issued under this act applicable to school department personnel who are members of the city's retirement system shall be included in the computation of net school spending for the purposes of said chapter 70 or any other general or special law.

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

The foregoing was laid before the Governor on the Sixteenth day of October, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 100. AN ACT AUTHORIZING THE TOWN OF MILFORD TO GRANT 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 grant to Truffles Grille & Wine Bar LLC. a license to sell all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

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

Approved October 30, 2003.

Chapter 101. AN ACT RELATIVE TO THE INLAND FISHERIES AND GAME FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to restore certain monies forthwith to the Inland Fisheries and Game Fund, therefore 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 definition of "Consolidated net surplus in the operating funds" in section 1 of chapter 29 of the General Laws, as appearing in section 127 of chapter 26 of the

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acts of 2003, is hereby amended by inserting after the words "section 2I" the following words:- and by section 2C of chapter 131.

SECTION 2. Section 13 of chapter 64A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 17, the word "two" and inserting in place thereof the following figure:- 2C.

SECTION 3. Section 2A of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "two" and inserting in place thereof the following figure:- 2C.

SECTION 4. Section 2B of said chapter 131, as so appearing, is hereby amended by striking out, in line 2, the words "two and two A" and inserting in place thereof the following words:- 2A and 2C.

SECTION 5. Said chapter 131 is hereby further amended by inserting after section 2B the following section:-

Section 2C. Monies received by the commonwealth from license fees, permit fees and from any and all sources pertaining to inland fishing, hunting and trapping from permit fees under section 22A, from any sale authorized in section 6 and sums received by the commonwealth from the federal government as reimbursement, grants in aid or other receipts on account of activities of the division, shall be credited on the books of the commonwealth to a fund to be known as the Inland Fisheries and Game Fund except that sums received for natural heritage and endangered species programs shall be credited to the Natural Heritage and Endangered Species Fund, established in section 35D of chapter 10; provided, however, that \$1 from the sale of each sporting, fishing, trapping and hunting license shall be credited to the wildland acquisition account established in section 2A. All unexpended balances remaining in the Inland Fisheries and Game Fund at the end of each fiscal year shall be appropriated only for the purposes of developing, maintaining, managing, operating and administering the division of fisheries and wildlife. The fund, subject to appropriation, shall be used only as follows:-

- (1) for the payment of general administrative expenses of the division;
- (2) for acquiring, maintaining or leasing public fishing rights on land, on inland streams and ponds, including stream management and the creation of new ponds;
- (3) for acquiring, maintaining or leasing public hunting rights on land;
- (4) for biological surveys of inland waters;
- (5) for propagation of game birds and fish;
- (6) for salvaging and distributing game birds and fish;
- (7) for acquisition and maintenance of wildlife sanctuaries and fish and wildlife management areas;
- (8) for maintaining water resources to provide an adequate water supply for wildlife;
- (9) for maintaining sources of food for game birds;
- (10) for payment not to exceed 50 per cent of the amount necessary for personal services and other expenses for and on account of the enforcement of laws relating directly

to inland fisheries and game, such amounts to be determined by the commissioner of administration;

(11) for the acquisition, by purchase, lease, easement or license, of land or interests therein critical to nongame wildlife and endangered species for the multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses;

(12) for the management, inventory, preservation, protection, perpetuation, and enhancement of nongame wildlife and endangered species in the commonwealth;

(13) for supplementing funds provided to the natural heritage and endangered species program for the purpose of aiding in the protection of rare, threatened and endangered species in the commonwealth; and

(14) for other general purposes of the division.

SECTION 6. Section 22A of said chapter 131 , as so appearing, is hereby amended by striking out, in line 15, the word "two" and inserting in place thereof the following figure:- 2C.

SECTION 6A. Item 2310-0200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after the words "endangered species program" the following words:- ; provided further, that \$200,000 shall be expended to continue to operate fish hatcheries in the towns of Montague and Sandwich previously scheduled to close on January 1, 2004.

SECTION 6B. Said item 2310-0200 of said section 2 of said chapter 26 is hereby further amended by striking out the figure "\$6,782,731" and inserting in place thereof the following figure:- \$6,982,731.

SECTION 7. Section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after item 2310-0200 the following item:-

2310-0316 For the purchase of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to section 2A and 2C of chapter 131 of the General Laws; provided, that no funds shall be expended from this item in the AA subsidiary for the compensation of state employees assigned to any item	\$1,419,000
Inland Fisheries and Game Fund	100%

SECTION 8. Item 2310-0200 of said section 2 of said chapter 26 is hereby amended by adding the following words:-

Inland Fisheries and Game Fund	100%
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SECTION 9. Item 2310-0317 of said section 2 of said chapter 26 is hereby amended by adding the following words:-

Inland Fisheries and Game Fund	100%
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SECTION 10. Item 2350-0101 of said section 2 of said chapter 26 is hereby amended by adding the following words:-

Inland Fisheries and Game Fund100%

SECTION 11. Section 622 of said chapter 26 is hereby repealed.

SECTION 12. Section 710 of said chapter 26 is hereby amended by striking out the figure "384".

SECTION 13. Section 713 of said chapter 26 is hereby amended by striking out the figure "384".

SECTION 14. Notwithstanding any general or special law to the contrary, any reference to the Inland Fisheries and Game Fund or the Inland Fish and Game Fund in any general or special law shall mean the Inland Fisheries and Game Fund, established by section 2C of chapter 131 of the General Laws.

SECTION 14A. Notwithstanding any general or special law to the contrary, the comptroller shall deposit fiscal relief funds and increased federal Medicaid assistance percentage funds received from the federal government during fiscal years 2004 and 2005 pursuant to the Jobs Growth Reconciliation Act of 2003, in excess of the amount transferred to the Uncompensated Care Trust Fund by section 618 of chapter 26 of the acts of 2003, to the Federal Medicaid Assistance Percentage Escrow Fund which shall be established and set up on the books of the commonwealth. Said fund shall be subject to appropriation, shall not contribute to the calculation of the consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws, and shall expire June 30, 2005 at which time the comptroller shall transfer any remaining fund balance to the Stabilization Fund.

SECTION 15. This act shall take effect as of June 30, 2003.

Pursuant to Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and House of Representatives setting forth recommended amendments to Section 14A.

The remainder of the bill was approved by the Governor on October 30, 2003 at one o'clock and zero minutes, P.M.

**Chapter 102. AN ACT RELATIVE TO THE CIVIL SERVICE ELIGIBILITY LIST
FOR FIRE SERVICE IN THE TOWN OF NORWOOD.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, Jennifer Gover, the daughter of Thomas J. Gover, a deceased firefighter in the town of Norwood, shall have her name certified for original appointment for fire service in the town of Norwood before all other persons on the civil service eligibility list for such an appointment except any disabled veterans whose names may

appear on that list. In order to have her name so certified, Jennifer Gover must first pass the written and physical examinations required of all candidates for entrance to the fire service.

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

The foregoing was laid before the Governor on the Twenty-third day of October, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 103. AN ACT RELATIVE TO THE EXTENSION OF MUNICIPAL SEWER AND WATER SERVICES TO PLUM ISLAND.

Be it enacted, etc., as follows:

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

"Bedroom", a bedroom as defined in 310 CMR 15.002.

"Plum Island Service Area", that portion of Plum Island located within the boundaries of the city of Newburyport and the town of Newbury and any land directly adjacent to the Plum island turnpike located east of the terminus of the city of Newburyport water service as of the effective date of this act, excluding any reservation land owned by the commonwealth or the United States.

SECTION 2. Notwithstanding section 3 of chapter 83 of the General Laws, the owners of all buildings located in the Plum Island Service Area in the city of Newburyport and the town of Newbury which generate wastewater shall connect the buildings to the common sewer system to be constructed in the Plum Island Service Area within 60 days after receipt of written notice from the city of Newburyport Sewer Department in the city of Newburyport or from the town of Newbury board of selectmen in the town of Newbury that the common sewer system is operational; if the common sewer system is located in a street or way which abuts the parcel of land on which the buildings are located. The notice shall be sent by certified or registered mail or delivered in hand to all such building owners within 30 days after the common sewer system is operational. After any building in the Plum Island Service Area is connected to the common sewer system located thereon, no additional bedrooms shall be added to the buildings, except that the number of bedrooms in pre-existing, conforming and non-conforming single-family structures containing 1 or 2 bedrooms may be increased by 1.

SECTION 3. Notwithstanding any general or special law to the contrary, the owners of all buildings located in the Plum Island Service Area in the city of Newburyport and the town of Newbury which use water shall connect the buildings to the municipal water distribution system to be constructed in the Plum Island Service Area within 60 days after receipt of written notice from the city of Newburyport Water Department in the city of Newburyport or from the town of Newbury board of selectmen in the town of Newbury that

said municipal water system is operational, provided that said municipal water system is located in a street or way which abuts the parcel of land on which such buildings are located. Said notice shall be sent by certified or registered mail or delivered in hand to all such building owners within 30 days after said municipal water system is operational.

SECTION 4. The superior court shall have jurisdiction in equity to enforce sections 2 and 3 and may restrain by injunction violations thereof upon petition of the city of Newburyport or the town of Newbury and may award said city or town its costs, expenses and attorney's fees of enforcing said provisions.

SECTION 5. Notwithstanding sections 42G to 42I, inclusive, and section 42K of chapter 40, and sections 14 to 15B, inclusive, of chapter 83 of the General Laws or any other general or special law to the contrary, the city council of the city of Newburyport as to land and buildings situated in the city of Newburyport and the board of selectmen of the town of Newbury as to land and buildings situated in the town of Newbury may assess betterments in accordance with chapter 80 of the General Laws upon land and buildings located in said Plum Island Service Area for said city's and said town's respective costs of constructing and installing said common sewer system and municipal water system and related improvements.

SECTION 6. Notwithstanding section 13 of chapter 80 of the General Laws, the board of assessors of the town of Newbury and the assessor of taxes of the city of Newburyport, as the case may be, may, at the request of the owner of the land so assessed, apportion all betterment assessments or unpaid balances thereof relative to said common sewer system and municipal water system and related improvements in said Plum Island Service Area into equal portions of up to 30 to be paid annually for a period of up to 30 years after such assessments first appear on the affected landowner's real estate tax bill.

SECTION 7. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Newburyport and the town of Newbury may each establish a fund, which shall be kept separate and apart from all other monies of said city and said town and in which shall be deposited all such betterment payments received by said city and said town. Said funds may be invested in the manner prescribed in sections 54 and 55 of chapter 44 of the General Laws. Any interest earned thereon shall be credited to and become part of said funds. The principal and interest therefrom shall be available for expenditure by the mayor of the city of Newburyport and the board of selectmen of the town of Newbury without further appropriation for said city's and said town's respective costs of constructing and installing said common sewer system and municipal water system and related improvements, including debt service costs.

SECTION 8. Notwithstanding section 17 of chapter 44 of the General Laws the city of Newburyport and the town of Newbury may make temporary loans for a period of not more than 5 years without payment of principal in anticipation of the money to be derived from the sale of bonds for the construction and installation of a common sewer system and municipal water system in said Plum Island Service Area.

SECTION 9. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, any interest earned on funds allocated to or appropriated by the city of Newburyport or the town of Newbury for the construction and installation of said common sewer system and municipal water system and related improvements shall remain with and become part of the accounts or accounts in which such funds are held.

SECTION 10. Notwithstanding any general or special law to the contrary, the city of Newburyport and the town of Newbury may, respectively, to layout and accept as public ways for the limited purpose of constructing, installing and maintaining said common sewer system and municipal water system and related improvements therein any of the ways located in said Plum Island Service Area listed in a document on file with the city clerk of said city and the town clerk of said town in accordance with this section. The planning boards of said city and said town shall, respectively, hold a public hearing on the layout and acceptance as public ways for the aforesaid purpose those ways so listed within 6 months after the effective date of this act at which time interested persons shall be given an opportunity to be heard. Within 30 days after the close of said hearing, the planning board of said town shall submit to the board of selectmen of said town and the planning board of said city shall submit to the council of said city a written communication with said planning boards' respective recommendations as to which ways in said document should be laid out and accepted as public ways in said city and town, respectively, for the aforesaid purpose. The communications from said planning boards shall be referred, respectively, to said board of selectmen and said city council for the sole purpose of considering the proposal to lay out and accept as public ways the ways so listed for the aforesaid purpose. Within 45 days of such referral, said board of selectmen and said city council shall, respectively, hold a public hearing on said proposal. At least 14 days before the public hearing by said board of selectmen and said city council, notice of said city's and said town's intention to lay out and accept as public ways for the aforesaid purpose those ways so listed shall be published, respectively, in a newspaper of general circulation in said town and in said city once in each of 2 successive weeks, the first publication to be not less than 14 days before such hearing. Said board of selectmen and said city council shall, respectively, within 14 days of the close of the public hearing vote as to which ways so listed shall be laid out and accepted as public ways for the aforesaid purpose. If said city council and said board of selectmen, by a $\frac{2}{3}$ vote of all of their respective members, votes to layout and accept as public ways for the aforesaid purpose, any ways so listed, those ways so laid and accepted shall thereupon be considered public ways for the aforesaid purpose.

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

Approved November 6, 2003.

Chapter 104. AN ACT AUTHORIZING THE TOWN OF SAUGUS TO CONTINUE THE EMPLOYMENT OF POLICE OFFICER PETER CICOLINI.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, Peter Cicolini, a patrolman in the police department of the town of Saugus, may continue in such office until December 31, 2003 if he is mentally and physically capable of performing the duties of his office or position. Peter Cicolini shall hold the office subject to the approval of the appointing authority, and may be removed from the office in accordance with chapter 31 of the General Laws. The appointing authority may, at its own expense, require Peter Cicolini to be examined by the retirement board of the town of Saugus to determine his capability for continued service. Deductions shall continue to be made from the regular compensation of Peter Cicolini under chapter 32 of the General Laws for any service performed until December 31, 2003. If Peter Cicolini is determined not to be capable of continuing in service pursuant to an examination by an impartial physician as provided for in this act, he shall be retired for superannuating, and shall not be presumed by virtue of such determination to be disabled for the purpose of said chapter 32.

SECTION 2. This act shall take effect as of January 30, 2003.

Approved November 7, 2003.

Chapter 105. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO ESTABLISH AN AFFORDABLE HOUSING TRUST FUND.

Be it enacted, etc., as follows:

The town of Tewksbury may establish a separate fund to be known as the Affordable Housing Trust Fund for the purpose of creating or preserving affordable housing by the town of Tewksbury, the Tewksbury Housing Authority or a housing trust, community development corporation or similar entity created under the laws of the commonwealth for the purpose of creating, maintaining or operating affordable housing.

All the expenditures from the fund shall be used for low or moderate income housing as defined in section 20 of chapter 40B of the General Laws. The funds may specifically be used to:

- (a) purchase and improve land;
- (b) purchase dwelling units;
- (c) develop new or rehabilitate existing dwelling units for purchase or rental by low and moderate income housing purchasers or tenants; and
- (d) preserve existing subsidized housing inventory as maintained by the department of housing and community development pursuant to said chapter 40B.

Expenditures shall follow an allocation plan submitted by the board of selectmen annually to town meeting at the annual town meeting, and approved by town meeting. The

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allocation plan may be amended by the town meeting at any special town meeting. The board of selectmen may request the advice of the Tewksbury Housing Authority, the planning board and others in developing any allocation plan. The allocation plan shall be a general plan of how funds from the fund will be expended over the next fiscal year, and a report on how funds were spent during the previous fiscal year.

All expenditures from the fund, including funds for capital purchases of land or buildings, shall be in accordance with the application plan and approved by a majority vote of the membership of the board of selectmen.

The fund may also be the repository of any allocation for affordable housing purposes made under chapter 44B of the General Laws, if the town votes to accept section 3 to 7, inclusive of said chapter 44B.

The town treasurer shall be the custodian of the fund and shall invest the funds in the manner authorized by sections 55, 55A and 55B of chapter 44 of the General Laws. Any income or proceeds received from the investment of funds shall be credited to and become part of the fund.

Approved November 7, 2003.

Chapter 106. AN ACT DESIGNATING A CERTAIN PROPERTY IN THE TOWN OF NATICK AS THE TONY ANNIBALLI MEMORIAL PARK AT PEGAN COVE.

Be it enacted, etc., as follows:

A certain parcel of land now known as Pegan Cove in the town of Natick shall be designated and known as The Tony Anniballi Memorial Park at Pegan Cove, in honor of the heroic sacrifice of Private Antonio "Tony" Anniballi, who was shot by a sniper and killed on August 22, 1944 in France while serving in the United States Army during World War II. Suitable markers bearing such designation shall be erected at the expense of the town of Natick upon review and approval of the department of conservation and recreation.

Approved November 10, 2003.

Chapter 107. AN ACT RELATIVE TO THE STATE DNA DATABASE.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 22 E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any person who is convicted of an offense that is punishable by imprisonment in the state prison and any person adjudicated a youthful offender

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by reason of an offense that would be punishable by imprisonment in the state prison if committed by an adult shall, within 1 year of such conviction or adjudication, submit a DNA sample to the department, which shall be collected by a person authorized under section 4, in accordance with regulations or procedures established by the director.

SECTION 2. Any person convicted of an offense punishable by imprisonment in the state prison, and any person adjudicated a youthful offender by reason of an offense punishable by imprisonment in the state prison if committed by an adult, who is incarcerated in any prison, house of correction or department of youth services facility on the effective date of this act, notwithstanding the date of such conviction, adjudication or other judicial determination, and who has not previously submitted a DNA sample to the department under chapter 22 E of the General Laws, shall, within 1 year of the effective date of this act or before release from custody or from the department of youth services, whichever first occurs, submit a DNA sample to the department. Any person currently on probation or parole as a result of such conviction, adjudication or other judicial determination, notwithstanding the date of such conviction, adjudication or judicial determination, who has not previously submitted a DNA sample to the department under said chapter 22E, shall submit a DNA sample to the department within 1 year after the effective date of this act. The submission of such DNA sample shall not be stayed pending a sentence appeal, motion for new trial, appeal to an appellate court or other post-conviction motion or petition.

Approved November 12, 2003.

**Chapter 108. AN ACT AUTHORIZING THE APPOINTMENT OF RETIRED
POLICE OFFICERS AS SPECIAL POLICE OFFICERS IN THE
TOWN OF ACUSHNET.**

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Acushnet may appoint retired Acushnet police officers as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers must have been regular Acushnet police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. A special police officer shall pass a medical examination, by a physician or other certified professional chosen by the town, to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

SECTION 3. Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the town of Acushnet.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal at the will and the pleasure of the board of selectmen at any time with 14 days notice. Upon request, the board of selectmen shall provide reasons for removal in writing.

SECTION 5. Special police officers shall be subject to the rules and regulations, policies and procedures and requirements of the police department and chief of police of the town of Acushnet including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continued capability to perform the duties of a special police officer, requirements regarding uniforms and equipment. Special police officers shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 6. Special police officers shall be sworn before the town clerk of the town of Acushnet who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in subsection (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving the town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided in this act to special police officers, shall terminate at such higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits under said section 85H of said chapter 32.

SECTION 8. Appointments as a special police officer shall entitle any individual appointed as such to assignment to any detail.

SECTION 9. Retired Acushnet police officers serving as special police officers under this act shall be subject to the limitations on hours worked and on payments to retired town employees under subsection (b) of section 91 of chapter 32 of the General Laws.

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

Approved November 13, 2003.

Chapter 109. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to facilitate the issuance of bonds to carry out the purposes of a certain act passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under subsection (b) of section 580B of chapter 26 of the acts of 2003, shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2029, as recommended by the governor in a message to the general court dated August 11, 2003 pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

Approved November 14, 2003.

Chapter 110. AN ACT AUTHORIZING THE SALE OF CERTAIN CONSERVATION LAND IN THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

SECTION 1. The town of North Reading may sell and convey, acting by and through its town meeting, and in accordance with chapter 30B of the General Laws, certain town-owned conservation land. Said land is shown as parcel 10 on the town of North Reading Assessors Map 50. The proceeds of the sale of parcel 9, which is currently held for general municipal purposes, and parcel 10 shall be used to provide all or a portion of the funding to purchase certain private property for the purpose of creating Eisenhaures Pond Park as outlined on a plan of survey dated February 28, 2003 and on file in the office of the town clerk.

SECTION 2. This act shall take effect as of October 1, 2003.

Approved November 19, 2003.

Chapter 111. AN ACT RELATIVE TO THE GERIATRIC AUTHORITY OF HOLYOKE.

Be it enacted, etc., as follows:

Section 10B of chapter 554 of the acts of 1971, inserted by section 2 of chapter 1097

of the acts of 1973, is hereby amended by striking out, in lines 4 to 6, inclusive, the words "
", said payment to be an amount arrived at by applying the tax rate of the city to the assessed valuation of the facility or system".

Approved November 19, 2003.

Chapter 112. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance may, notwithstanding any general or special law to the contrary, but subject to section 40J of chapter 7 of the General Laws, convey to the city of Worcester those certain parcels of land known and numbered 225 Franklin street in the city of Worcester, together with all buildings and structures located on these parcels and all easements appurtenant to these parcels, as described and recorded in the Worcester county registry of deeds at Book 5209 and Page 51, for 1 or more of the following uses: intermodal transportation, housing, commercial, retail, parking, other uses to address needs in the Union Station area, and other uses related or appurtenant to any of these uses.

SECTION 2. The consideration for the parcels shall be the full and fair market value of the parcels for the use authorized by this act, determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal. The inspector general shall review and approve the appraisal, and the review shall include a review of the methodology used for the appraisal. The inspector general shall have 30 days after receipt of the appraisal and a report by the commissioner. The inspector general shall submit a report on this review and approval of the appraisal to the commissioner. At least 15 days before conveying the parcels, the commissioner shall submit a copy of said inspector general's report to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on state administration. If the city agrees to assume the costs of environmental remediation and demolition of any structure currently located on the parcels, the commissioner may credit against the consideration to be paid by the city under this section the amount that the commissioner determines to be a reasonable estimate of the costs of the environmental remediation and demolition assumed by the city.

SECTION 3. The city of Worcester shall be responsible for all costs and expenses of the transaction authorized by this act as determined by the commissioner of capital asset management and maintenance, including but not limited to the costs of any survey, appraisal, and other expenses relating to the conveyance of the parcels, and shall be responsible for all costs, liabilities and expenses of any nature and kind for its ownership.

SECTION 4. The deed or other instrument conveying the parcels to the city of Worcester and any subsequent deed or deeds of all or a portion of the parcels shall, without limitation, provide that if the parcels cease to be used for the purposes set forth in this act, title to the parcels or to such portions of the parcels as may be used in violation of this act, shall, at the election of the commonwealth, revert to the commonwealth.

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

Approved November 19, 2003.

Chapter 113. AN ACT RELATIVE TO THE HISTORIC BUSINESS DISTRICT OF THE TOWN OF CHATHAM.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 641 of the acts of 1985 is hereby amended by striking out the second, third and fourth sentences and inserting in place thereof the following 3 sentences:- The selectmen in making such appointments shall use reasonable efforts to include 1 architect or builder, 1 realtor, 1 historian or person with experience in historic preservation, and 1 person with present or past business experience, with consideration being given to a person who presently or previously has owned or operated a business within the historic business district. The original appointment of members of the historic business district commission shall be 1 for 1 year, 1 for 2 years, 1 for 3 years and 1 for 4 years and 1 for 5 years from the date of the annual town elections following such appointment, and thereafter upon the expiration of the term of any member or members, the selectmen shall appoint a member or members for the term of 3 years. The selectmen shall also appoint 2 alternate commissioners annually, each to serve for a 1 year term, and, in their discretion, may also appoint 1 or more advisory or liaison members from other town boards or commissions for such terms as they deem appropriate.

SECTION 2. Section 3 of said chapter 641 is hereby amended by adding the following 2 sentences:- All municipal properties which were located wholly or partially within any of such districts as of said date shall continue to be included as part of the historic business district, notwithstanding that all municipal properties were included within a separate municipal district effective on May 12, 1987. The district established by this section may be enlarged, changed or reduced in order to comport and agree with any future changes in the designation, size or location of commercially zoned districts in the town of Chatham; provided, however, that the same shall be agreed upon by a $\frac{2}{3}$ vote at any regular or special town meeting, the warrant for which shall contain an article or articles for that purpose.

SECTION 3. Section 4 of said chapter 641 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Except as set forth in section 11, a building or structure shall not hereafter be erected, reconstructed, altered or

restored within the historic business district in any way that affects its exterior architectural features nor shall any building permit for the work be issued by the building inspector until an application for a certificate of appropriateness has been approved or a certificate of nonapplicability issued.

SECTION 4. Section 5 of said chapter 641 is hereby amended by inserting after the word "interest", in line 5, the following words:- or of significance or importance to the district as a whole.

SECTION 5. Said chapter 641 is hereby further amended by striking out section 6 and inserting in place thereof the following section:-

Section 6. Signs. Except as set forth in section 11, the erection or display of any 1 sign exceeding 1 square foot in size or the erection or display of more than 1 sign, irrespective of size, on any lot, building or structure located within the historic business district shall be approved in advance by the historic business district commission. Evidence of the approval shall be a certificate of appropriateness or a certificate of nonapplicability issued by the commission.

SECTION 6. Section 7 of said chapter 641 is hereby amended by inserting after the word "chairman", in line 1, the following words:- , a vice-chairman.

SECTION 7. Said section 7 of said chapter 641 is hereby further amended by striking out the fourth sentence.

SECTION 8. Said chapter 641 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. Rules and Regulations. The commission shall adopt, following a public hearing, rules and regulations that are desirable and necessary and which are consistent with this act. Notice of the public hearing shall be advertised in a local newspaper for 2 consecutive weeks before the public hearing. The rules and regulations shall become effective when filed with the town clerk.

SECTION 9. Section 9 of said chapter 641 is hereby amended by inserting after the word "private", in line 6, the following words:- or from a public park.

SECTION 10. Section 10 of said chapter 641 is hereby amended by inserting after the word "ways", in line 8, the following words:- or public parks.

SECTION 11. Section 11 of said chapter 641 is hereby amended by adding the following sentence:- The commission, following a public hearing, may also adopt rules and regulations establishing certain work or categories of exterior architectural features that may be constructed, removed, changed or altered without requiring a certificate of appropriateness or which permit the erection or display of signs without the requirement of a certificate.

Section 12 of said chapter 641 is hereby amended by inserting after the word "arrangement", in line 5, the following word:- color.

SECTION 13. Said chapter 6 41 is hereby further amended by striking out section 13 and inserting place thereof the following section:-

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Section 13. Approval. Upon approval of the plans by a majority of the commission, the commission shall cause a certificate of appropriateness or permit for removal or demolition, dated and signed by the majority, to be issued to the applicant.

SECTION 14. Section 14 of said chapter 641 is hereby amended by inserting after the word "removal", in line 3, the following words:- or demolition.

SECTION 15. Said chapter 6 41 is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. Violations. (1) A person who violates this act or the rules and regulations authorized under section 8 shall be subject to a fine not to exceed \$300 which fine shall enure to the town. Each day that a violation continues shall constitute a separate misdemeanor offense.

(2) Alternatively, a violation of this chapter and the rules and regulations promulgated under section 8 shall be subject to section 21D of chapter 40 of the General Laws. Each day that a violation continues to exist shall constitute a separate offense.

Approved November 20, 2003.

Chapter 114. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT TO THE COUNTY OF NANTUCKET.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for public recreation and transportation in Nantucket county and to qualify for federal funding before the deadline for applying for such funding, therefore 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, in consultation with the commissioner of the department of mental health, may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, grant, by easement agreement approved as to form by the attorney general, a 460 foot temporary construction easement and a 197 square foot permanent easement, more or less, and shown as TE-15 and PE-15 on a plan entitled "Fairgrounds Road Bicycle Path: 75% Submission" by Copley/Wolff Joint Venture dated May 31, 2001, to Nantucket county over certain property located at 42 Fairgrounds road, in the town of Nantucket. The exact boundaries of the easements shall be determined by the commissioner of capital asset management and maintenance in consultation with the commissioner of mental health after completion of a survey. The easements authorized by this act shall be for the purposes of constructing, maintaining and utilizing the Fairgrounds road bicycle path to provide a safe and enjoyable

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bicycle and pedestrian link from the Surfside road bicycle path to the proposed Old South road and Milestone road bicycle paths and, in fulfilling the goals of the Intermodal Surface Transportation Efficiency Act, by enhancing Nantucket's multimodal transportation system in an effort to reduce traffic congestion, improve safety and encourage an alternative to the use of private passenger motor vehicles on the island of Nantucket.

SECTION 2. If the easement ceases to be used at any time for the purposes contained in section 1 or is used for any purpose other than the purpose stated in said section 1, the easement shall upon notice by the commissioner of the division of capital asset management and maintenance, revert to the care and control of 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 and require the prior approval of the general court.

SECTION 3. Nantucket county shall pay for all costs associated with the disposition authorized by this act as determined necessary by the commissioner of the division of capital asset management and maintenance, including the costs of any appraisals or surveys relating to the transfer of said easement.

Approved November 20, 2003.

Chapter 115. AN ACT AUTHORIZING THE CITY OF METHUEN TO PAY CERTAIN MORAL OBLIGATIONS.

Be it enacted, etc., as follows:

SECTION 1. The city of Methuen may pay Constance M. Childs and Joanne E. McCraw a sum equal to and representing the cost of living adjustment paid to other department heads for fiscal year 2001.

The city shall pay Constance M. Childs a sum equal to a cost of living adjustment for her wages for fiscal year 2002 up to her date of retirement of September 25, 2001.

SECTION 2. The compensation paid to Constance M. Childs and Joanne E. McCraw of the city of Methuen under section 1 shall be treated as regular compensation under chapter 32 of the General Laws.

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

Approved November 20, 2003.

Chapter 116. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHRISTOPHER BOUMIL, 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 any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Christopher Boumil, an employee of the department. An employee of the department may voluntarily contribute 1 or more of his sick, personal or vacation days to the sick leave bank for use by said Christopher Boumil. When Mr. Boumil terminates employment with the department or requests to dissolve the sick leave bank, the balance of sick leave in the bank shall be transferred to the extended illness leave bank.

Approved November 20, 2003.

Chapter 117. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTES 1A AND 133 IN THE TOWNS OF NEWBURY, ROWLEY, IPSWICH AND ESSEX AND THE CITIES OF NEWBURYPORT AND GLOUCESTER AS A SCENIC BYWAY.

Be it enacted, etc., as follows:

That portion of the state highway routes 1A and 133 in the towns of Newbury, Rowley, Ipswich and Essex and the cities of Newburyport and Gloucester shall be designated and known as the Essex National Heritage Area Scenic Byway and are hereby designated as a scenic byway.

The Essex National Heritage Area Scenic Byway shall begin on state highway route 133 in the city of Gloucester at the intersection of state highway routes 127 and 133 and shall proceed generally northward along state highway route 133 through the town of Essex and into the town of Ipswich, where it shall merge with state highway route 1A and continue northward through the towns of Ipswich, Rowley and Newbury, terminating along High street and the downtown loop, in the city of Newburyport.

The general purpose of the scenic byway designation shall be 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 of local business and development of a balanced tourism program. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of said department.

Approved November 20, 2003.

Chapter 118. AN ACT RELATIVE TO FISCAL RELIEF FUNDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate the disposition of fiscal relief funds and federal Medicaid assistance percentage funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the comptroller shall deposit fiscal relief funds and increased federal Medicaid assistance percentage funds received from the federal government during fiscal years 2004 and 2005 pursuant to the Jobs Growth Reconciliation Act of 2003 in excess of the amount transferred to the Uncompensated Care Trust Fund by section 618 of chapter 26 of the acts of 2003, to the Federal Medicaid Assistance Percentage Escrow Fund, which shall be established and set up on the books of the commonwealth. This fund shall be subject to appropriation, shall contribute to the calculation of the consolidated net surplus pursuant to section 5C of chapter 29 of the General Laws, and shall expire June 30, 2005 at which time the comptroller shall transfer any remaining fund balance to the Stabilization Fund.

SECTION 2. Section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after item 1599-3384 the following item:-

1599-3391 For a reserve for the payment or reimbursement of certain court judgments, settlements or legal fees; provided, that in accordance with regulations promulgated by the comptroller, prior fiscal year judgments, settlements or legal fees may be paid or reimbursed from this item; provided that, not less than \$3,500,000 shall be provided for payment or reimbursement for legal fees and other costs associated with civil action number 2002-10428-DPW and civil action number 2002-11190-DPW; provided further, that \$486,000 shall be expended from this item for the resolution of the Adam Dzialo case; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item; provided further, that no amount appropriated in this item shall fund attorneys' fees for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts; and provided further, that no funds shall be expended from this item for any settlements pursuant to Superior Court Civil Action NO. 03-1913, BLS Allen's Pharmacy Cape Ann, & others vs. Christine C. Ferguson, Acting Commissioner of the Massachusetts Division of Health Care Finance and Policy \$16,579,000.

SECTION 3. Said section 2 of said chapter 26 is hereby further amended by insert-

after item 1599-7778 the following item:-

1599-8087 For a reserve to fund the costs associated with the relocation of state agencies to the Leverett Saltonstall State Office Building; provided, however, that the secretary for administration and finance may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2004 such amounts as are necessary to meet said costs where the amounts otherwise available are insufficient for the purpose \$5,582,339.

SECTION 4. Subsection (a) of section 616 of said chapter 26 is hereby amended by striking out clause (v) and inserting in place thereof the following clause:- (v) shall have received his pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts's human resource management information system or paid by the Nashoba Associated Boards of Health or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws.

SECTION 5. Section 4 of this act shall expire on January 1, 2004.

*This bill was returned on November 21, 2003, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following sections therein: **SECTIONS 4 and 5.***

The remainder of the bill was approved by the Governor on November 21, 2003 at three o'clock and ten minutes, P.M.

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 13, 2003 the House of Representatives and on January 15, 2003 the Senate passed the following section: **SECTION: 4.***

Chapter 119. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to facilitate the issuance of bonds to carry out the purposes of a certain act passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 3 of chapter 40 of the acts of 2003, shall be issued for a term not to exceed 20 years. All such bonds shall be payable not later than June 30, 2028, as recommended by the governor in a message to the general court dated July 29, 2003 pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

Approved November 21, 2003.

Chapter 120. AN ACT AUTHORIZING THE TOWN OF BRAINTREE TO LEASE CERTAIN PROPERTY.

Be it enacted, etc., as follows:

The town of Braintree, acting by and through its board of selectmen, may (a) lease the Watson Park branch library to the Braintree historical society or other approved entity; (b) alter the use of the building from parks and library purposes to an historical museum or other approved purpose; and (c) exempt the lease from chapter 30B of the General Laws.

Approved November 26, 2003.

Chapter 121. AN ACT RELATIVE TO THE GRANT OF EASEMENTS BY THE CITY OF NEWTON TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the mayor and the board of aldermen of the city of Newton, acting for and on behalf of the city of Newton, shall grant to the Massachusetts Water Resources Authority, for nominal consideration of \$1 permanent rights and easements in 3 parcels of land situated in and owned by the city of Newton for the purpose of the development, construction and maintenance of water mains and their appurtenant facilities for the improvement of the metropolitan area water delivery system. The easement parcels are shown as parcels numbered 2P, 4P and 7P on a plan of land entitled "Massachusetts Water Resources Authority, Weston Aqueduct Supply Main 1, 2 & 4, Permanent Easement Plan," dated September 23, 1999, prepared by Judith Nitsch Engineering, Inc. for Camp Dresser & McKee Inc. The plan is on file at the offices of the Massachusetts Water Resources Authority and shall be recorded with the Middlesex south district registry of deeds together with the grant described herein. Easement parcels 2P and 4P are located on land designated and used for park purposes and known as Bullough's Pond Park. Said parcel 7P is located on land designated and used for park purposes and known as Edmands Park. The rights and easements shall be granted without interference with or prejudice to the rights of the city of Newton to maintain and use the easement areas, except so far as the same may be inconsistent with the exercise of the rights and easements hereby granted, and there shall be reserved to the city of Newton all its rights in and to the use of the easement areas for all lawful purposes not inconsistent with the use thereof as a location for water mains and their appurtenant facilities or with the construction, inspection, repair, renewal, replacement, operation and maintenance of the aforesaid water mains and appurtenances thereto. The Massachusetts Water Resources Authority shall, at a minimum, restore each parcel to the same condition it was in before any entry, work or construction thereon by the authority.

SECTION 2. The more precise configuration of the parcels described in section 1 shall be shown on the plan of land referenced in said section 1, as such plan is further revised, if necessary, and recorded with the Middlesex county south district registry of deeds. In the event that the property so described in said section 1 contradicts or is inconsistent with such parcels as shown upon said plan of record, then said plan of record and any subsequent plans of record shall control as to the accuracy and correctness of such description.

SECTION 3. All rights, title and interest in the parcels described in section 1 shall revert to the city of Newton in the event the Massachusetts Water Resources Authority no longer needs such land for the purposes described in said section 1.

SECTION 4. All costs associated with the transfer and use of the parcels described in section 1 shall be borne by the Massachusetts Water Resources Authority.

SECTION 4A. Pursuant to subsection (d) of section 9 of chapter 372 of the acts of 1984, the Massachusetts Water Resources Authority, notwithstanding any other general or special law, ordinance or regulation to the contrary, may convey to Jay Cashman, Inc., a Massachusetts corporation, a certain parcel of land owned by the authority in the city of Quincy, consisting of approximately 12 acres. The parcel of land, generally located on South street, is part of a larger parcel commonly known as the Fore River Shipyard, and is more particularly described in a plan titled "Subdivision Plan of Land, Lot 7, Fore River Shipyard, Quincy, MA", dated January 9, 2002, by BSC Group, signed by James Peterson, Registered PLS. The consideration for the conveyance shall be \$2,211,000.

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

Approved November 26, 2003.

Chapter 122. AN ACT AUTHORIZING THE TOWN OF BOURNE TO LEASE CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Bourne, acting by and through its board of selectmen, may lease a certain parcel of land originally acquired by the town for conservation, beautification, park and recreational purposes, to the National Marine Life Center Rehabilitation Facility for activities related thereto, on such terms and conditions as the board of selectmen deem to be in the best interests of the town for a period of 50-years. The parcel is shown on a plan of land entitled "Proposed Lease Lines Plan of Land in Bourne, Massachusetts Prepared for National Marine Life Center" dated January 15, 2003, which is on file in the office of the town clerk.

Approved November 26, 2003.

Chapter 123. AN ACT AUTHORIZING THE CERTIFICATION OF DAVID E. JONES TO A CIVIL SERVICE LIST FOR POLICE OFFICER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the personnel administrator of the human resources division shall examine and certify David E. Jones for appointment as a police officer in the town of Hingham notwithstanding that he has attained the maximum age for the position, if he fulfills all other requirements for certification and appointment as a police officer under the procedures provided in chapter 31 of the General Laws, any regulations of the civil service commission and any hiring practices of the town of Hingham.

Approved November 26, 2003.

Chapter 124. AN ACT RELATIVE TO MUTUAL AID AGREEMENTS.

Be it enacted, etc., as follows:

SECTION 1. Section 8G of chapter 40 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word "towns", in line 2, the following words:- including cities and towns in states contiguous to the commonwealth.

SECTION 2. Said section 8G of said chapter 40, as so appearing, is hereby further amended by adding the following sentence:- When providing such mutual aid, police officers shall have all the immunities and powers granted to them in the municipalities that employ them, including, but not limited to, powers of arrest.

Approved November 26, 2003.

Chapter 125. AN ACT AUTHORIZING THE TOWN OF HINGHAM TO GRANT 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 in the town of Hingham may grant to Maxx LLC d/b/a Boston Golf Club located at 31 Old County road in said town a license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17. The licensing authority shall not approve the transfer of the license to any other location.

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

Approved November 26, 2003.

**Chapter 126. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY
ROUTE 2 AS THE JOHNNY APPLESEED TRAIL.**

Be it enacted, etc., as follows:

That portion of state highway Route 2 beginning in the town of Harvard and west of interstate highway Route 495 and extending westerly through the town of Orange shall be known and designated as the Johnny Appleseed Trail of North Central Massachusetts. The department of highways shall erect and maintain suitable markers bearing said designation in compliance with the standards of said department.

Approved November 26, 2003.

Chapter 127. AN ACT ESTABLISHING A NEW BUSINESS CORPORATION ACT.

Be it enacted, etc., as follows:

SECTION 1. Subsection (h) of section 21 of chapter 40D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- In the event that solid waste disposal facilities financed in whole or in part hereunder include or are to include facilities for the production of steam as a by-product, either the financing authority or a corporation, whether domestic or foreign, or other person owning, occupying or operating the facilities shall have the powers granted by section 12 of chapter 158 but the production and sale of the steam and the foregoing grant of powers shall not cause the corporation to be otherwise subject to chapter 158 or excluded from chapter 156 or chapter 156 D or cause the corporation to be considered a heat or power company for the purposes of the corporation laws of the commonwealth.

SECTION 2. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as amended by section 204 of chapter 26 of the acts of 2003, and inserting in place thereof the following paragraphs:-

1. "Domestic corporations", (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B, chapter 156 D or chapter 180 w has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for fed-

eral income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that said term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to section 2. A limited liability company having as its sole member a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; but any limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. "Foreign corporation", corporation, association, or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B, chapter 156D or section 19F to 19W, inclusive, of chapter 175, or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that said term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided, further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as a foreign S corporation.

SECTION 3. Section 38C of said chapter 63 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Every corporation organized under or subject to chapter 156D which is engaged in manufacturing, or in research and development of products capable of being manufactured in this commonwealth, shall for the purposes of this chapter be deemed to be a domestic manufacturing corporation, or a domestic research and development corporation.

SECTION 4. Paragraph (e) of section 1 of chapter 110D of the General Laws, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

(e) "Issuing public corporation", a corporation to which paragraph (a) of section 17.01 of chapter 156D apply, a gas or electric company or combined gas and electric company to which section 3 of chapter 164 apply or an association or trust which pursuant to said section 3 of said chapter 164 owns beneficially a majority of the common stock of such a company; provided, however, that such issuing public corporation has:-

SECTION 5. Section 2 of chapter 110D of the General Laws, as so appearing, is hereby amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) No amendment to the articles of organization adopted by a corporation pursuant to this section shall give any stockholder appraisal rights under section 13.02 of chapter 156D.

SECTION 6. Section 7 of said chapter 110D, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 3 sentences:-

Unless otherwise expressly provided in an issuing public corporation's articles of organization or by-laws in effect at the time of a control share acquisition of shares of such corporation, if voting rights are authorized for shares acquired in such control share acquisition in accordance with the provisions of section 5 and, in such control share acquisition, the person making such control share acquisition has acquired beneficial ownership of shares that, when added to all other shares of such corporation beneficially owned by such person, entitle such person to vote, or direct the voting of, shares of such corporation having a majority or more of all voting power in the election of directors, each stockholder of record of such corporation, other than the person making such control share acquisition, who has not voted in favor of authorizing voting rights for the shares acquired in such control share acquisition may demand payment for his stock and an appraisal in accordance with the part 13 of chapter 156D, and such stockholder and such corporation shall have the rights and duties and follow the procedures set forth in that part as nearly as practicable. For purposes of said part 13, the corporate action shall be deemed to have become effective on the later of the date such voting rights are authorized or the date on which such control share acquisition is made. For purposes of this section, fair value shall be determined as of the date on which the stockholders authorize voting rights for the shares acquired in such control share acquisition, but in no event it shall be less than the highest price per share paid by the person who made such control share acquisition in such control

share acquisition.

SECTION 7. Section 8 of chapter 110D, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

To the extent that this chapter is inconsistent with chapter 156D, 164 or 182, the provisions of this chapter shall govern.

SECTION 8. Paragraph (g) of section 2 of chapter 110F of the General Laws, as so appearing, is hereby amended by striking out clause (i), and inserting in place thereof the following clause:-

(i) a merger or consolidation of the corporation, except for a merger in respect of which, pursuant to section 11.05 of chapter 156D, no vote of the stockholders of the corporation is required;.

SECTION 9. Section 3 of said chapter 110F, as so appearing, is hereby amended by striking out paragraph (f), and inserting in place thereof the following paragraph:-

(f) "Corporation", a corporation to which the provisions of paragraph (1) of section 17.01 of chapter 156D apply, a gas or electric company or combined gas and electric company to which section 3 of chapter 164 applies or an association or trust which owns beneficially a majority of the common stock of such a company or a trust company to which the provisions of chapter 172 apply, a savings bank in stock form to which certain provisions of said chapter 172 apply pursuant to section 34C of chapter 168, or a cooperative bank in stock form to which certain provisions of said chapter 172 apply pursuant to section 26C of chapter 170.

SECTION 10. The definition of "Control Transferor" of section 183 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out clause (i), and inserting in place thereof the following clause:-

(i) a corporation to which the provisions of paragraph (1) of section 17.01 of chapter 156D apply, a gas or electric company or combined gas and electric company to which section 3 of chapter 164 applies or an association or trust which pursuant to said section 3 of said chapter 164 owns beneficially a majority of the common stock of such a company or a trust company to which the provisions of chapter 172 apply, a savings bank to which certain provisions of said chapter 172 apply pursuant to section 34C of chapter 168, a cooperative bank in stock form to which certain provisions of chapter 172 apply pursuant to section 26C of chapter 170, or a national bank, federally chartered savings and loan association in stock form, or a federal savings bank in stock form; provided, however, that such corporation, trust company, savings bank, cooperative bank, national bank, federally chartered savings and loan association in stock form or a federal savings bank in stock form employs 50 or more full-time employees, or employees working aggregate hours equal to the sum of hours worked by 50 full-time employees, in the commonwealth at some point in the 12 calendar months before the transfer of control; and, provided further, that the term "control transferor" as defined in this clause (i) shall also be deemed to include any such trust company, savings bank, cooperative bank, national bank, federally chartered savings and loan association in stock form, or a federal savings bank in stock form if, immediately before

the transfer of control, the control of such trust company, savings bank, cooperative bank, national bank, federally chartered savings and loan association in stock form, or a federal savings bank in stock form is held by such control transferor.

SECTION 11. Section 184 of said chapter 149 of the General Laws, as so appearing, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) As used in this section, the following words, unless the context clearly requires otherwise, shall have the following meanings:

"Control transferor", the person or persons who exercise control, including the power to hire and fire, before a contested meeting date; provided, however, that such person or persons are a registered corporation subject to subsection (b) of section 8.06 of chapter 156D and are subject to a contested meeting.

"Registered corporation", any corporation subject to subsection (b) of section 8.06 of chapter 156D which has a class of voting stock registered under the Securities Exchange Act of 1934, as amended, hereinafter referred to as the "act"; provided, however, that if a corporation is subject to subsection (a) of such section 8.06 at the time it ceases to have any class of voting stock so registered, such corporation shall nonetheless be deemed to be a registered corporation for a period of 12 months following the date it ceased to have such stock so registered.

SECTION 12. Chapter 155 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. This chapter, unless expressly limited in its application, shall apply to all corporations created by or organized under the laws of the commonwealth, except incorporated domestic insurance companies, and except corporations subject to chapter 156A or corporations subject to chapter 156B or chapter 156D or chapter 164 or sections 1 through 11D of chapter 165 or chapter 180 except that section 2B of this chapter shall apply to all corporations subject to any of said chapters and except insofar as such provisions are inconsistent with other provisions of law relative to particular corporations or classes of corporations, and the provisions shall apply to all corporations created by or organized under laws other than those of the commonwealth so far as they are made applicable to them by reference in this or any other chapter. In this chapter, unless the context otherwise requires, "secretary" or "state secretary" means the secretary of the commonwealth.

SECTION 13. Chapter 156 of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. Except as expressly made applicable by reference in other chapters, this chapter shall not apply to corporations subject to chapter 156A, chapter 156B or chapter 156D or to corporations organized for the purpose of carrying on the business of a bank, savings bank, co-operative bank, trust company, credit union, surety or indemnity company, or safe deposit company, or for the purpose of carrying on within the commonwealth the business of an insurance company, railroad, electric railroad, street railway or trolley motor company, telegraph or telephone company, gas, or electric company,

canal, aqueduct or water company, cemetery or crematory company, or to any other corporations which now have or may hereafter have the right to take land within the commonwealth by eminent domain or to exercise franchises in public ways granted by the commonwealth or by any county, city or town; provided, however, that section 17 of this chapter shall remain available to all corporations which were subject to this chapter immediately before the effective date of chapter 156B; and provided, further, that any amendment to the articles of organization of any such corporation adopted before such date shall be effected by filing articles of amendment, and any rights of dissenting stockholders arising from the adoption of such amendment or from a vote of the stockholders to sell, lease or exchange all the property of any such corporation adopted prior to such date, shall be enforced, in accordance with the provisions of this chapter.

SECTION 14. Subsection (a) of section 13 of chapter 156A of the General Laws, as so appearing, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) the corporation shall be merged into, consolidated with or changed by articles of amendment into a corporation organized pursuant to chapter 156D in accordance with section 14.

SECTION 15. Said chapter 156A is hereby amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. A professional corporation which has ceased to render any professional services under this chapter or which is permitted to render professional services as a business corporation organized under chapter 156D may change its status by merging into or consolidating with such a business corporation or by filing articles of amendment to change its name, where necessary, and purposes to those of such a business corporation.

SECTION 16. Section 59 of chapter 156C of the General Laws, as so appearing, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) As used in sections 59 to 63, inclusive, the phrase "other business entity" shall mean a corporation to which paragraph (a) of section 17.01 of chapter 156D applies, a professional corporation and a foreign professional corporation, as defined in section 2 of chapter 156A, a foreign corporation, as defined in section 1 of chapter 181, an association or a trust, as defined in section 1 of chapter 182, and as having filed a copy of its instrument or declaration with the state secretary in compliance with, chapter 182, a partnership whether general or limited and whether domestic or foreign, as defined, respectively, in section 6 of chapter 108A and section 1 of chapter 109, and a foreign limited liability company as defined in this chapter.

New Massachusetts Business Corporation Act

SECTION 17. The General Laws are hereby amended by inserting after chapter 156C the following chapter:-

CHAPTER 156D.
BUSINESS CORPORATIONS.

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PART I

SUBDIVISION A.

SHORT TITLE AND RESERVATION OF POWER

Section 1.01. SHORT TITLE

This chapter shall be known and may be cited as the "Massachusetts Business Corporation Act".

Section 1.02. RESERVATION OF POWER TO AMEND OR REPEAL

The General Court of the commonwealth has power to amend or repeal all or part of this Act at any time and all domestic and foreign corporations subject to this Act are governed by the amendment or repeal.

SUBDIVISION B.

FILING DOCUMENTS

Section 1.20. FILING REQUIREMENTS

(a) To be entitled to filing with the secretary of state, a document shall satisfy the requirements of this section, any other section of this chapter that adds to or varies from these requirements, any applicable forms or regulations promulgated by the secretary of state hereunder, and any other relevant laws or regulations of the commonwealth.

(b) This chapter shall require or permit the filing of the document in the office of the secretary of state.

(c) The document shall contain the information required by this chapter. The document may contain other information as well that is relevant to the business or affairs of the corporation.

(d) The document shall be typewritten, printed or in such other form as the secretary of state shall prescribe.

(e) The document shall be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document shall be executed:

(1) by the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) if directors have not been selected or the corporation has not been formed, by the incorporator or incorporators; or

(3) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain any of: (1) the corporate seal, (2) an attestation, and (3) an acknowledgment or verification.

(h) The document shall be delivered to the office of the secretary of state for filing and shall be accompanied by one exact or conformed copy, except that no copy is required

for filings under sections 5.02, 15.03, 15.08, 15.09 and 16.22, the correct filing fee and any payment or penalty required by this chapter or other law. The secretary of state may waive the requirement that an exact or conformed copy accompany any document submitted for filing, including documents submitted electronically.

(i) Electronic documents or transmissions may be filed with the secretary of state if and to the extent permitted by the secretary. The secretary of state may promulgate regulations regarding the procedures for electronic filings which shall supersede any inconsistent provisions of this chapter with respect to such filings.

Section 1.21. FORMS

(a) The secretary of state may prescribe and furnish on request forms for any documents to be filed under this chapter. If the secretary of state so requires, use of these forms is mandatory.

(b) The secretary of state may accept for filing a document that contains the information required by this chapter but that does not conform to a prescribed form, whether or not use of the form is mandatory.

Section 1.22. FILING, SERVICE AND COPYING FEES

The commissioner of administration shall issue regulations prescribing fees for the filing and copying of documents, the issuance of certificates and the handling of service of process under this Act.

Section 1.23. EFFECTIVE TIME AND DATE OF DOCUMENT

(a) Except as provided in subsection (b) and in subsection (c) of section 1.24, a document that is filed by the secretary of state pursuant to section 1.25 is effective:

(1) at the time and on the date when it was approved for filing by the secretary of state; or

(2) in the case of articles of organization, amendment or merger, at the time and on the date when the articles were received for filing by the secretary of state if the articles are not rejected by the secretary within such time after their filing as is specified in regulations promulgated by the secretary.

(b) A filed document may specify a delayed effective time and date, and if it does so the document will become effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date when it is received for filing by the secretary of state.

Section 1.24. CORRECTING FILED DOCUMENT

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document (1) contains a typographical error or an incorrect statement or (2) was defectively executed, attested, sealed, verified, or acknowledged.

(b) A document is corrected:

(1) by preparing articles of correction that (i) describe the document, including its filing date, or attach a copy of it to the articles; (ii) specify the typographical error, the incorrect statement and the reason it is incorrect or the manner in which the execution was

defective; and (iii) correct the typographical error, incorrect statement or defective execution; and

(2) by delivering the articles of correction to the secretary of state for filing.

(c) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

(d) Articles of correction cannot be used to change the effective date of a filed document; provided, however, that if a document has been filed with a delayed effective date, articles of correction may be filed prior to said date (1) to accelerate the effective date to a date not earlier than the date of the articles of correction, or (2) to abandon a merger or amendment to the articles of organization if authority to do so is granted by the merger agreement or the persons approving the amendment.

(e) If the secretary of state permits electronic filings, defects in the electronic recording or transmission of documents may be corrected under this section to the extent permitted by regulations promulgated by the secretary.

Section 1.25. FILING DUTY OF SECRETARY OF STATE

(a) Upon receipt of a document for filing, the secretary of state shall record the date and time of receipt on or with the document and, if the person submitting the document or his representative so requests, furnish evidence of the date and time of receipt to such person or his representative in such form as the secretary of state shall determine.

(b) The secretary of state shall examine each document received by him for filing. If he finds that the relevant provisions of law have been satisfied, he shall evidence his approval on or with the document. Upon such approval and the payment of the fee authorized by section 1.22, the document shall be deemed to be filed with the secretary of state.

(c) If the secretary of state refuses to file a document, he shall notify the person or his representative in writing of the refusal and his reasons therefor within 90 days after receipt in the case of annual reports under section 16.22 or within 5 days after receipt in the case of other documents.

(d) The secretary of state shall keep a record of each document received, of the date and time of its receipt for filing, and of the date and, if requested, the time of his approval for filing, and shall keep the document and such records on file in his office in a manner convenient for public inspection.

Section 1.26. APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT

If the secretary of state refuses to file a document delivered to his office for filing, the person attempting to file may appeal that refusal. Such an appeal must be commenced within 90 days after the return of the document to the superior court of the county where the corporation's principal office or, if none in the commonwealth, its registered office, is or will be located. Such an appeal is commenced by petitioning the court to compel the filing of the document and by attaching to the petition the document and the explanation of the secretary

of state for his refusal to file.

Section 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

A certified copy of a document filed by the secretary of state is conclusive evidence that the original document is on file with the secretary of state.

Section 1.28. CERTIFICATES REGARDING CORPORATIONS

(a) Anyone may apply to the secretary of state to furnish a certificate of legal existence for a domestic corporation. A certificate of legal existence shall set forth:

- (1) the corporate name;
- (2) that the corporation was organized under the General Laws of the commonwealth and the date of its incorporation;
- (3) that the corporation has legal existence so far as it appears of record with the secretary of state;
- (4) if requested, a listing of all amendments to the articles of organization on file with the secretary of state; and

(5) if requested, that the corporation is in good standing with the secretary of state, meaning that the corporation has filed all annual reports required under section 16.22 and has paid all fees due with respect to the reports and that no proceedings are pending before the secretary of state to dissolve the corporation and no articles of dissolution have been filed with the secretary of state.

A certificate of legal existence issued by the secretary of state may be relied upon as conclusive evidence that the domestic corporation has legal existence in the commonwealth on the date of the certificate.

(b) The secretary of state shall issue, upon request, such other certificates regarding facts of record in his office concerning corporations upon payment of the fees as may be specified in regulations promulgated by the commissioner of administration, including without limitation, certificates of merger, certificates of dissolution, and certificates regarding the authority of a foreign corporation to do business in the commonwealth. The certificates may be relied upon as conclusive evidence of the facts stated herein.

Section 1.29. PENALTY FOR SIGNING FALSE DOCUMENT

(a) A person commits an offense if he signs a document that he knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

(b) The secretary of state shall refer to the attorney general for action evidence of offenses under this section.

(c) An offense under this section is a civil misdemeanor punishable by a fine not to exceed \$100,000.

SUBDIVISION C.

SECRETARY OF STATE

Section 1.30. POWERS

The secretary of state has the power reasonably necessary to perform the duties required of him by this chapter, including the power to promulgate regulations, prescribe forms

and fees and adopt policies in order to implement this chapter.

SUBDIVISION D.

DEFINITIONS

Section 1.40. ACT DEFINITIONS

(a) As used in this chapter the following words shall have the following meanings, unless the context requires otherwise:

"Articles of organization", means the original and any amended and restated articles of organization and articles of merger, and special acts of incorporation, as amended from time to time by various articles and certificates provided for by this chapter.

"Authorized shares", means the shares of all classes a domestic or foreign corporation is authorized to issue.

"Conspicuous", written so that a reasonable person against whom the writing is to operate should have noticed it.

"Corporation", "domestic corporation" or "domestic business corporation", a corporation for profit, which is not a foreign corporation, incorporated under or subject to this chapter.

"Deliver", any method of delivery used in conventional commercial practice, including mailing, delivery by hand, messenger or delivery service and delivery by electronic transmission; however the secretary of state is not required to accept delivery of electronic documents or transmissions unless he adopts regulations authorizing this practice.

"Distribution", a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution includes a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; and a distribution in voluntary or involuntary liquidation.

"Domestic other entity", an other entity organized under the laws of the commonwealth.

"Effective date of notice", as defined in section 1.41.

"Electronic document" or "electronic transmission", any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient.

"Employee", includes an officer but not a director. A director may accept duties that make him also an employee.

"Entity", a corporation and a foreign corporation; a nonprofit corporation; a profit and a nonprofit unincorporated association; a limited liability company; a business trust; an estate; a partnership; a registered limited liability partnership; a trust, and two or more persons having a joint or common economic interest; and a state, the United States, and a foreign government.

"Filing entity", an other entity that is of a type created by filing a public organic document.

"Foreign business corporation", a corporation for profit incorporated under a law other than the law of the commonwealth.

"Foreign corporation", a corporation for profit or a nonprofit corporation incorporated under a law other than the laws of the commonwealth.

"Foreign nonprofit corporation", a corporation incorporated under a law other than the laws of the commonwealth, which if incorporated under the laws of the commonwealth would be a nonprofit corporation.

"Foreign other entity", an other entity organized under a law other than the laws of the commonwealth.

"Governmental subdivision", includes authority, county, district, and municipality.

"Individual", includes the estate of an incompetent or deceased individual.

"Interest holder", a person who holds of record:

(i) a right to receive distributions from an other entity either in the ordinary course of business or upon liquidation, other than as an assignee; or

(ii) a right to vote on issues involving its internal affairs, other than as an agent, assignee, proxy or person responsible for managing its business and affairs.

"Interests", the interests in an other entity held by its interest holders.

"Membership", the rights of a member in a nonprofit corporation.

"Nonfiling entity", an other entity that is of a type that is not created by filing a filed organizational document.

"Nonprofit corporation" or "domestic nonprofit corporation", a corporation incorporated under the laws of the commonwealth and subject to chapter 180.

"Notice", as defined in section 1.41.

"Organic document", a public organic document or a private organic document.

"Organic law", the law governing the internal affairs of an entity.

"Other entity", any association or entity other than a domestic or foreign business corporation, a domestic or foreign nonprofit corporation or a governmental or quasi-governmental organization. The term includes, without limitation, limited partnerships, general partnerships, limited liability partnerships, limited liability companies, joint ventures, joint stock companies, business trusts and profit and not-for-profit unincorporated associations.

"Owner liability", personal liability for a debt, obligation or liability of an entity that is imposed on a person:

(i) solely by reason of the person's status as a shareholder or interest holder; or

(ii) by the articles of organization, bylaws or an organic document under a provision of the organic law of an entity authorizing the articles of organization, bylaws or an organic document to make one or more specified shareholders, members or interest holders liable in their capacity as shareholders, members or interest holders for all or specified debts, obligations or liabilities of the entity.

"Person", includes individual and entity.

"Principal office", the office, within or without the commonwealth, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

"Private organic document", any document, other than the public organic document, if any, that determines the internal governance of an other entity.

"Proceeding", includes civil suit and criminal, administrative, and investigatory action.

"Public corporation", any corporation to which this chapter apply to, and which has a class of voting stock registered under the Securities Exchange Act of 1934, as amended; provided, that if a corporation is subject to paragraph (b) of section 8.06 at the time it ceases to have any class of voting stock so registered, such corporation shall nonetheless be deemed to be a public corporation for a period of twelve months following the date it ceased to have such stock registered.

"Public organic document", the document, if any, that is filed of public record to create an other entity, including amendments and restatements thereof.

"Record date", the date established under PART 6 or PART 7 hereof on which a corporation determines the identity of its shareholders for purposes of this chapter.

"Secretary", the corporate officer to whom the board of directors has delegated responsibility under subsection (c) of section 8.40 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation, and includes a "clerk" appointed under chapter 156B unless the corporation has also appointed a "secretary" or the context otherwise requires.

"Secretary of state", the state secretary.

"Shares", the units into which the proprietary interests in a corporation are divided.

"Shareholder", the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

"Sign" or "signature", includes any manual, facsimile, conformed or electronic signature.

"State", when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

"Subscriber", a person who subscribes for shares in a corporation, whether before or after incorporation.

"United States", includes a district, authority, bureau, commission, department, and any other agency of the United States.

"Voting group", all shares of one or more classes or series that under the articles of organization or this chapter are entitled to vote and to be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of organization or this chapter to vote generally on the matter are for that purpose a single voting group.

(b) In this chapter, use of the masculine gender includes the feminine gender or, where the context permits, an entity.

Section 1.41. NOTICE

(a) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, or other electronic means; by mail; by electronic transmission; or by messenger or delivery service. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Written notice, other than notice by electronic transmission, by a domestic or foreign corporation to any of its shareholders, if in a comprehensible form, is effective upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

(d) Written notice by electronic transmission by a domestic or foreign corporation to any of its shareholders, if in comprehensible form, is effective:

(1) if by facsimile telecommunication, when directed to a number furnished by the shareholder for the purpose;

(2) if by electronic mail, when directed to an electronic mail address furnished by the shareholder for the purpose;

(3) if by a posting on an electronic network together with separate notice to the shareholder of such specific posting, directed to an electronic mail address furnished by the shareholder for the purpose, upon the later of (i) such posting and (ii) the giving of such separate notice; and

(4) if by any other form of electronic transmission, when directed to the shareholder in such manner as the shareholder shall have specified to the corporation.

An affidavit of the secretary or an assistant secretary of the corporation, the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(e) Written notice, including notice by electronic transmission, to a domestic or foreign corporation, authorized to transact business in the commonwealth, may be addressed to its registered agent at its registered office or to the corporation at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of qualification.

(f) Except as provided in subsection (c), written notice, other than notice by electronic transmission, if in a comprehensible form, is effective at the earliest of the following:

(1) when received;

(2) five days after its deposit in the United States mail, if mailed postpaid and correctly addressed;

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(3) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested; or if sent by messenger or delivery service, on the date shown on the return receipt signed by or on behalf of the addressee; or

(4) on the date of publication if notice by publication is permitted.

(g) Oral notice is effective when communicated if communicated in a comprehensible manner.

(h) If this chapter or any other General Law prescribes notice requirements for particular circumstances, those requirements shall govern. If articles of organization or bylaws prescribe notice requirements, which are not inconsistent with this chapter, those requirements shall govern.

Section 1.42. NUMBER OF SHAREHOLDERS

(a) For purposes of this chapter, except as provided in subsection (c), the following identified as a shareholder in a corporation's current record of shareholders constitutes one shareholder:

(1) three or fewer co-owners;

(2) a corporation, partnership, trust, estate, or other entity;

(3) the trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(b) For purposes of this chapter, shareholders registered in substantially similar names constitute one shareholder if it is reasonable to believe that the names represent the same person.

(c) For purposes of this chapter, each beneficial owner of shares registered in the name of a nominee in a corporation's current record of shareholders constitutes one shareholder.

SUBDIVISION E.

INTERPRETATION

Section 1.50. INTERPRETATION OF ACT

In interpreting this chapter, in the absence of controlling Massachusetts precedent on any matter, consideration shall be given to the following:

Inasmuch as predictability is important in the conduct of the affairs of Massachusetts corporations and in their relations with corporations organized under the laws of other jurisdictions, significant weight shall be given to the interpretations of courts of other jurisdictions of substantially equivalent provisions of the corporate laws of such other jurisdictions.

PART 2

Section 2.01. INCORPORATORS

One or more persons may act as the incorporator or incorporators of a corporation by signing articles of organization and delivering them to the secretary of state for filing. Before the initial issuance of shares by the corporation, the incorporators may exercise all powers of shareholders and take any action required or permitted by law, the articles of organization or the bylaws to be taken by shareholders.

Section 2.02. ARTICLES OF ORGANIZATION

(a) The articles of organization shall set forth:

(1) a corporate name for the corporation that satisfies the requirements of section 4.01;

(2) the number of shares the corporation is authorized to issue, and any required description of additional classes or series of shares, in conformity with section 6.01; and

(3) the name and address of each incorporator.

(b) The articles of organization may set forth:

(1) provisions not inconsistent with law regarding:

(i) the purpose or purposes for which the corporation is organized;

(ii) managing the business and regulating the affairs of the corporation;

(iii) defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders or any class thereof;

(iv) a par value for authorized shares or classes of shares;

(v) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; or

(vi) the voluntary dissolution of the corporation; and

(2) any provision that under this chapter is required to be set forth in the articles of organization in order for the subject matter of the provision to be effective or is permitted to be set forth in such articles;

(3) any provision that under this chapter is required or permitted to be set forth in the bylaws; and

(4) a provision eliminating or limiting the personal liability of a director to the corporation for monetary damages for breach of fiduciary duty as a director notwithstanding any provision of law imposing such liability; but the provision shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for improper distributions under section 6.40, or (iv) for any transaction from which the director derived an improper personal benefit.

(c) The articles of organization need not set forth any of the corporate powers enumerated in this chapter.

(d) The form on which articles of organization are filed shall also include the following supplemental information, which is not to be considered a part of the articles:

(1) the street address of the initial registered office of the corporation;

(2) the names and addresses of the individuals who will serve as the initial directors, president, treasurer and secretary of the corporation;

(3) the name of its initial registered agent at its registered office;

(4) the fiscal year of the corporation that is initially adopted; and

(5) such other supplemental information as the secretary of state may require, including (i) a brief description of the type of business in which the corporation intends to engage or its SIC code, and (ii) the federal tax identification number of the corporation.

Section 2.03. INCORPORATION

(a) Corporate existence begins when the articles of organization become effective pursuant to section 1.23.

(b) The filing of the articles of organization with the state secretary shall be conclusive evidence that the incorporators satisfied all conditions precedent to incorporation and that the corporation has been incorporated under this chapter, except in a proceeding by the commonwealth to challenge the validity of the corporation.

Section 2.04. LIABILITY FOR PRE-INCORPORATION TRANSACTIONS

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter shall be jointly and severally liable for all liabilities created while so acting.

Section 2.05. ORGANIZATION OF CORPORATION

(a) The organization of the corporation shall be completed as follows:

(1) The incorporator or incorporators may hold an organizational meeting before or after incorporation at the call of a majority of the incorporators at which by-laws shall be adopted and the initial directors, a president, treasurer and secretary, shall be elected.

(2) If no organizational meeting of the incorporators is held, the initial directors named in the articles of organization shall hold an organizational meeting after incorporation at the call of a majority of the directors at which by-laws shall be adopted and a president, treasurer and secretary shall be elected.

(3) At the organization meeting of the incorporators or the directors, additional officers may be appointed and any other business may be transacted which is properly brought before the meeting.

(b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held within and without the commonwealth.

Section 2.06. BYLAWS

(a) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(b) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of organization.

Section 2.07. EMERGENCY BYLAWS

(a) Unless the articles of organization provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (d). The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

(1) appointment of successors to any of the officers, directors, employees or agents;

- (2) relocation of the principal office or designation of alternative officers;
- (3) procedures for calling and giving notice of a meeting of the board of directors;
- (4) quorum requirements for the meeting; and
- (5) designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws:

- (1) binds the corporation; and
- (2) may not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

PART 3

Section 3.01. PURPOSES

Every corporation incorporated under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in its articles of organization.

Section 3.02. GENERAL POWERS

(a) Unless its articles of organization provide otherwise, every corporation shall have perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power:

- (1) to sue and be sued, complain and defend in its corporate name;
- (2) to have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
- (3) to make and amend bylaws, not inconsistent with its articles of organization or with the laws of the commonwealth, for managing the business and regulating the affairs of the corporation;
- (4) to purchase, receive, borrow, lease or otherwise acquire, to own, hold, lend, improve, use, transfer and otherwise deal with, and to sell, convey, mortgage, pledge, lease, exchange and otherwise dispose of, all or any part of its real or personal property, or any legal or equitable interest in such property, wherever located;
- (5) to purchase, receive, borrow or otherwise acquire, to use, own, hold, sell, lend, transfer and otherwise dispose of, and to pledge, exchange and otherwise deal in and with, its own shares;
- (6) to purchase, receive, subscribe for, or otherwise acquire, to own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;
- (7) to make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge

of any of its property, franchises, or income;

(8) to lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(9) to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) to conduct its business, locate offices, and exercise the powers granted by this chapter within or without the commonwealth or the United States;

(11) to elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12) to pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of the current or former directors, officers, employees, and agents of the corporation or any other corporation or entity in which it has an interest;

(13) to make donations for the public welfare or for charitable, religious, scientific, civic or educational purposes;

(14) to transact any lawful business that will aid governmental policy; and

(15) to make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

(b) Unless its articles of organization provide otherwise, a contract of guarantee or suretyship made by a corporation with respect to the obligation of another entity, (i) all of the equity interest in which is owned, directly or indirectly, by the contracting corporation, or (ii) which owns, directly or indirectly, all of the outstanding stock of the contracting corporation, or (iii) all of the equity interest in which is owned, directly or indirectly, by an entity which owns, directly or indirectly, all of the outstanding stock of the contracting corporation, shall be deemed necessary or convenient to carry out the business and affairs of the contracting corporation.

Section 3.03. EMERGENCY POWERS

(a) In anticipation of or during an emergency defined in subsection (d), unless emergency bylaws or other bylaws that specifically refer to this section provide otherwise, the board of directors of a corporation may:

(1) modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency defined in subsection (d), unless emergency bylaws or other bylaws that specifically refer to this section provide otherwise:

(1) notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(2) those directors present may reduce the quorum requirement and/or treat one or

more officers of the corporation present at such a meeting as directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

- (1) binds the corporation; and
- (2) may not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Section 3.04. ULTRA VIRES

(a) Except as provided in subsection (b), the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(b) A corporation's power to act may be challenged:

- (1) in a proceeding by a shareholder against the corporation to enjoin the act;
- (2) in a proceeding by the corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or
- (3) in a proceeding by the attorney general under section 14.30.

PART 4

Section 4.01. CORPORATE NAME

(a) A corporate name:

(1) shall contain the word "corporation," "incorporated," "company," or "limited" or the abbreviation "corp.," "inc.," or "ltd.," or words or abbreviations of like import in another language; and

(2) may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 301. and its articles of organization.

(b) Except as authorized by subsections (c) and (d), a corporate name may not be the same as, or so similar that it is likely to be mistaken for:

(1) the corporate name or trade name of a corporation organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth;

(2) a corporate name reserved under section 4.02;

(3) the fictitious name adopted by a foreign corporation or entity authorized to transact business or otherwise lawfully conducting business in the commonwealth because its real or trade name is unavailable;

(4) the corporate name or trade name of a not-for-profit corporation organized, authorized to conduct its activities or otherwise lawfully conducting its activities in the commonwealth;

(5) the name or trade name of a partnership, business trust or other entity organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth; or

(6) a trademark or service mark registered with the secretary of state under chapter 110B.

(c) A person may apply to the secretary of state for authorization to use a corporate name that does not comply with the requirements of subsection (b). The secretary of state shall authorize use of the name applied for if:

(1) the other user consents to the use in writing and, if required by the secretary of state, submits an undertaking in form satisfactory to the secretary of state to change its name or mark to a name or mark that is not the same as or so similar that it is likely to be mistaken for the name of the applicant; or

(2) the applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in the commonwealth.

(d) A corporation may use the name, including the fictitious name, or mark of another entity that is used in the commonwealth if the other entity is organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth and the proposed user corporation:

(1) has merged with the other entity; or

(2) has been formed by reorganization of the other entity; or

(3) has acquired all or substantially all of the assets, including the name and marks, of the other entity.

(e) Within 90 days after articles of organization or articles of amendment affecting a change in the name of a corporation are filed with the secretary of state, any person who is registered, qualified or carrying on business in the commonwealth at the time or who has reserved a name under section 4.02 may protest in writing to the secretary of state that the name assumed by the corporation is the same as or so similar that it is likely to be mistaken for the name of such person in violation of this section. In such event, if the secretary of state decides to conduct a hearing regarding the dispute, he shall give notice thereof as soon as possible to the protesting party and the corporation which assumed the name. If as a result of the hearing or otherwise, the secretary of state determines that the assumption of the corporate name violates this section, he shall file a statement withdrawing his approval of the articles of organization or articles of amendment insofar as they relate to the name assumed by the corporation and shall give written notice thereof to the protesting party and the corporation. The withdrawal of approval shall take effect on the date specified by the secretary of state, which shall be not later than 180 days after the filing which was protested. After the effective date of the withdrawal of approval, the corporation shall have no right to use its assumed name and may be enjoined from doing business under such name by the superior court upon application of any interested person.

Section 4.02. RESERVED NAME

(a) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application shall set forth the name and

address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a 60-day period and, upon the applicant's written request within the 60-day period, extend the reservation for an additional 60-day period.

(b) The holder of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

PART 5

Section 5.01. REGISTERED OFFICE AND REGISTERED AGENT

Each corporation shall continuously maintain in the commonwealth:

(1) a registered office that may, but need not be, the same as any of its places of business; and

(2) a registered agent who may be any of the following individuals or entities whose business office is also the registered office of the corporation:

(i) an individual, including the secretary or another officer of the corporation;

(ii) a domestic corporation or not-for-profit domestic corporation; or

(iii) a foreign corporation or not-for-profit foreign corporation qualified to do business in this commonwealth.

Section 5.02. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT

(a) A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(1) the name of the corporation;

(2) the street address of its current registered office;

(3) if the current registered office is to be changed, the street address of the new registered office;

(4) the name of its current registered agent;

(5) if the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(6) that after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any corporation for which he is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (a) and recites that corporation has been notified of the change. If the street addresses of more than one corporation are being changed at the same time, there may be included in a single statement the names of all corporations the street addresses of the registered office of which are being changed.

Section 5.03. RESIGNATION OF REGISTERED AGENT

(a) The registered agent of a corporation may resign his agency appointment by signing and delivering to the secretary of state for filing a statement of resignation. The registered agent shall furnish a copy of such statement to the corporation. The statement of resignation may include a statement that the registered office is also discontinued.

(b) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Section 5.04. SERVICE ON CORPORATION

(a) A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(b) Service on a corporation shall be effected and shall be perfected in accordance with the Massachusetts Rules of Civil Procedure and applicable provisions of the General Laws.

PART 6

SUBDIVISION A.

SHARES

Section 6.01. AUTHORIZED SHARES

(a) The articles of organization shall prescribe the total number of shares the corporation is authorized to issue. The articles of organization also shall, before the issuance of any shares of a class or series, prescribe the number of authorized shares of the class or series, the distinguishing designation thereof and the preferences, limitations and relative rights identical with those of other shares of the same class or series, except that if a class consists of more than 1 series, all shares of each series within the class shall have identical preferences, limitations and relative rights with those of other shares within such series and may, but need not, have some or all preferences, limitations and relative rights which are identical with those of shares of other series within the class or any other class.

(b) The articles of organization shall authorize 1 or more classes or series of shares that together have unlimited voting rights, and 1 or more classes or series of shares, which may be the same class or series or classes and series as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(c) The articles of organization may authorize 1 or more classes or series of shares that:

(1) have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited by this chapter;

(2) are redeemable or convertible as specified in the articles of organization (i) at the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(3) entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative;

(4) have preference over any other class or series of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(d) The description of the designations, preferences, limitations, and relative rights of share classes and series in subsection (c) is not exhaustive.

Section 6.02. DETERMINATION OF TERMS OF CLASS OR SERIES

(a) The number of authorized shares of any class or series, the distinguishing designation thereof and the preferences, limitations and relative rights applicable thereto shall be set forth in the articles of organization or any amendment thereto approved by the shareholders or, if the articles of organization so permit, by the board of directors, provided that the board of directors may not approve an aggregate number of authorized shares of all classes and series which exceeds the total number of authorized shares specified in the articles of organization approved by the shareholders. Any such action with respect to any class or series may be amended or rescinded by the shareholders or, if initially taken by it, by the board of directors at any time prior to, but, except as provided in the next following subsection with respect to unissued shares, not after, the initial issuance of shares of such class or series.

(b) At any time after the initial issuance of shares of any class or series the shareholders or, if the articles of organization so permit, the board of directors may reclassify any unissued shares of the class or series into 1 or more existing or new classes or series.

(c) Before issuing any shares of a class or series, the number, preferences, limitations or relative rights of which have been determined by the board of directors, the corporation must deliver to the secretary of state for filing articles of amendment, which are effective without shareholder action, that set forth:

- (1) the name of the corporation;
- (2) the text of the amendment determining the terms of the class or series of shares;
- (3) the date it was adopted; and
- (4) a statement that the amendment was duly adopted by the board of directors.

(d) If the shareholders or board of directors shall, before the issuance of any shares of any class or series of which the number, preferences, limitations or relative rights are contained in articles of amendment filed with the secretary of state pursuant to subsection (c), amend or rescind any terms applicable to such class or series, or if the shareholders or board of directors shall reclassify any unissued shares of any class or series pursuant to subsection (b), the corporation shall deliver to the secretary of state for filing articles of amendment, which in the case of any amendment effected by the board of directors are effective without shareholder action, reflecting such amendment, recision or reclassification and setting forth the information required by clauses (1) and (4) of subsection (c) and, in the case of an amendment, the text of the amendment or, in the case of a reclassification, the number and existing class or series of the shares to be reclassified and the text of the amendment determining the terms of any new class or classes or series into which the shares are to be reclassified.

Section 6.03. ISSUED AND OUTSTANDING SHARES

(a) A corporation may issue the number of shares of each class or series authorized by the articles of organization. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted or canceled.

(b) The reacquisition, redemption or conversion of outstanding shares is subject to the limitations of subsection (c) and to section 6.40.

(c) At all times that shares of the corporation are outstanding, 1 or more shares that together have unlimited voting rights and 1 or more shares that together are entitled to receive the net assets of the corporation upon dissolution shall be outstanding.

Section 6.04. FRACTIONAL SHARES

(a) A corporation may:

(1) issue fractions of a share or pay in money or property the value of fractions of a share;

(2) arrange for disposition of fractional shares by the shareholders;

(3) issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(b) Each certificate representing scrip must be conspicuously labeled "scrip" and must contain the information required by subsection (b) of section 6.25.

(c) The holder of a fractional share is entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip is not entitled to any of these rights unless the scrip provides for them.

(d) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including:

(1) that the scrip will become void if not exchanged for full shares before a specified date; and

(2) that the shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

SUBDIVISION B.

ISSUANCE OF SHARES

Section 6.20. SUBSCRIPTION FOR SHARES BEFORE INCORPORATION

(a) A subscription for shares entered into before incorporation is irrevocable for 6 months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation or extension. The subscription agreement shall not be binding on the corporation until it is accepted by the board of directors.

(b) The board of directors may determine the payment terms of subscriptions for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors shall be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(c) Shares issued pursuant to subscriptions entered into before incorporation are fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(d) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than 20 days after the corporation sends written demand for payment to the subscriber. The rescission shall not affect the status of any shares theretofore issued pursuant thereto.

(e) A subscription agreement entered into after incorporation is a contract between the subscriber and the corporation subject to section 6.21.

Section 6.21. ISSUANCE OF SHARES

(a) The powers granted in this section to the board of directors may be reserved to the shareholders, either exclusively or concurrently with the powers of the directors, by the articles of organization.

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

(c) Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(d) The articles of organization may limit the type or specify the minimum amount of consideration for which the shares of any class or series may be issued. A reference in the articles of organization to par value shall not, by itself, be deemed to be a specification of the minimum amount.

(e) Notwithstanding subsection (d), when the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

(f) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid when due, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

Section 6.22. LIABILITY OF SHAREHOLDERS

(a) A purchaser from a corporation of its own shares is not liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares

were authorized to be issued or specified in the subscription agreement.

(b) Unless otherwise provided in the articles of organization, a shareholder of a corporation shall not be personally liable for the acts or debts of the corporation except that he may become personally liable by reason of his own acts or conduct.

Section 6.23. SHARE DIVIDENDS

(a) Unless the articles of organization provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of 1 or more classes or series. An issuance of shares under this subsection is a share dividend.

(b) Shares of 1 class or series shall not be issued as a share dividend in respect of shares of another class or series unless (1) the articles of organization so authorized, (2) the holders of a majority of the outstanding shares of the class or series to be issued approve the issue, or (3) there are no outstanding shares of the class or series to be issued. In addition, shares of a class or series having preference over another class or series with respect to distributions, including dividends and distributions upon the dissolution of the corporation, shall not be issued as a share dividend in respect of shares of such other class or series if there are at the time any outstanding shares of any third class or series as to which the shares then to be issued have a right with respect to distribution which is prior, superior or substantially equal unless (1) the articles of organization so authorize, or (2) the holders of a majority of the outstanding shares of such third class or series approve the issue.

(c) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it is the date the board of directors authorized the share dividend.

Section 6.24. SHARE OPTIONS

(a) A corporation may issue rights, options or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued and the terms, including the consideration, for which the shares or other securities are to be issued.

(b) The terms and conditions of such rights, options or warrants, including those outstanding on the effective date of the chapter, may include without limitation, restrictions or conditions that:

(1) preclude or limit the exercise, transfer or receipt of the rights, options or warrants by any person owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee of any person, or that preclude or limit the exercise, transfer or receipt based on such other factors, including the nature or identity of such persons, as the directors determine to be reasonable and in the best interests of the corporation, or

(2) invalidate or void such rights, options or warrants held by any such person or persons or any such transferee or transferees.

Section 6.25. FORM AND CONTENT OF CERTIFICATES

(a) Shares may but need not be represented by certificates. Unless this chapter or another statute expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates.

(b) At a minimum each share certificate shall state on its face:

(1) the name of the issuing corporation and that it is organized under the laws of the commonwealth;

(2) the name of the person to whom issued; and

(3) the number and class of shares and the designation of the series, if any, the certificate represents.

(c) If the issuing corporation is authorized to issue different classes of shares or different series within a class then the variations in rights, preferences and limitations applicable to each class and series, and the authority of the board of directors to determine variations for any future class or series, must be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(d) Each share certificate shall be signed, either manually or in facsimile, by 2 officers designated in the bylaws or by the board of directors and shall bear the corporate seal or its facsimile.

(e) If the person who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate shall be nevertheless valid.

Section 6.26. SHARES WITHOUT CERTIFICATES

(a) Unless the articles of organization or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.

(b) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by subsections (b) and (c) of section 6.25, and, if applicable, section 6.27.

Section 6.27. RESTRICTION ON TRANSFER OF SHARES AND OTHER SECURITIES

(a) The articles of organization, bylaws, an agreement among shareholders or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction, or unless the restriction is set forth in an amendment to the articles of organization or bylaws approved by the holders of that percentage of each voting group of the outstanding shares required for the approval of an amendment of the articles of organization containing the restriction.

(b) A restriction on the transfer or registration of transfer of shares is valid and enforceable against the holder or a transfer of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the formation statement required by subsection (b) of section 6.26. Unless so noted, a restriction is not enforceable against a person without knowledge of the restriction.

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(c) A restriction on the transfer or registration of transfer of shares is authorized:

(1) to maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(2) to preserve exemptions under federal or state securities law;

(3) for any other reasonable purpose.

(d) A restriction on the transfer or registration to transfer of shares may, without limitation:

(1) obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares;

(2) obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restricted shares;

(3) require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable;

(4) prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.

(e) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

SUBDIVISION C.

SUBSEQUENT ACQUISITION OF SHARES BY SHAREHOLDERS AND CORPORATION

Section 6.30. SHAREHOLDERS' PREEMPTIVE RIGHTS

(a) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of organization or any contract to which the corporation is a party so provides.

(b) For purposes of this section, "share" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Section 6.31. CORPORATION'S ACQUISITION OF ITS OWN SHARES

(a) A corporation may acquire its own shares and shares so acquired constitute authorized but unissued shares.

(b) If the articles of organization prohibit the reissue of acquired shares, the number of authorized shares is reduced by the number of shares acquired.

SUBDIVISION D.

DISTRIBUTIONS

Section 6.40. DISTRIBUTIONS TO SHAREHOLDERS

(a) A board of directors may authorize and the corporation may make distributions to its shareholders subject to restriction by the articles of organization and the limitations in subsections (c) and (h).

(b) If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption or other acquisition of the corporation's shares, it is the date the board of directors authorizes the distribution.

(c) No distribution may be made by a corporation which is a going concern if, after giving it effect,

(1) the corporation would not be able to pay its existing and reasonably foreseeable debts, liabilities and obligations, whether or not liquidated, matured, asserted or contingent, as they become due in the usual course of business; or

(2) the corporation's total assets would be less than the sum of its total liabilities plus, unless the articles or organization permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(d) The board of directors may base a determination that a distribution is not prohibited under subsection (c) either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(e) Except as provided in subsection (g), the effect of a distribution made in accordance with subsection (c) is measured:

(1) in the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of (i) the date money or other property is transferred or debt incurred by the corporation, or (ii) the date the shareholder ceases to be a shareholder with respect to the acquired shares;

(2) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) in all other cases, as of (i) the date the distribution is authorized if the payment occurs within 120 days after the date of authorization or (ii) the date the payment is made if it occurs more than 120 days after the date of authorization.

(f) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with subsection (c) is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(g) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection (c) if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

(h) No distribution in liquidation may be made by a corporation unless adequate provision has been made, after giving effect to the provisions of PART 14, to satisfy:

(1) the corporation's existing and reasonably foreseeable debts, liabilities and obligations, whether or not liquidated, matured, asserted or contingent, as they thereafter arise; and

(2) the preferential liquidation rights of shares whose preferential rights are superior to such rights of the shares which would receive the distribution.

A distribution in liquidation means a distribution made by a corporation in dissolution under PART 14, or a distribution, or 1 of a series of related distributions, of all or substantially all of the corporation's assets.

Section 6.41. LIABILITY FOR IMPROPER DISTRIBUTIONS

(a) A director who votes for or assents to a distribution, including a distribution in liquidation as described in subsection (h) of section 6.40, made in violation of this chapter or the articles of organization, is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter or the articles of organization, if it is established that he did not perform his duties in compliance with section 8.30. In any proceeding under this section, a director has all of the defenses ordinarily available to a director.

(b) A director who pays the corporation on account of liability for an improper distribution under subsection (a) is entitled to:

(1) contribution from every other director who could be held liable under subsection (a) for the distribution;

(2) reimbursement from each shareholder who received the distribution knowing it was improper, for the amount that exceeded what could properly have been distributed to him; and

(3) reimbursement from each shareholder who received the distribution without knowing it was improper, to the extent determined appropriate in the circumstances by a court.

(c) Each shareholder who receives a distribution, including one in liquidation, knowing it was made in violation of this chapter or the articles of organization, shall be personally liable to the corporation for the amount of the distribution he received in excess of what could have been distributed to him without violating this chapter or the articles of organization.

(d) If a distribution in liquidation in violation of this chapter is made before 3 years after the effective date of the corporation's dissolution under PART 14, shareholders who receive the distribution without knowing it is improper are personally liable to the corporation on account of any claim against the corporation existing at the end of the 3-year period, to the extent of each shareholder's respective pro rata share of the claim, with pro ration to be determined by reference to the respective amounts distributed to shareholders in excess of what could properly have been distributed to them.

(e) Any shareholder's total liability for all claims under this section on account of distributions in liquidation may not exceed the total amount of assets distributed to the shareholder in liquidation.

(f) A proceeding by or on behalf of the corporation under this section is barred unless it is commenced by:

(1) in the case of a distribution not in liquidation, 2 years after the date on which the effect of the challenged distribution was measured under subsection (e) or (g) of section 6.40;

(2) in the case of a distribution in liquidation by a corporation in dissolution under PART 14, the later of the time specified in the preceding clause (1) and 6 months after the end of the two-year period referred to in subsection (d); or

(3) in the case of a distribution in liquidation by a corporation not in dissolution, as described in the second clause in the last sentence of subsection (h) of section 6.40, three years after the date on which the effect of the challenged distribution was measured under subsection (e) or (g) of section 6.40.

(g) A proceeding under subsection (b) against a director for contribution or against a shareholder for reimbursement is barred unless it is commenced by the later of (1) two years after the date on which the effect of the challenged distribution was measured under subsection (e) or (g) of section 6.40, and (2) 6 months after payment to the corporation on account of liability under subsection (a) of this section by the party seeking contribution or reimbursement.

PART 7

SUBDIVISION A.

MEETINGS

Section 7.01. ANNUAL MEETING

(a) A corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws.

(b) Except as otherwise permitted by section 7.08, annual shareholders' meetings may be held within or without the commonwealth at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws shall not affect the validity of any corporate action.

(d) Unless otherwise provided in the articles of organization, an annual meeting shall be held for the purpose of electing directors and such other purposes as are specified in the notice of the meeting, and only business within such purposes may be conducted at the meeting.

Section 7.02. SPECIAL MEETING

(a) A corporation shall hold a special meeting of shareholders:

(1) on call of its board of directors or the person authorized to do so by the articles of organization or bylaws; or

(2) in the case of a corporation other than a public corporation, if the holders of at least 10 per cent, or such lesser percentage as the articles of organization permit, of all the votes entitled to be cast on any issue to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose for which it is to be held; or

(3) in the case of a public corporation, unless otherwise provided in the articles of organization or bylaws, if the holders of at least 40 per cent of all the votes entitled to be cast on any issue to be considered at the proposed special meeting sign, date, and deliver to the

corporation's secretary one or more written demands for the meeting describing the purposes for which it is to be held.

(b) If not otherwise fixed under section 7.03 or 7.07, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(c) Except for meetings held as permitted by section 7.08, special shareholders' meetings may be held in or out of the commonwealth at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(d) Only business within the purpose or purposes described in the meeting notice required by subsection (a) of section 7.05 may be conducted at a special shareholders' meeting.

(e) In the event an annual meeting is not held at the time stated in or fixed in accordance with the bylaws or the time for an annual meeting is not fixed in accordance with the bylaws to be held within 13 months after the last annual meeting was held, the corporation may designate a special meeting held thereafter in accordance with this section 7.02 as a special meeting in lieu of the annual meeting, and the meeting shall have all of the effect of an annual meeting.

Section 7.03. COURT-ORDERED MEETING

(a) The superior court of the county where a corporation's principal office or, if none in the commonwealth, its registered office is located may summarily order a meeting to be held:

(1) on application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

(2) on application of a shareholder who signed a demand for a special meeting valid under section 7.02, if:

(i) notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary or within such further time as the court may order under the circumstances; or

(ii) the special meeting was not held in accordance with the notice.

(b) The court may fix the time and place of the meeting, determine the voting groups entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

Section 7.04. ACTION WITHOUT MEETING

(a) Action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting if the action is taken either: (1) by all shareholders entitled

to vote on the action; or (2) to the extent permitted by the articles of organization, by shareholders having not less than the minimum number of votes necessary to take the action at a meeting at which all shareholders entitled to vote on the action are present and voting. The action shall be evidenced by 1 or more written consents that describe the action taken, are signed by shareholders having the requisite votes, bear the date of the signatures of such shareholders, and are delivered to the corporation for inclusion with the records of meetings within 60 days of the earliest dated consent delivered to the corporation as required by this section.

(b) If not otherwise fixed under section 7.03 or 7.07, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (a).

(c) A consent signed under this section has the effect of a vote at a meeting and may be described as such in any document, except that if action is taken by the consent of less than all shareholders entitled to vote on the action, any document required to be filed under this chapter with respect to such action shall state that the action was taken by consent of the required number of shareholders and that any required notice has been given to other shareholders.

(d) If action is to be taken pursuant to the consent of voting shareholders without a meeting, the corporation, at least 7 days before the action pursuant to the consent is taken, shall give notice, which complies in form with the requirements of section 7.05, of the action (1) to nonvoting shareholders in any case where this Act would require such notice if the action is to be taken pursuant to a vote by voting shareholders at a meeting, and (2) if the action is to be taken pursuant to the consent of less than all the shareholders entitled to vote on the matter, to all shareholders entitled to vote who did not consent to the action. The notice shall contain, or be accompanied by, the same material that, under this chapter, would have been required to be sent to shareholders in or with the notice of a meeting at which the action would have been submitted to the shareholders for approval.

Section 7.05. NOTICE OF MEETING

(a) A written notice of the date, time, and place of each annual and special shareholders' meeting describing the purposes of the meeting shall be given to shareholders no fewer than 7 nor more than 60 days before the meeting date. Unless this chapter or the articles of organization require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting.

(b) Unless the bylaws require otherwise, if an annual or special meeting of shareholders is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place, if any, is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or shall be fixed under section 7.07, however, notice of the adjourned meeting shall be given under this section to persons who are shareholders as of the new record date.

Section 7.06. WAIVER OF NOTICE

(a) A shareholder may waive any notice required by this chapter, the articles of organization, or the bylaws before or after the date and time stated in the notice. The waiver shall be in writing, be signed by the shareholder entitled to the notice, and be delivered to the corporation for inclusion with the records of the meeting.

(b) A shareholder's attendance at a meeting:

(1) waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and

(2) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Section 7.07. RECORD DATE

(a) Except as otherwise provided in section 7.03, the bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date. If a record date for a specific action is not fixed by the bylaws or the board of directors, and is not supplied by the section of this chapter dealing with that action, the record date shall be the close of business either on the day before the first notice is sent to shareholders, or, if no notice is sent, on the day before the meeting.

(b) A record date fixed under this section may not be more than 70 days before the meeting or action requiring a determination of shareholders.

(c) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(d) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

Section 7.08. MEETINGS BY REMOTE COMMUNICATIONS; REMOTE PARTICIPATION IN MEETINGS

Unless otherwise provided in the articles of organization or bylaws, if authorized by the board of directors: any annual or special meeting of shareholders need not be held at any place but may instead be held solely by means of remote communication, unless the corporation is a public corporation; and subject to such guidelines and procedures as the board of directors may adopt, shareholders and proxyholders not physically present at a meeting of shareholders may, by means of remote communications:

(1) participate in a meeting of shareholders; and

(2) be deemed present in person and vote at a meeting of shareholders whether such

meeting is to be held at a designated place or solely by means of remote communication, provided that:

(i) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder;

(ii) the corporation shall implement reasonable measures to provide such shareholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and

(iii) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

SUBDIVISION B.

VOTING

Section 7.20. SHAREHOLDERS LIST FOR MEETING

(a) After fixing a record date for a shareholders' meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of the meeting. The list shall be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder, but need not include an electronic mail address or other electronic contact information for any shareholder.

(b) The shareholders list shall be available for inspection by any shareholder, beginning 2 business days after notice is given of the meeting for which the list was prepared and continuing through the meeting:

(1) at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held; or

(2) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting.

If the meeting is to be held solely by means of remote communication, the list shall be made available on an electronic network. In the event the corporation determines or is required to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders of the corporation.

(c) A shareholder, his agent, or attorney is entitled on written demand to inspect and, subject to the requirements of section 16.02(c), to copy the list, during regular business hours and at his expense, during the period it is available for inspection.

(d) The corporation shall make the shareholders list available at the meeting, and any shareholder or his agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

(e) If the corporation refuses to allow a shareholder or his agent or attorney to inspect the shareholders list before or at the meeting, or copy the list as permitted by subsection (b),

the superior court of the county where a corporation's principal office or, if none in the commonwealth, its registered office is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(f) Refusal or failure to prepare or make available the shareholders list shall not affect the validity of action taken at the meeting.

Section 7.21. VOTING ENTITLEMENT OF SHARES

(a) Except as provided in subsections (b) and (c) or unless the articles of organization provide otherwise, each outstanding share, regardless of class, is entitled to 1 vote on each matter voted on at a shareholders' meeting. Pursuant to subsection (c) of section 6.04 each fractional share is entitled to a proportional vote. Only shares are entitled to vote.

(b) Absent special circumstances, the shares of a corporation are not entitled to vote if they are owned, directly or indirectly, by another entity of which the corporation owns, directly or indirectly, a majority of the voting interests.

(c) Subsection (b) shall not limit the power of a corporation to vote any shares, including its own shares, held by it, directly or indirectly, in a fiduciary capacity.

(d) Unless the articles of organization provide otherwise, redeemable shares are not entitled to vote after notice of redemption is given to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company or other financial institution under an irrevocable obligation to pay the holders the redemption price upon surrender of the shares.

Section 7.22. PROXIES

(a) A shareholder may vote his shares in person or by proxy.

(b) A shareholder may appoint a proxy to vote or otherwise act for him by signing an appointment form, either personally or by his attorney-in-fact.

(c) An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. Unless otherwise provided in the appointment form, an appointment is valid for a period of 11 months from the date the shareholder signed the form or, if it is undated, from the date of its receipt by the officer or agent, or for such shorter period as may be specified in the bylaws.

(d) An appointment of a proxy is revocable by the shareholder unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include, without limitation, the appointment of:

- (1) a secured party;
- (2) a person who purchased or agreed to purchase the shares;
- (3) a creditor of the corporation who extended it credit under terms requiring the appointment;
- (4) an employee of the corporation whose employment contract requires the appointment; or
- (5) a party to a voting agreement created under section 7.31.

(e) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises his authority under the appointment.

(f) An appointment made irrevocable under subsection (d) is revoked when the interest with which it is coupled is extinguished.

(g) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if he did not know of its existence when he acquired the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(h) Subject to section 7.24 and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Section 7.23. SHARES HELD BY NOMINEES

(a) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee will be recognized by the corporation as the shareholder, to the extent provided in the procedure.

(b) The procedure may set forth:

- (1) the types of nominees to which it applies;
- (2) the rights or privileges that the corporation recognizes in a beneficial owner;
- (3) the manner in which the procedure is selected by the nominee;
- (4) a requirement for the certification by the nominee of the beneficial holders;
- (5) the information that must be provided when the procedure is selected;
- (6) the period for which selection of the procedure is effective; and
- (7) other aspects of the rights and duties created.

Section 7.24. CORPORATION'S ACCEPTANCE OF VOTES

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(1) the shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) the name signed purports to be that of an administrator, executor, guardian, conservator or other fiduciary representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented;

(3) the name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented;

(4) the name signed purports to be that of a secured party, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented;

(5) two or more persons are the shareholder as co-owners, demutualization or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners; or

(6) the corporation otherwise has a reasonable basis for believing that the signatory is, or has authority to sign for, the shareholder.

(c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubting the validity of the signature on it or the signatory's authority to sign for the shareholder.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable to the shareholder for damages resulting from the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

Section 7.25. QUORUM AND VOTING REQUIREMENTS FOR VOTING GROUPS

(a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless otherwise provided in this Act, or in the articles of organization, the bylaws or a resolution of the board of directors, as permitted by subsection (a) of section 7.27, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) A share once represented for any purpose at a meeting is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless:

(1) the shareholder attends solely to object to lack of notice, defective notice, or the conduct of the meeting on other grounds, and does not vote the shares or otherwise consent that they are to be deemed present; or

(2) in the case of an adjournment, a new record date is or shall be set for that adjourned meeting.

(c) If a quorum of a voting group exists, favorable action on a matter, other than the election of directors, is taken by a voting group if the votes cast within the group favoring the action exceed the votes cast opposing the action, unless either this chapter, or the articles of organization, the bylaws or a resolution of the board of directors, as permitted by subsection (a) of section 7.27, requires a greater number of affirmative votes.

(d) An amendment of the articles of organization or the bylaws affecting the quorum or voting requirement for a voting group is governed by section 7.27 or section 10.21 respectively.

(e) The election of directors is governed by section 7.28.

Section 7.26. ACTION BY SINGLE AND MULTIPLE VOTING GROUPS

(a) When a matter is to be voted upon by a single voting group, action on that matter is taken when voted upon by that voting group as provided in section 7.25.

(b) When a matter is to be voted upon by two or more voting groups, favorable action on that matter is taken only by the required vote of each of those voting groups counted separately, as provided in section 7.25. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

Section 7.27. GREATER OR LESSER QUORUM OR VOTING REQUIREMENTS FOR SHAREHOLDERS

(a) The articles of organization, or a bylaw adopted in conformity to section 10.21, may provide for a greater or lesser quorum requirement for action by any voting group, or for a greater affirmative vote requirement, including additional separate voting groups, than is provided for by this chapter. Whenever authorized by this chapter, the board of directors may require for the approval of a matter submitted to a vote of the shareholders satisfaction of a greater quorum requirement for any voting group, or receipt of a greater affirmative vote of the shareholders, including more separate voting groups, than is required by this chapter or the articles or bylaws.

(b) If any provision of this chapter requires the affirmative vote of more than a majority of the shares in any voting group, the articles of organization may provide that favorable action may be taken by vote of a lesser proportion of shares than the chapter specifies, but not less than a majority of all the shares in the voting group eligible to vote on the matter.

(c) Action to approve an amendment to the articles of organization or bylaws that changes or deletes a quorum or voting requirement for action by shareholders must satisfy both the quorum and voting requirements then applicable for amendment of the articles or bylaws, as the case may be, and also the quorum and voting requirements sought to be changed or deleted.

Section 7.28. VOTING FOR DIRECTORS; CUMULATIVE VOTING

(a) Unless otherwise provided in the articles of organization or bylaws, directors are elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(b) Shareholders do not have a right to cumulate their votes for directors unless the articles of organization so provide.

(c) A statement included in the articles of organization that "a designated voting group of shareholders are entitled to cumulate their votes for directors", or words of similar

import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among two or more candidates.

Section 7.29. FORM OF SHAREHOLDER ACTION

(a) Any vote, consent, waiver, proxy appointment or other action by a shareholder or by the proxy or other agent of any shareholder pursuant to any section of this chapter shall be considered given in writing, dated and signed as required by this chapter if, in lieu of any other means permitted by this chapter, it consists of an electronic transmission that sets forth or is delivered with information from which the corporation can determine (i) that the electronic transmission was transmitted by the shareholder, proxy or agent or by a person authorized to act for the shareholder, proxy or agent; and (ii) the date on which such shareholder, proxy, agent or authorized person transmitted the electronic transmission. The date on which the electronic transmission is transmitted shall be considered to be the date on which it was signed. The electronic transmission shall be considered received by the corporation if it has been sent to any address specified by the corporation for the purpose or, if no address has been specified, to the principal office of the corporation, addressed to the secretary or other officer or agent having custody of the records of proceedings of shareholders.

(b) Any copy, facsimile or other reliable reproduction of a vote, consent, waiver, proxy appointment or other action by a shareholder or by the proxy or other agent of any shareholder may be substituted or used in lieu of the original writing for any purpose for which the original writing could be used, but the copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

SUBDIVISION C.

VOTING TRUSTS AND AGREEMENTS

Section 7.30. VOTING TRUSTS

(a) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. The trustee shall also sign the voting trust agreement and the shares transferred shall be registered in the name of the trustee. Promptly thereafter, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(b) A voting trust becomes effective on the date the first shares subject to the trust are registered in the trustee's name. A voting trust is valid for the period as is specified in the trust agreement.

(c) All or some of the parties to a voting trust may extend it for additional terms by signing an extension agreement and obtaining the voting trustee's written consent to the extension. An extension is valid for such period as is specified in the extension agreement.

The voting trustee shall deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.

Section 7.31. VOTING AGREEMENTS

(a) An agreement between 2 or more shareholders or between 1 or more shareholders and 1 or more other persons, if in writing and signed by the parties to the agreement, whether or not the parties include all of the shareholders of the corporation, may provide for the manner in which the parties who are shareholders will vote their shares. A voting agreement created under this section is not subject to section 7.30.

(b) A voting agreement is valid for such period as is specified in the agreement or in any extension agreement entered into by all or some of the parties to it. An extension agreement binds only those parties signing it.

(c) A voting agreement created under this section is specifically enforceable.

Section 7.32. SHAREHOLDER AGREEMENTS

(a) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with 1 or more other sections of this chapter in that it:

(1) eliminates the board of directors or restricts the discretion or powers of the board of directors;

(2) governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in section 6.40;

(3) establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(4) governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;

(5) establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer or employee of the corporation or among any of them;

(6) transfers to 1 or more shareholders or other persons all or part of the authority to exercise corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(7) requires dissolution of the corporation at the request of 1 or more of the shareholders or upon the occurrence of a specified event or contingency; or

(8) otherwise governs exercise of the corporate powers or management of the business and affairs of the corporation or the relationship among the shareholders, the directors and the corporation, or among any of them, and is not contrary to public policy.

(b) An agreement authorized by this section shall be:

(1) set forth (i) in the articles of organization or bylaws and approved by all persons who are shareholders at the time of the agreement or (ii) in a written agreement that is signed

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by all persons who are shareholders at the time of the agreement and is made known to the corporation;

(2) subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise; and

(3) valid for 10 years, unless the agreement provides otherwise.

(c) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by subsection (b) of section 6.26. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement does not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement is entitled to rescission of the purchase. A purchaser is considered to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of 90 days after discovery of the existence of the agreement or 2 years after the time of purchase of the shares.

(d) An agreement authorized by this section automatically terminates when shares of the corporation are listed on a national securities exchange or are regularly traded in a market maintained by 1 or more members of a national or affiliated securities association. If the agreement so terminates or otherwise ceases to be effective, the board of directors may, if the agreement is contained or referred to in the corporation's articles of organization or bylaws, adopt an amendment to the articles of organization or bylaws, without shareholder action, to delete the agreement and any references to it.

(e) To the extent that an agreement authorized by this section limits the discretion or powers of the board of directors, liability for acts or omissions otherwise imposed by law on directors shall be imposed instead upon the person or persons in whom the discretion or powers are vested.

(f) If an agreement is authorized by this section, shareholders shall not be personally liable for the acts or debts of the corporation on the ground that the agreement or its performance treats the corporation as if it were a partnership or results in a failure to observe corporate formalities that would otherwise apply.

(g) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

(h) Nothing contained in this section shall be construed to limit the effectiveness of any agreement or arrangement permitted by or not inconsistent with any other provision of

this chapter.

SUBDIVISION D.

DERIVATIVE PROCEEDINGS

Section 7.40. SUBCHAPTER DEFINITIONS

In this SUBDIVISION the following words shall have the following meanings unless the context requires otherwise:

"Derivative proceeding", a civil suit in the right of a domestic corporation or, to the extent provided in section 7.47, in the right of a foreign corporation.

"Shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf.

Section 7.41. STANDING

A shareholder may not commence or maintain a derivative proceeding unless the shareholder:

(1) was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one who was a shareholder at that time; and

(2) fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

Section 7.42. DEMAND

No shareholder may commence a derivative proceeding until:

(1) a written demand has been made upon the corporation to take suitable action; and

(2) 90 days have elapsed from the date the demand was made, or, if the decision whether to reject such demand has been duly submitted to a vote of the shareholders, not including the holders of those shares referred to in section 7.44(b)(3), within 60 days from the date when demand was made, 120 days have elapsed from the date the demand was made, unless in either case the shareholder has earlier been notified that the demand has been rejected by the corporation or irreparable injury to the corporation would result by waiting for the expiration of such 90-day or 120-day period.

Section 7.43. STAY OF PROCEEDINGS

If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for a period as the court considers appropriate.

Section 7.44. DISMISSAL

(a) A derivative proceeding commenced after rejection of a demand shall be dismissed by the court on motion by the corporation if the court finds that either: (1) 1 of the groups specified in subsections (b)(1) or (f) has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation; or (2) shareholders specified in subsection (b)(3) have determined that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(b) Unless a panel is appointed pursuant to subsection (f), the determination in subsection (a) shall be made by:

(1) a majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a quorum;

(2) a majority vote of a committee consisting of 2 or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not the independent directors constituted a quorum; or

(3) the vote of the holders of a majority of the outstanding shares entitled to vote, not including shares owned by or voted under the control of a shareholder or related person who has or had a beneficial financial interest in the act or omission complained of or other interest therein that would reasonably be expected to exert an influence on that shareholder's or related person's judgment if called upon to vote in the determination.

(c) None of the following shall by itself cause a director to be considered not independent for the purposes of this section:

(1) the nomination or election of the director by a person who is a defendant in the derivative proceeding or against whom action is demanded;

(2) the naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded; or

(3) the approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

(d) If the corporation moves to dismiss the derivative suit, it shall make a written filing with the court setting forth facts to show (1) whether a majority of the board of directors was independent at the time of the determination by the independent directors and (2) that the independent directors made the determination in good faith after conducting a reasonable inquiry upon which their conclusions are based. Unless otherwise required by subsection (a), the court shall dismiss the suit unless the plaintiff has alleged with particularity facts rebutting the corporation's filing in its complaint or an amended complaint or in a written filing with the court. All discovery proceedings shall be stayed upon the filing by the corporation of the motion to dismiss and the filing required by this subsection until the notice of entry of the order ruling on the motion; but the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted.

(e) If a majority of the board of directors does not consist of independent directors at the time the determination by independent directors is made, the corporation shall have the burden of proving that the requirements of subsection (a) have been met. If a majority of the board of directors consists of independent directors at the time the determination is made or if the determination is made by shareholders pursuant to clause (3) of subsection (b) or is made pursuant to subsection (f), the plaintiff shall have the burden of proving that the requirements of subsection (a) have not been met.

(f) The court may appoint a panel of 1 or more independent persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the

burden of proving that the requirements of subsection (a) have not been met.

Section 7.45. DISCONTINUANCE OR SETTLEMENT

A derivative proceeding may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice to be given to the shareholders affected.

Section 7.46. PAYMENT OF EXPENSES

On termination of the derivative proceeding the court may:

(1) order the corporation to pay the plaintiff's reasonable expenses, including counsel fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation; or

(2) order the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

Section 7.47. APPLICABILITY TO FOREIGN CORPORATIONS

In any derivative proceeding in the right of a foreign corporation, the matters covered by this subchapter shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for section 7.43, 7.45 and 7.46.

PART 8

SUBDIVISION A.

BOARD OF DIRECTORS

Section 8.01. REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS

(a) Except as provided in section 7.32, each corporation shall have a board of directors.

(b) All corporate power shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, its board of directors, subject to any limitation set forth in the articles of organization or in an agreement authorized under section 7.32.

Section 8.02. QUALIFICATIONS OF DIRECTORS

The articles of organization or bylaws may prescribe qualifications for directors. A director need not be a resident of the commonwealth or a shareholder of the corporation unless the articles of organization or bylaws so prescribe.

Section 8.03. NUMBER AND ELECTION OF DIRECTORS

(a) A board of directors shall consist of 1 or more individuals, with the number specified in or fixed in accordance with the articles of organization or bylaws, but, unless otherwise provided in the articles of organization, if the corporation has more than 1 shareholder, the number of directors shall not be less than 3, except that whenever there shall be only 2 shareholders, the number of directors shall not be less than 2.

(b) If a board of directors has power to fix or change the number of directors, the board may increase or decrease the number of directors last approved by the shareholders.

(c) The articles of organization or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed or a variable-range size board to the other.

(d) Directors shall be elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under section 8.06.

Section 8.04. ELECTION OF DIRECTORS BY CERTAIN CLASSES OF SHAREHOLDERS

If the articles of organization authorize dividing the shares into classes or series, the articles may also authorize the election of all or a specified number of directors by the holders of 1 or more authorized classes or series of shares. A class or series of shares entitled to elect 1 or more directors is a separate voting group for purposes of the election of directors.

Section 8.05. TERMS OF DIRECTORS GENERALLY

(a) The terms of the initial directors of a corporation shall expire at the first shareholders' meeting at which directors are elected.

(b) The terms of all directors shall expire at the next annual shareholders' meeting following their election unless their terms are staggered under section 8.06.

(c) A decrease in the number of directors does not shorten an incumbent director's term.

(d) Unless otherwise provided in the articles of organization or a bylaw adopted by shareholders or required by section 8.06(e), the term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.

(e) Despite the expiration of a director's term, he shall continue to serve until his successor is elected and qualified or until there is a decrease in the number of directors.

Section 8.06. STAGGERED TERMS FOR DIRECTORS

(a) The articles of organization may provide for staggering the terms of directors by dividing the total number of directors into 2 or 3 groups, with each group containing $\frac{1}{2}$ or $\frac{1}{3}$ of the total, as near as may be. In that event, the terms of directors in the first group expire at the first annual shareholders' meeting after their election, the terms of the second group expire at the second annual shareholders' meeting after their election, and the terms of the third group, if any, expire at the third annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of 2 years or 3 years, as the case may be, to succeed those whose terms expire.

(b) Except as provided in subsection (c) and notwithstanding anything to the contrary in this chapter or in the articles of organization or bylaws of any public corporation, the terms of the directors of a public corporation shall be staggered by dividing the number of directors into 3 groups, as nearly equal in number as possible; the term of office of those of the first group, "Class I Directors", to continue until the first annual meeting following the date such

public corporation becomes subject to this subsection and until their successors are elected and qualified; the term of office of those of the second group, "Class II Directors", to continue until the second annual meeting following the date the public corporation becomes subject to this subsection and until their successors are elected and qualified; and the term of office of those of the third group, "Class III Directors", to continue until the third annual meeting following the date such public corporation becomes subject to this subsection and until their successors are elected and qualified. At each annual meeting of a public corporation subject to this subsection, the successors to the class of directors whose term expires at that meeting shall be elected to hold office for a term continuing until the annual meeting held in the third year following the year of their election and until their successors are elected and qualified. On or before the date on which a public corporation first convenes an annual meeting following the time at which the public corporation becomes subject to this subsection, the board of directors of the public corporation shall adopt a vote designating, from among its members, directors to serve as Class I Directors, Class II Directors and Class III Directors. Notwithstanding this subsection, the articles of organization may confer upon holders of any class or series of preference or preferred stock the right to elect 1 or more directors who shall serve for such term, and have such voting powers, as shall be stated in the articles of organization; provided, however, that no such provision of the articles of organization which confers upon such holders any such right and which is filed with the state secretary after the effective date of this chapter shall become effective unless before its adoption it was approved by a vote of a majority in number of the directors of the public corporation.

(c)(1) Subsection (b) shall apply to every public corporation, whether or not notice of an annual meeting of the public corporation has been given on or prior to the effective date of this chapter, unless the board of directors of the public corporation, or the shareholders of the corporation by a vote of two-thirds of each class of stock outstanding at a meeting duly called for the purpose of the vote, shall adopt a vote providing that the corporation elects to be exempt from the provisions of subsection (b). Upon adoption of the vote, subsection (b) shall, unless otherwise provided in the vote, shall become immediately ineffective with respect to such public corporation and the provisions of section 8.05 shall become immediately effective with respect to the corporation as soon as subsection (b) of this section is no longer effective.

(2) In the event that any public corporation shall so elect by vote of the board of directors to be exempt pursuant to clause (1) the public corporation may at any time thereafter adopt a vote of its board of directors electing to be subject to subsection (b). In the event that any public corporation shall so elect by vote of two-thirds of the shareholders to be exempt pursuant to clause (1) of this subsection the public corporation may at any time thereafter by vote of two-thirds of the shareholders elect to be subject to the provisions of subsection (b). Upon adoption of the vote, subsection (b), unless otherwise provided in the vote, shall immediately become effective.

(3) If a corporation is subject to subsection (b) at the time it ceases to be a public corporation, the corporation shall nonetheless be considered to be a public corporation for purposes of this section for a period of 12 months following the date it ceased to be a public corporation.

(d) Notwithstanding anything to the contrary in this chapter or in the articles of organization or bylaws of any public corporation, in the case of directors of a public corporation whose terms are staggered pursuant to subsection (b), shareholders may effect, by the affirmative vote of a majority of the shares outstanding and entitled to vote in the election of directors, the removal of any director or directors or the entire board of directors only for cause.

(e) Notwithstanding anything to the contrary in this chapter or in the articles of organization or bylaws of any public corporation, in the case of directors of a public corporation whose terms are staggered pursuant to subsection (b):

(1) vacancies and newly created directorships, whether resulting from an increase in the size of the board of directors, from the death, resignation, disqualification or removal of a director or otherwise, shall be filled solely by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the board of directors;

(2) any director elected in accordance with clause (1) shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred or the new directorship was created and until the director's successor shall have been elected and qualified;

(3) no decrease in the number of directors constituting the board of directors shall shorten the term of any incumbent director; and

(4) the number of directors of a public corporation subject to subsection (b) shall be fixed only by vote of its board of directors.

(f) As used in subsections (b) to (g), inclusive, the following words shall have the following meanings:

(1) "Annual meeting", any annual meeting of shareholders and any special meeting of shareholders in lieu of an annual meeting provided for by law, the articles of organization, bylaws or otherwise.

(2) "Cause", with respect to the removal of any director of a public corporation, only (i) conviction of a felony, (ii) declaration of unsound mind by order of court, (iii) gross dereliction of duty, (iv) commission of an action involving moral turpitude, or (v) commission of an action which constitutes intentional misconduct or a knowing violation of law if such action in either event results both in an improper substantial personal benefit and a material injury to the public corporation.

(g) Nothing elsewhere in this section shall be considered to amend, modify or otherwise effect the validity of any of the articles of organization or bylaws of any corporation during any period that it elects not to be subject to subsection (b), whether or not currently in effect, providing for staggering the terms of directors as contemplated by subsection (a). No provision of the articles of organization or bylaws of any public corporation

that is subject to subsection (b), whether or not currently in effect, shall render inapplicable any provision of subsections (b) to (g), inclusive, or require the board of directors of the corporation to adopt any vote pursuant to subsection (c). No vote adopted by a board of directors electing not to be subject to subsection (b) shall render invalid, or prevent adoption of, any amendment to the corporation's articles of organization as contemplated by section 8.05.

Section 8.07. RESIGNATION OF DIRECTORS

(a) A director may resign at any time by delivering written notice of resignation to the board of directors, its chairman, or to the corporation.

(b) A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

Section 8.08. REMOVAL OF DIRECTORS

(a) Subject to subsection (b) of section 8.06 and except as otherwise provided in the articles of organization or bylaws, the shareholders may remove 1 or more directors with or without cause.

(b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove him.

(c) If cumulative voting is authorized, a director may not be removed by the shareholders if the number of votes sufficient to elect him under cumulative voting is voted against his removal. If cumulative voting is not authorized, a director may be removed by the shareholders only if the number of votes cast to remove him exceeds the number of votes cast not to remove him.

(d) A director may be removed for cause by the directors by vote of the greater of (1) a majority of the directors then in office or (2) the number of directors required by the articles of organization or bylaws to take action under section 8.24, but, if a director is elected by a voting group of shareholders, only the directors elected by that voting group may participate in the vote to remove him.

(e) A director may be removed by the shareholders or the directors only at a meeting called for the purpose of removing him and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

Section 8.10. VACANCY ON BOARD

(a) Unless the articles of organization or section 8.06 provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(1) the shareholders may fill the vacancy;

(2) the board of directors may fill the vacancy; or

(3) if the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group or, unless the articles of organization

or by-laws provide otherwise, the directors elected by that voting group are entitled to vote to fill the vacancy.

(c) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under subsection (b) of section 8.07 or otherwise, may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

Section 8.11. COMPENSATION OF DIRECTORS

Unless the articles of organization or bylaws provide otherwise, the board of directors may fix the compensation of directors.

SUBDIVISION B.

MEETINGS AND ACTION OF THE BOARD

Section 8.20 MEETINGS

(a) The board of directors may hold regular or special meetings within or without the commonwealth.

(b) Unless the articles of organization or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is considered to be present in person at the meeting.

Section 8.21. ACTION WITHOUT MEETING

(a) Unless the articles of organization or bylaws provide that action required or permitted by this chapter to be taken by the directors may be taken only at a meeting, the action may be taken without a meeting if the action is taken by the unanimous consent of the members of the board of directors. The action must be evidenced by 1 or more consents describing the action taken, in writing, signed by each director, or delivered to the corporation by electronic transmission, to the address specified by the corporation for the purpose or, if no address has been specified, to the principal office of the corporation, addressed to the secretary or other officer or agent having custody of the records of proceedings of directors, and included in the minutes or filed with the corporate records reflecting the action taken.

(b) Action taken under this section is effective when the last director signs or delivers the consent, unless the consent specifies a different effective date.

(c) A consent signed or delivered under this section has the effect of a meeting vote and may be described as such in any document.

Section 8.22. NOTICE OF MEETING

(a) Unless the articles of organization or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place or purpose of the meeting.

(b) Unless the articles of organization or bylaws otherwise provide, special meetings of the board of directors must be preceded by at least 2 days' notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of organization or bylaws.

Section 8.23. WAIVER OF NOTICE

(a) A director may waive any notice required by this chapter, the articles of organization or the bylaws before or after the date and time of the meeting. Except as provided by subsection (b), the waiver shall be in writing, signed by the director entitled to the notice, or in the form of an electronic transmission by the director to the corporation, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting, or promptly upon his arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 8.24. QUORUM AND VOTING

(a) Subject to subsection (b), unless the articles of organization or bylaws otherwise provide or unless otherwise specifically provided in this chapter, a quorum of a board of directors consists of:

(1) a majority of the fixed number of directors if the corporation has a fixed board size; or

(2) a majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

(b) The articles of organization or bylaws may authorize a quorum of a board of directors to consist of no fewer than:

(1) one-third of the fixed or prescribed number of directors determined under subsection (a); or

(2) a majority of the directors then in office, without regard to the number of directors determined under subsection (a) of this section.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of organization or bylaws require the vote of a greater number of directors.

(d) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken is considered to have assented to the action taken unless: (1) he objects at the beginning of the meeting, or promptly upon his arrival, to holding it or transacting business at the meeting; (2) his dissent or abstention from the action taken is entered in the minutes of the meeting; or (3) he delivers written notice of his dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Section 8.25. COMMITTEES

(a) Unless the articles of organization or bylaws provide otherwise, a board of directors may create 1 or more committees and appoint members of the board of directors to serve on them. Each committee may have 1 or more members, who serve at the pleasure of the board of directors.

(b) The creation of a committee and appointment of members to it must be approved by the greater of: (1) a majority of all the directors in office when the action is taken; or (2) the number of directors required by the articles of organization or bylaws to take action under section 8.24.

(c) Sections 8.20 through 8.24, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors, shall apply to committees and their members.

(d) To the extent specified by the board of directors or in the articles of organization or bylaws, each committee may exercise the authority of the board of directors under section 8.01.

(e) A committee may not, however:

(1) authorize distributions;

(2) approve or propose to shareholders action that this chapter requires be approved by shareholders;

(3) change the number of the board of directors, remove directors from office or fill vacancies on the board of directors;

(4) amend articles of organization pursuant to section 10.02;

(5) adopt, amend or repeal bylaws; or

(6) authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors.

(f) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 8.30.

SUBDIVISION C.

STANDARDS OF CONDUCT

Section 8.30. GENERAL STANDARDS FOR DIRECTORS

(a) A director shall discharge his duties as a director, including his duties as a member of a committee:

(1) in good faith;

(2) with the care that a person in a like position would reasonably believe appropriate under similar circumstances; and

(3) in a manner the director reasonably believes to be in the best interests of the corporation. In determining what the director reasonably believes to be in the best interests of the corporation, a director may consider the interests of the corporation's employees, suppliers, creditors and customers, the economy of the state, the region and the nation, community and societal considerations, and the long-term and short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

(b) In discharging his duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent with respect to the information, opinions, reports or statements presented;

(2) legal counsel, public accountants, or other persons retained by the corporation, as to matters involving skills or expertise the director reasonably believes are matters (i) within the particular person's professional or expert competence or (ii) as to which the particular person merits confidence; or

(3) a committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(c) A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this section.

Section 8.31. DIRECTOR CONFLICT OF INTEREST

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a material direct or indirect interest. A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(1) the material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(2) the material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction; or

(3) the transaction was fair to the corporation.

(b) For purposes of this section, and without limiting the interests that may create conflict of interest transactions, a director of the corporation has an indirect interest in a transaction if: (1) another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or (2) another entity of which he is a director, officer, or trustee or in which he holds another position is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(c) For purposes of clause (1) of subsection (a), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under clause (1) of subsection (a) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(d) For purposes of clause (2) of subsection (a), a conflict of interest transaction is

authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in clause (1) of subsection (b), may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under clause (2) of subsection (a). The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Section 8.32. LOANS TO DIRECTORS

(a) Except as provided by subsection (c), a corporation may not lend money to, or guarantee the obligation of a director of, the corporation unless:

(1) the specific loan or guarantee is approved by a majority of the votes represented by the outstanding voting shares of all classes, voting as a single voting group, except the votes of shares owned by or voted under the control of the benefited director; or

(2) the corporation's board of directors determines that the loan or guarantee benefits the corporation and either approves the specific loan or guarantee or a general plan authorizing loans and guarantees.

(b) The fact that a loan or guarantee is made in violation of this section shall not affect the borrower's liability on the loan.

(c) This section shall not apply to loans and guarantees authorized by statute regulating any special class of corporations.

SUBDIVISION D.

OFFICERS

Section 8.40. REQUIRED OFFICERS

(a) A corporation shall have a president, a treasurer and a secretary and such other officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(b) A duly appointed officer may appoint 1 or more officers or assistant officers if authorized by the bylaws or the board of directors.

(c) Unless the bylaws or the board of directors shall designate another officer, the secretary or an assistant secretary shall have responsibility for preparing minutes of the directors' and shareholders' meetings and for authenticating records of the corporation.

(d) The same individual may simultaneously hold more than 1 office in a corporation.

Section 8.41. DUTIES OF OFFICERS

Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

Section 8.42. STANDARDS OF CONDUCT FOR OFFICERS

(a) An officer shall discharge his duties:

(1) in good faith;

(2) with the care that a person in a like position would reasonably exercise under similar circumstances; and

(3) in a manner the officer reasonably believes to be in the best interests of the corporation.

(b) In discharging his duties an officer, who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) one or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent with respect to the information, opinions, reports or statements presented; or

(2) legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters (i) within the particular person's professional or expert competence or (ii) as to which the particular person merits confidence.

(c) An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take any action taken, or any failure to take any action, as an officer, if the duties of the officer are performed in compliance with this section.

Section 8.43. RESIGNATION AND REMOVAL OF OFFICERS

(a) An officer may resign at any time by delivering notice of the resignation to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor shall not take office until the effective date.

(b) A board of directors may remove any officer at any time with or without cause.

Section 8.44. CONTRACT RIGHTS OF OFFICERS

(a) The appointment of an officer shall not itself create contract rights.

(b) An officer's removal shall not affect the officer's contract rights, if any, with the corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

Section 8.45. CERTIFICATE OF CHANGE IN OFFICERS OR DIRECTORS

Whenever any change is made in the directors or in the president, treasurer or secretary of a corporation, the corporation shall forthwith file in the office of the state secretary a certificate of the change signed under the penalties of perjury by the clerk or an assistant clerk. If a corporation fails or refuses to file such a certificate within the 30-day period following a change in the directors or in the officers, any director or officer involved in the change, or the personal representative of any deceased director or officer so involved, may evidence the change by filing a certificate thereof with the office of the state secretary,

signed under the penalties or perjury, including a statement that a copy of the certificate has been delivered to the corporation or has been mailed to the principal office of the corporation, postage prepaid.

Section 8.46. INSTRUMENTS AFFECTING REAL ESTATE

Any recordable instrument purporting to affect an interest in real estate, executed in the name of a corporation by the president or a vice president and the treasurer or an assistant treasurer, who may be one and the same person, shall be binding on the corporation in favor of a purchaser or other person relying in good faith on the instrument notwithstanding any inconsistent provisions of the articles of organization or bylaws of the corporation, any special act of incorporation governing the corporation or any vote or other action by the shareholders or directors of the corporation.

SUBDIVISION E.

INDEMNIFICATION

Section 8.50. SUBCHAPTER DEFINITIONS

In this SUBDIVISION the following words shall have the following meanings unless the context requires otherwise:

"Corporation", includes any domestic or foreign predecessor entity of a corporation in a merger.

"Director" or "officer", an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

"Disinterested director", a director who, at the time of a vote referred to in subsection (c) of section 8.53 or a vote or selection referred to in subsection (b) or (c) of section 8.55, is not (i) a party to the proceeding, or (ii) an individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

"Expenses", includes counsel fees.

"Liability", the obligation to pay a judgment, settlement, penalty, fine including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

"Party", an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

"Proceeding", any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitative, or investigative and whether formal or informal.

Section 8.51. PERMISSIBLE INDEMNIFICATION

(a) Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because he is a director against liability incurred in the proceeding if:

(1)(i) he conducted himself in good faith; and

(ii) he reasonably believed that his conduct was in the best interests of the corporation or that his conduct was at least not opposed to the best interests of the corporation; and

(iii) in the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful; or

(2) he engaged in conduct for which he shall not be liable under a provision of the articles of organization authorized by clause (4) of subsection (b) of section 2.02.

(b) A director's conduct with respect to an employee benefit plan for a purpose he reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan is conduct that satisfies the requirement that his conduct was at least not opposed to the best interests of the corporation.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(d) Unless ordered by a court under clause (3) of subsection (a) of section 8.54, a corporation may not indemnify a director under this section if his conduct did not satisfy the standards set forth in subsection (a) or subsection (b).

Section 8.52. MANDATORY INDEMNIFICATION

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he was a director of the corporation against reasonable expenses incurred by him in connection with the proceeding.

Section 8.53. ADVANCE FOR EXPENSES

(a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding because he is a director if he delivers to the corporation:

(1) a written affirmation of his good faith belief that he has met the relevant standard of conduct described in section 8.51 or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of organization as authorized by clause (4) of subsection (b) of section 2.02; and

(2) his written undertaking to repay any funds advanced if he is not entitled to mandatory indemnification under section 8.52 and it is ultimately determined under section 8.54 or section 8.55 that he has not met the relevant standard of conduct described in section

8.51.

(b) The undertaking required by clause (2) of subsection (a) must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) Authorizations under this section shall be made:

(1) by the board of directors;

(i) if there are 2 or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by the vote; or

(ii) if there are fewer than 2 disinterested directors, by the vote necessary for action by the board in accordance with subsection (c) of section 8.24, in which authorization directors who do not qualify as disinterested directors may participate; or

(2) by the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization; or

(3) as otherwise permitted by law.

Section 8.54. COURT-ORDERED INDEMNIFICATION AND ADVANCE FOR EXPENSES

(a) A director who is a party to a proceeding because he is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. After receipt of an application and after giving any notice it considers necessary, the court shall:

(1) order indemnification if the court determines that the director is entitled to mandatory indemnification under section 8.52;

(2) order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by subsection (a) of section 8.58; or

(3) order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable

(i) to indemnify the director pursuant to section 8.51, or

(ii) to advance expenses to the director, even if he has not met the relevant standard of conduct set forth in subsection (a) or (b) of sections 8.51 or 8.51 or failed to comply with section 8.53.

(b) If the court determines that the director is entitled to indemnification under clause (1) of subsection (a) or to indemnification or advance for expenses under clause (2) of subsection (a), it shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under clause (3) of subsection (a), it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

Section 8.55. DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION

(a) A corporation may not indemnify a director under section 8.51 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because he has met the relevant standard of conduct set forth in said section 8.51.

(b) The determination shall be made:

(1) if there are 2 or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of 2 or more disinterested directors appointed by vote;

(2) by special legal counsel

(i) selected in the manner prescribed in clause (1); or

(ii) if there are fewer than two disinterested directors, selected by the board of directors, in which selection directors who do not qualify as disinterested directors may participate; or

(3) by the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the determination.

(c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors, authorization of indemnification shall be made by those entitled under subclause (ii) of clause (2) of subsection (b) to select special legal counsel.

Section 8.56. OFFICERS

(a) A corporation may indemnify and advance expenses under this subchapter to an officer of the corporation who is a party to a proceeding because he is an officer of the corporation.

(1) to the same extent as a director; and

(2) if he is an officer but not a director, to such further extent as may be provided by the articles of organization, the bylaws, a resolution of the board of directors, or contract except for liability arising out of acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.

(b) Clause (2) of subsection (a) shall apply to an officer who is also a director if the basis on which he is made a party to the proceeding is an act or omission solely as an officer.

(c) An officer of a corporation who is not a director is entitled to mandatory indemnification under section 8.52, and may apply to a court under section 8.54 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance under those provisions.

Section 8.57. INSURANCE

A corporation may purchase and maintain insurance on behalf of an individual who

is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by him in that capacity or arising from his status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to him against the same liability under this subdivision.

Section 8.58. VARIATION BY CORPORATE ACTION; APPLICATION OF SUBCHAPTER

(a) A corporation may, by its articles of organization or bylaws or in a resolution adopted or a contract approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 8.51 or section 8.56 or advance funds to pay for or reimburse expenses in accordance with section 8.53. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in subsection (c) of section 8.53 and in subsection (c) of section 8.55. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be considered to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 8.53 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(b) Any provision pursuant to subsection (a) shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by clause (3) of subsection (a) of section 11.06.

(c) A corporation in its articles of organization may, limit any of the rights to indemnification or advance for expenses created by or pursuant to this subchapter.

(d) This subdivision shall not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with his appearance as a witness in a proceeding at a time when he is not a party.

(e) This subdivision shall not limit a corporation's power to indemnify, advance expenses to or provide or maintain insurance on behalf of an employee or agent.

Section 8.59. EXCLUSIVITY OF SUBCHAPTER

The indemnification and advancement of expenses provided by, or granted pursuant to, this subdivision shall not be considered exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled.

PART 9

SUBDIVISION A.

DOMESTICATION

Section 9.20. DOMESTICATION

(a) A foreign business corporation may become a domestic business corporation only if the domestication is permitted by the organic law of the foreign corporation. The laws of the commonwealth shall govern the effect of domesticating in the commonwealth pursuant to this subdivision.

(b) A domestic business corporation may become a foreign business corporation only if the domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved by the adoption by the corporation of a plan of domestication in the manner provided in this subdivision. The laws of the foreign jurisdiction shall govern the effect of domesticating in that jurisdiction.

(c) The plan of domestication adopted by a domestic business corporation shall include:

- (1) a statement of the jurisdiction in which the corporation is to be domesticated;
- (2) the terms and conditions of the domestication;
- (3) the manner and basis of reclassifying the shares of the corporation into other shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing; and

(4) any amendments to the articles of organization of the corporation following its domestication that may be desired.

The plan of domestication may include any other provisions relating to the domestication that may be desired.

(d) The plan of domestication may also include a provision that the plan may be amended before filing the document required by the laws of the commonwealth or the other jurisdiction to consummate the domestication, except that subsequent to the approval of the plan by the shareholders the plan may not be amended to change:

(1) the amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, cash, or other property to be received by the shareholders under the plan;

(2) the articles of organization as they will be in effect immediately following the domestication, except for changes permitted by section 10.05 or by comparable laws of the other jurisdiction; or

(3) any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect.

Section 9.21. ACTION ON A PLAN OF DOMESTICATION

In the case of a domestication of a domestic business corporation in a foreign jurisdiction:

(1) The plan of domestication shall be adopted by the board of directors.

(2) After adopting the plan of domestication the board of directors shall submit the plan to the shareholders for their approval.

(3) The board of directors may condition its submission of the plan of domestication to the shareholders on any basis.

(4) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy or a summary of the articles of organization as they will be in effect immediately after the domestication.

(5) Unless (1) a greater percentage vote, or one or more additional separate voting groups, is required by the articles of organization, pursuant to subsection (a) of section 7.27, by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to paragraph (3), or (2) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the plan of domestication requires approval by two-thirds of all the shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares in any voting group entitled to vote separately on the matter by this Act, by the articles, by the bylaws, or by action of the board of directors pursuant to subsection (c) of section 9.21.

(6) Separate voting by voting groups is required by each class or series of shares that:

(i) are to be reclassified under the plan of domestication into other securities, obligations, rights to acquire shares or other securities, cash, other property or any combination of the foregoing;

(ii) would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of organization, would require action by separate voting groups under section 10.04; or

(iii) is entitled under the articles of organization to vote as a voting group to approve an amendment of the articles.

(7) If the articles of organization, bylaws or an agreement to which any of the directors or shareholders are parties, adopted or entered into before the effective date of this chapter, contains a provision applying to a merger of the corporation that does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

Section 9.22. ARTICLES OF DOMESTICATION

(a) After the domestication of a foreign business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of domestication shall be executed by any officer or other duly authorized representative. The articles shall set forth:

(1) the name of the corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in the commonwealth or the corpora-

tion desires to change its name in connection with the domestication, a name that satisfies the requirements of section 4.01;

(2) the jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and the date the corporation was incorporated in that jurisdiction; and

(3) a statement that the domestication of the corporation in the commonwealth was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication in the commonwealth.

(b) The articles of domestication shall either contain all of the provisions that subsection (a) of section 2.02 requires to be set forth in articles of organization and other desired provisions that subsection (b) of section 2.02 permits to be included in articles of organization, or shall have attached articles of organization, except that, in either case, provisions that would not be required to be included in restated articles of organization may be omitted.

(c) The articles of domestication shall be delivered by the corporation to the secretary of state for filing and shall take effect at the effective time provided in section 1.23.

(d) The corporation shall file a copy of the articles of domestication certified by the state secretary in the registry of deeds in each district within the commonwealth in which real property of the corporation is situated. The domestication shall not be affected by this requirement.

(e) If the foreign corporation is authorized to transact business in the commonwealth under chapter 15, its authority shall be cancelled automatically on the effective date of its domestication.

Section 9.23. SURRENDER OF CHARTER UPON DOMESTICATION

(a) Whenever a domestic business corporation has adopted and approved, in the manner required by this chapter, a plan of domestication providing for the corporation to be domesticated in a foreign jurisdiction, articles of charter surrender shall be executed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender shall set forth:

(1) the name of the corporation;

(2) a statement that the articles of charter surrender are being filed in connection with the domestication of the corporation in a foreign jurisdiction;

(3) a statement that the domestication was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of organization; and

(4) the corporation's new jurisdiction of incorporation.

(b) The articles of charter surrender shall be delivered by the corporation to the secretary of state for filing. The articles of charter surrender shall take effect on the effective time provided in section 1.23.

Section 9.24. EFFECT OF DOMESTICATION

(a) When a domestication of a foreign business corporation in the commonwealth becomes effective:

(1) the title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;

(2) the liabilities of the corporation remain the liabilities of the corporation;

(3) an action or proceeding pending against the corporation continues against the corporation as if the domestication had not occurred;

(4) the articles of domestication, or the articles of organization attached to the articles of domestication, constitute the articles of organization of the corporation;

(5) the shares of the corporation are reclassified into other shares, other securities, obligations, rights to acquire shares or other securities of the corporation or into cash or other property in accordance with the terms of the domestication as approved under the laws of the foreign jurisdiction, and the shareholders are entitled only to the rights provided by those terms and under those laws; and

(6) the corporation is considered to:

(i) be incorporated under the laws of the commonwealth for all purposes;

(ii) be the same corporation without interruption as the corporation that existed under the laws of the foreign jurisdiction; and

(iii) have been incorporated on the date it was originally incorporated in the foreign jurisdiction.

(b) When a domestication of a domestic business corporation in a foreign jurisdiction becomes effective, the foreign business corporation is considered to:

(1) appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the domestication; and

(2) agree that it will promptly pay the amount, if any, to which such shareholders are entitled under PART 13.

(c) The owner liability of a shareholder in a foreign corporation that is domesticated in the commonwealth shall be as follows:

(1) The domestication shall not discharge any owner liability under the laws of the foreign jurisdiction to the extent the owner liability arose before the effective time of the articles of domestication.

(2) The shareholder shall not have owner liability under the laws of the foreign jurisdiction for any debt, obligation or liability of the corporation that arises after the effective time of the articles of domestication.

(3) The laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any owner liability preserved by clause (1), as if the domestication had not occurred and the corporation were still incorporated under the laws of the foreign jurisdiction.

(4) The shareholder shall have whatever rights of contribution from other shareholders are provided by the laws of the foreign jurisdiction with respect to any owner

liability preserved by clause (1), as if the domestication had not occurred and the corporation were still incorporated under the laws of that jurisdiction.

(d) A shareholder who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the corporation as a result of its domestication in the commonwealth shall be personally liable only for those debts, obligations or liabilities of the corporation that arise after the effective time of the articles of domestication.

Section 9.25. ABANDONMENT OF A DOMESTICATION

(a) Unless otherwise provided in a plan of domestication of a domestic business corporation, after the plan has been adopted and approved as required by this subdivision, and at any time before the domestication has become effective, it may be abandoned by the board of directors without action by the shareholders.

(b) If a domestication is abandoned under subsection (a) after articles of charter surrender have been filed with the secretary of state but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, executed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the domestication. The statement shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

(c) If the domestication of a foreign business corporation into the commonwealth is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been filed with the secretary of state, a statement that the domestication has been abandoned, executed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing. The statement shall take effect upon filing and the domestication shall be deemed abandoned and shall not become effective.

SUBDIVISION B.

NONPROFIT CONVERSION

Section 9.30. NONPROFIT CONVERSION

(a) A domestic business corporation may become a domestic nonprofit corporation pursuant to a plan of nonprofit conversion.

(b) A domestic business corporation may become a foreign nonprofit corporation if the nonprofit conversion is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of nonprofit conversion, the foreign nonprofit conversion shall be approved by the adoption by the domestic business corporation of a plan of nonprofit conversion in the manner provided in this subchapter. The laws of the foreign jurisdiction govern the effect of the foreign nonprofit conversion.

(c) The plan of nonprofit conversion shall include:

(1) the terms and conditions of the conversion;

(2) the manner and basis of reclassifying the shares of the corporation into memberships, if any, or securities, obligations, rights to acquire memberships or securities, cash, other property, or any combination of the foregoing;

(3) any desired amendments to the articles of organization of the corporation following its conversion; and

(4) if the domestic business corporation is to be converted into a foreign nonprofit corporation, a statement of the jurisdiction in which the corporation will be incorporated after the conversion.

The plan of nonprofit conversion may include any other provisions relating to the conversion that may be desired.

(d) The plan of nonprofit conversion may also include a provision that the plan may be amended before filing articles of nonprofit conversion, except that subsequent to approval of the plan by the shareholders it may not be amended to change:

(1) the amount or kind of memberships or securities, obligations, rights to acquire memberships or securities, cash, or other property to be received by the shareholders under the plan;

(2) the articles of organization as they will be in effect immediately following consummation of the conversion, except for changes permitted by section 10.05; or

(3) any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect.

Section 9.31. ACTION ON A PLAN OF NONPROFIT CONVERSION

In the case of a conversion of a domestic business corporation to a domestic or foreign nonprofit corporation:

(1) The plan of nonprofit conversion shall be adopted by the board of directors.

(2) After adopting the plan of nonprofit conversion, the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the plan of nonprofit conversion to the shareholders on any basis.

(4) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of nonprofit conversion is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the articles of organization as they will be in effect immediately after the nonprofit conversion.

(5) Unless (1) a greater percentage vote, or one or more additional separate voting groups, is required by the articles of organization, pursuant to section 7.27(a), by the bylaws, pursuant to section 10.22, or by the board of directors, acting pursuant to paragraph (3), or (2) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the plan of domestication requires approval by two-thirds of all the

shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares in any voting group entitled to vote separately on the matter by this chapter, by the articles, by the bylaws, or by action of the board of directors pursuant to section 9.31(c).

(6) Separate voting by voting groups is required by each class or series of shares that:

(i) would have a right to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of organization, would require action by separate voting groups under section 10.04; or

(ii) is entitled under the articles of organization to vote as a voting group to approve a plan of merger or amendment of articles.

(7) If any provision of the articles of organization, bylaws or an agreement to which any of the directors or shareholders are parties, adopted or entered into before the effective date of this chapter, applies to a merger of the corporation and does not refer to a nonprofit conversion of the corporation, the provision shall be deemed to apply to a nonprofit conversion of the corporation until such time as the provision is amended subsequent to that date.

Section 9.32. ARTICLES OF NONPROFIT CONVERSION

(a) After a plan of nonprofit conversion providing for the conversion of a domestic business corporation to a domestic nonprofit corporation has been adopted and approved as required by this chapter, articles of nonprofit conversion shall be executed on behalf of the corporation by any officer or other duly authorized representative. The articles shall set forth:

(1) the name of the corporation immediately before the filing of the articles of nonprofit conversion and if that name does not satisfy the requirements of chapter 180 or the corporation desires to change its name in connection with the conversion, a name that satisfies the requirements of said chapter 180; and

(2) a statement that the plan of nonprofit conversion was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this Act and the articles of organization.

(b) The articles of nonprofit conversion shall either contain all of the provisions that chapter 180 requires to be set forth in articles of organization of a domestic nonprofit corporation and any other desired provisions permitted by said chapter 180, or shall have attached articles of organization that satisfy the requirements of said chapter 180, except that in either case provisions that would not be required to be included in restated articles of organization of a domestic nonprofit corporation may be omitted.

(c) The articles of nonprofit conversion shall be delivered to the secretary of state for filing and shall take effect at the effective time provided in section 1.23.

(d) The resulting or surviving corporation shall file a copy of the articles of nonprofit conversion certified by the state secretary in the registry of deeds in each district within the commonwealth in which real property of the corporation is situated. The conversion shall be valid and effective in accordance with the terms of the plan of nonprofit conversion and

the articles of nonprofit conversion delivered to the secretary of state pursuant to subsection (c) of section 9.32, notwithstanding any failure to make the filing.

Section 9.33. SURRENDER OF CHARTER UPON FOREIGN NONPROFIT CONVERSION

(a) Whenever a domestic business corporation has adopted and approved, in the manner required by this subdivision, a plan of nonprofit conversion providing for the corporation to be converted to a foreign nonprofit corporation, articles of charter surrender shall be executed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender shall set forth:

- (1) the name of the corporation;
- (2) a statement that the articles of charter surrender are being filed in connection with the conversion of the corporation to a foreign nonprofit corporation;
- (3) a statement that the foreign nonprofit conversion was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of organization; and
- (4) the corporation's new jurisdiction of incorporation.

(b) The articles of charter surrender shall be delivered by the corporation to the secretary of state for filing. The articles of charter surrender shall take effect on the effective time provided in section 1.23.

Section 9.34. EFFECT OF NONPROFIT CONVERSION

(a) When a conversion of a domestic business corporation to a domestic nonprofit corporation becomes effective:

- (1) the title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;
- (2) the liabilities of the corporation remain the liabilities of the corporation;
- (3) an action or proceeding pending against the corporation continues against the corporation as if the conversion had not occurred;
- (4) the articles of nonprofit conversion, or the articles of organization attached to the articles of nonprofit conversion, constitute the articles of organization of the corporation;
- (5) the shares of the corporation are reclassified into memberships, securities, obligations, rights to acquire memberships or securities of the corporation or into cash or other property in accordance with the plan of conversion, and the shareholders are entitled only to the rights provided in the plan of nonprofit conversion or to any rights they may have under PART 13; and

- (6) the corporation is considered to:
 - (i) be a domestic nonprofit corporation for all purposes;
 - (ii) be the same corporation without interruption as the corporation that existed before the conversion; and
 - (iii) have been incorporated on the date that it was originally incorporated as a domestic business corporation.

(b) When a conversion of a domestic business corporation to a foreign nonprofit corporation becomes effective, the foreign nonprofit corporation is considered to:

(1) appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion; and

(2) agree that it will promptly pay the amount, if any, to which such shareholders are entitled under PART 13.

(c) The owner liability of a shareholder in a domestic business corporation that converts to a domestic nonprofit corporation shall be as follows:

(1) The conversion does not discharge any owner liability of the shareholder with respect to the business corporation to the extent any such owner liability arose before the effective date of the articles of nonprofit conversion.

(2) The shareholder shall not have owner liability for any debt, obligation or liability of the nonprofit corporation that arises after the effective date of the articles of nonprofit conversion.

(3) The laws of the commonwealth shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1), as if the conversion had not occurred and the nonprofit corporation were still a business corporation.

(4) The shareholder shall have whatever rights of contribution from other shareholders are provided by the laws of the commonwealth with respect to any owner liability preserved by paragraph (1), as if the conversion had not occurred and the nonprofit corporation were still a business corporation.

(d) A shareholder who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the nonprofit corporation shall be personally liable only for those debts, obligations or liabilities of the nonprofit corporation that arise after the effective time of the articles of nonprofit conversion.

Section 9.35. ABANDONMENT OF A NONPROFIT CONVERSION

(a) Unless otherwise provided in a plan of nonprofit conversion of a domestic business corporation, after the plan has been adopted and approved as required by this chapter, and at any time before the nonprofit conversion has become effective, it may be abandoned by the board of directors without action by the shareholders.

(b) If a nonprofit conversion is abandoned under subsection (a) after articles of nonprofit conversion or articles of charter surrender have been filed with the secretary of state but before the nonprofit conversion has become effective, a statement that the nonprofit conversion has been abandoned in accordance with this section, executed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing before the effective date of the nonprofit conversion. The statement shall take effect upon filing and the nonprofit conversion shall be deemed abandoned and shall not become effective.

SUBDIVISION D.

FOREIGN NONPROFIT DOMESTICATION AND CONVERSION

Section 9.40. FOREIGN NONPROFIT DOMESTICATION AND CONVERSION

A foreign nonprofit corporation may become a domestic business corporation if the domestication and conversion is permitted by the organic law of the foreign nonprofit corporation. The laws of the commonwealth shall govern the effect of converting to a domestic business corporation pursuant to this subchapter.

Section 9.41. ARTICLES OF DOMESTICATION AND CONVERSION

(a) After the conversion of a foreign nonprofit corporation to a domestic business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of domestication and conversion shall be executed by any officer or other duly authorized representative. The articles shall set forth:

(1) the name of the corporation immediately before the filing of the articles of domestication and conversion and, if that name is unavailable for use in the commonwealth or the corporation desires to change its name in connection with the domestication and conversion, a name that satisfies the requirements of section 4.01;

(2) the jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and conversion and the date the corporation was incorporated in that jurisdiction; and

(3) a statement that the domestication and conversion of the corporation in the commonwealth was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication and conversion in the commonwealth.

(b) The articles of domestication and conversion shall either contain all of the provisions that subsection (a) of section 2.02 requires to be set forth in articles of organization and any other desired provisions that subsection (b) of section 2.02 permits to be included in articles of organization, or shall have attached articles of organization. In either case, provisions that would not be required to be included in restated articles of organization may be omitted.

(c) The articles of domestication and conversion shall be delivered by the corporation to the secretary of state for filing and shall take effect at the effective time provided in section 1.23.

(d) The corporation shall file a copy of the articles of domestication and conversion certified by the state secretary in the registry of deeds in each district within the commonwealth in which real property of the corporation is situated. The domestication and conversion shall be valid and effective in accordance with the terms of the plan of domestication and conversion and the articles of domestication and conversion delivered to the secretary of state pursuant to subsection (c), notwithstanding any failure to make the filing.

(e) If the foreign nonprofit corporation is authorized to transact business in the commonwealth under this chapter, its authority shall be cancelled automatically on the effective

date of its domestication and conversion.

Section 9.42. EFFECT OF FOREIGN NONPROFIT DOMESTICATION AND CONVERSION

(a) When a domestication and conversion of a foreign nonprofit corporation to a domestic business corporation becomes effective:

(1) the title to all real and personal property, both tangible and intangible, of the corporation remains in the corporation without reversion or impairment;

(2) the liabilities of the corporation remain the liabilities of the corporation;

(3) an action or proceeding pending against the corporation continues against the corporation as if the domestication and conversion had not occurred;

(4) the articles of domestication and conversion, or the articles of organization attached to the articles of domestication and conversion, constitute the articles of organization of the corporation;

(5) shares, other securities, obligations, rights to acquire shares or other securities of the corporation or cash or other property shall be issued or paid as provided pursuant to the laws of the foreign jurisdiction, so long as at least one share is outstanding immediately after the effective time; and

(6) the corporation is considered to:

(i) be a domestic corporation for all purposes;

(ii) be the same corporation without interruption as the corporation that existed under the laws of the jurisdiction in which it was formerly domiciled; and

(iii) have been incorporated on the date it was originally incorporated in the former jurisdiction.

(b) The owner liability of a member of a foreign nonprofit corporation that domesticates and converts to a domestic business corporation shall be as follows:

(1) The domestication and conversion does not discharge any owner liability under the laws of the foreign jurisdiction to the extent any such owner liability arose before the effective time of the articles of domestication and conversion.

(2) The member shall not have owner liability under the laws of the foreign jurisdiction for any debt, obligation or liability of the corporation that arises after the effective time of the articles of domestication and conversion.

(3) The provisions of the laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1), as if the domestication and conversion had not occurred and the corporation were still incorporated under the laws of the foreign jurisdiction.

(4) The member shall have whatever rights of contribution from other members are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by paragraph (1), as if the domestication and conversion had not occurred and the corporation were still incorporated under the laws of that jurisdiction.

(c) A member of a foreign nonprofit corporation who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the corporation as a result of

its domestication and conversion in the commonwealth shall be personally liable only for those debts, obligations or liabilities of the corporation that arise after the effective time of the articles of domestication and conversion.

Section 9.43. ABANDONMENT OF A FOREIGN NONPROFIT DOMESTICATION AND CONVERSION

If the domestication and conversion of a foreign nonprofit corporation to a domestic business corporation is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication and conversion have been filed with the secretary of state, a statement that the domestication and conversion has been abandoned, executed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing. The statement shall take effect upon filing and the domestication and conversion shall be deemed abandoned and shall not become effective.

SUBDIVISION E.

ENTITY CONVERSION

Section 9.50. ENTITY CONVERSION AUTHORIZED; DEFINITIONS

(a) A domestic business corporation may become a domestic other entity pursuant to a plan of entity conversion. If the organic law of the other entity does not provide for such a conversion, section 9.55 governs the effect of converting to that form of entity.

(b) A domestic business corporation may become a foreign other entity only if the entity conversion is permitted by the laws of the foreign jurisdiction. The laws of the foreign jurisdiction governs the effect of converting to an other entity organized in that jurisdiction.

(c) A domestic other entity may become a domestic business corporation. Section 9.55 governs the effect of converting to a domestic business corporation. If the organic law of a domestic other entity does not provide procedures for the approval of an entity conversion, the conversion shall be adopted and approved, and the entity conversion effectuated, in the same manner as a merger of the other entity and its interest holders shall be entitled to appraisal rights if appraisal rights are available upon any type of merger under the organic law of the other entity. If the organic law of a domestic other entity does not provide procedures for the approval of either an entity conversion or a merger, a plan of entity conversion shall be adopted and approved, the entity conversion effectuated, and appraisal rights exercised, in accordance with the procedures in this subdivision and PART 13. Without limiting the provisions of this subsection, a domestic other entity whose organic law does not provide procedures for the approval of an entity conversion shall be subject to subsection (e) of this section and clause (7) of section 9.52. For purposes of applying this subdivision and PART 13:

(1) the other entity, its interest holders, interests and organic documents taken together, shall be deemed to be a domestic business corporation, shareholders, shares and articles of organization, respectively, and vice versa, as the context may require; and

(2) if the business and affairs of the other entity are managed by a group of persons that is not identical to the interest holders, that group shall be deemed to be the board of directors.

(d) A foreign other entity may become a domestic business corporation if the organic law of the foreign other entity authorizes it to become a corporation in another jurisdiction. The laws of the commonwealth shall govern the effect of converting to a domestic business corporation pursuant to this subdivision.

(e) As used in this SUBDIVISION the following words shall have the following meanings unless the context requires otherwise.

"Converting entity", the domestic business corporation or domestic other entity that adopts a plan of entity conversion or the foreign other entity converting to a domestic business corporation.

"Surviving entity", the corporation or other entity that is in existence immediately after consummation of an entity conversion pursuant to this subdivision.

Section 9.51. PLAN OF ENTITY CONVERSION

(a) A plan of entity conversion shall include:

(1) a statement of the type of entity the surviving entity will be and, if it will be a foreign other entity, its jurisdiction of organization;

(2) the terms and conditions of the conversion;

(3) if the surviving entity will be an other entity, the manner and basis of converting the shares of the domestic business corporation into interests or other securities, obligations, rights to acquire interests or other securities, cash, other property, or any combination of the foregoing; and

(4) if the surviving entity will be a domestic business corporation, the manner and basis of converting the interests in the other entity into shares of the domestic business corporation, if any, or other securities, obligations, rights to acquire interests or other securities, cash, other property, or any combination of the foregoing; and

(5) the full text of the organic documents of the surviving entity, as they will be in effect immediately after consummation of the conversion.

The plan of entity conversion may include any other provisions relating to the conversion that may be desired.

(b) The plan of entity conversion may also include a provision that the plan may be amended prior to filing articles of entity conversion, except that subsequent to approval of the plan by the shareholders or by the holders of voting interests in the other entity the plan may not be amended to change:

(1) the amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property to be received by the shareholders or interest holders under the plan;

(2) the organic documents that will be in effect immediately following the conversion, except for changes permitted by a provision of the organic law of the surviving entity comparable to section 10.05; or

(3) any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders or the interest holders in any material respect.

Section 9.52. ACTION ON A PLAN OF ENTITY CONVERSION

In the case of an entity conversion of a domestic business corporation to a domestic or foreign other entity:

(1) The plan of entity conversion shall be adopted by the board of directors.

(2) After adopting the plan of entity conversion, the board of directors shall submit the plan to the shareholders for their approval.

(3) The board of directors may condition its submission of the plan of entity conversion to the shareholders on any basis.

(4) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of entity conversion is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy or summary of the organizational documents as they will be in effect immediately after the entity conversion.

(5) Unless (i) a greater percentage vote, or one or more additional separate voting groups, is required by the articles of organization, pursuant to section 7.27(a), by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to paragraph (3), or (ii) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the plan of domestication requires approval by two-thirds of all the shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares in any voting group entitled to vote separately on the matter by this chapter, by the articles, by the bylaws, or by action of the board of directors pursuant to subsection (c) of this section.

(6) Separate voting by voting groups is required by each class or series of shares that:

(1) would have a right to vote as a separate voting group on a provision in the plan that, if contained in a proposed amendment to articles of organization, would require action by separate voting groups under section 10.04; or

(2) is entitled under the articles of organization to vote as a voting group to approve a plan of merger.

(7) If the articles of organization, bylaws or an agreement to which any of the directors or shareholders are parties, adopted or entered into before the effective date of this chapter, applies to a merger of the corporation and the document does not refer to an entity conversion of the corporation, the provision shall be deemed to apply to an entity conversion of the corporation until such time as the provision is subsequently amended.

(8) If as a result of the conversion one or more shareholders of the corporation would become subject to owner liability for the debts, obligations or liabilities of any other person or entity, approval of the plan of conversion shall require the execution, by each such shareholder who does not assert appraisal rights, of a separate written consent to become subject to such owner liability.

Section 9.53. ARTICLES OF ENTITY CONVERSION

(a) After the conversion of a domestic business corporation to a domestic other entity has been adopted and approved as required by this chapter, articles of entity conversion shall be executed on behalf of the corporation by any officer or other duly authorized representative. The articles shall:

(1) set forth the name of the corporation immediately before the filing of the articles of entity conversion and the name to which the name of the corporation is to be changed, which shall be a name that satisfies the organic law of the surviving entity;

(2) state the type of other entity that the surviving entity will be;

(3) set forth a statement that the plan of entity conversion was duly approved by the shareholders and if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of organization;

(4) if the surviving entity is a filing entity, either contain all of the provisions required to be set forth in its public organic document and any other desired provisions that are permitted, or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted;

(b) After the conversion of a domestic other entity to a domestic business corporation has been adopted and approved as required by the organic laws of the other entity, articles of entity conversion shall be executed on behalf of the other entity by any officer or other duly authorized representative. The articles shall:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which shall be a name that satisfies the requirements of section 4.01;

(2) set forth a statement that the plan of entity conversion was duly approved in accordance with the organic law of the other entity;

(3) either contain all of the provisions that subsection (a) of section 2.02 requires to be set forth in articles of organization and any other desired provisions that section 2.02 subsection (b) of permits to be included in articles of organization, or have attached articles of organization, except that, in either case, provisions that would not be required to be included in restated articles of organization of a domestic business corporation may be omitted.

(c) After the conversion of a foreign other entity to a domestic business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of entity conversion shall be executed on behalf of the foreign other entity by any officer or other duly authorized representative. The articles shall:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which shall be a name that satisfies the requirements of section 4.01;

(2) set forth the jurisdiction under the laws of which the other entity was organized

immediately before the filing of the articles of entity conversion and the date on which the other entity was organized in that jurisdiction;

(3) set forth a statement that the conversion of the other entity was duly approved in the manner required by its organic law; and

(4) either contain all of the provisions that subsection (a) of section 2.02 requires to be set forth in articles of organization and any other desired provisions that subsection (b) of section 2.02 permits to be included in articles of organizations, or have attached articles of organization, except that, in either case, provisions that would not be required to be included in restated articles of organization of a domestic business corporation may be omitted.

(d) The articles of entity conversion shall be delivered to the secretary of state for filing, and shall take effect at the effective time provided in section 1.23.

(e) The corporation shall file a copy of the articles of entity conversion certified by the state secretary in the registry of deeds in each district within the commonwealth in which real property of the corporation is situated. The entity conversion shall be valid and effective in accordance with the terms of the plan of entity conversion and the articles of entity conversion delivered to the secretary of state pursuant to subsection (d) of section 9.53, notwithstanding any failure to make the filing.

(f) If the converting entity is a foreign other entity that is authorized to transact business in the commonwealth under a provision of law similar to PART 15, its authority or other type of foreign qualification shall be cancelled automatically on the effective date of its conversion.

Section 9.54. SURRENDER OF CHARTER UPON CONVERSION

(a) Whenever a domestic business corporation has adopted and approved, in the manner required by this subdivision, a plan of entity conversion providing for the corporation to be converted to a foreign other entity, articles of charter surrender shall be executed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender shall set forth:

(1) the name of the corporation;

(2) a statement that the articles of charter surrender are being filed in connection with the conversion of the corporation to a foreign other entity;

(3) a statement that the conversion was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of organization;

(4) the jurisdiction under the laws of which the surviving entity will be organized;

(5) if the surviving entity will be a nonfiling entity, the address of its executive office immediately after the conversion.

(b) The articles of charter surrender shall be delivered by the corporation to the secretary of state for filing. The articles of charter surrender shall take effect on the effective time provided in section 1.23.

Section 9.55. EFFECT OF ENTITY CONVERSION

(a) When a conversion under this subchapter in which the surviving entity is a domestic business corporation or domestic other entity becomes effective:

- (1) the title to all real and personal property, both tangible and intangible, of the converting entity remains in the surviving entity without reversion or impairment;
- (2) the liabilities of the converting entity remain the liabilities of the surviving entity;
- (3) an action or proceeding pending against the converting entity continues against the surviving entity as if the conversion had not occurred;

(4) in the case of a surviving entity that is a filing entity, the articles of conversion, or the articles of organization or public organic document attached to the articles of conversion, constitute the articles of organization or public organic document of the surviving entity;

(5) in the case of a surviving entity that is a nonfiling entity, the private organizational document provided for in the plan of conversion constitutes the private organizational document of the surviving entity;

(6) the shares or interests of the converting entity are reclassified into shares, interests, other securities, obligations, rights to acquire shares, interests or other securities of the surviving entity or into cash or other property in accordance with the plan of conversion, and the shareholders or interest holders of the converting entity are entitled only to the rights provided in the plan of conversion or, in the case of a converting entity that is a domestic business corporation, to any rights they may have under PART 13; and

(7) the surviving entity is considered to:

- (i) be a domestic business corporation or other entity for all purposes;
- (ii) be the same corporation or other entity without interruption as the converting entity that existed prior to the conversion; and
- (iii) have been incorporated or otherwise organized on the date that the converting entity was originally incorporated or organized.

(b) When a conversion of a domestic business corporation to a foreign other entity becomes effective, the surviving entity is considered to:

(1) appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders who exercise appraisal rights in connection with the conversion; and

(2) agree that it will promptly pay the amount, if any, to which such shareholders are entitled under PART 13.

(c) A shareholder who becomes subject to owner liability for some or all of the debts, obligations or liabilities of the surviving entity as a result of an entity conversion shall be personally liable only for those debts, obligations or liabilities of the surviving entity that arise after the effective time of the articles of entity conversion.

(d) The owner liability of an interest holder in an other entity that converts to a domestic business corporation shall be as follows:

(1) The conversion does not discharge any owner liability under the organic law of the other entity to the extent any such owner liability arose before the effective time of the articles of entity conversion.

(2) The interest holder shall not have owner liability under the organic law of the other entity for any debt, obligation or liability of the corporation that arises after the effective time of the articles of entity conversion.

(3) The provisions of the organic law of the other entity shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1), as if the conversion had not occurred and the surviving entity were still the converting entity.

(4) The interest holder shall have whatever rights of contribution from other interest holders are provided by the organic law of the other entity with respect to any owner liability preserved by paragraph (1), as if the conversion had not occurred and the surviving entity were still the converting entity.

Section 9.56. ABANDONMENT OF AN ENTITY CONVERSION

(a) Unless otherwise provided in a plan of entity conversion of a domestic business corporation, after the plan has been adopted and approved as required by this chapter, and at any time before the entity conversion has become effective, it may be abandoned by the board of directors without action by the shareholders.

(b) If an entity conversion is abandoned after articles of entity conversion or articles of charter surrender have been filed with the secretary of state but before the entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section, executed by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing before the effective date of the entity conversion. Upon filing, the statement shall take effect and the entity conversion shall be considered abandoned and shall not become effective.

PART 10.

SUBDIVISION A.

AMENDMENT OF ARTICLES OF ORGANIZATION

Section 10.01. AUTHORITY TO AMEND

(a) A corporation may amend its articles of organization at any time to add or change a provision that is required or permitted in the articles of organization as of the effective date of the amendment or to delete a provision not required in the articles of organization.

(b) A shareholder of the corporation shall not have a vested property right resulting from any provision in the articles of organization, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

Section 10.02. AMENDMENT BEFORE ISSUANCE OF SHARES

If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the corporation's articles of organization.

Section 10.03. AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS; EXCEPTION

If a corporation has issued shares, an amendment to the articles of organization shall be adopted in the following manner:

(a) The proposed amendment must be adopted by the board of directors.

(b) Except as provided in sections 10.05, 10.07, and 14.34, after adopting the proposed amendment the board of directors shall submit the amendment to the shareholders for their approval.

(c) The board of directors may condition its submission of the amendment to the shareholders on any basis.

(d) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and shall contain or be accompanied by a copy or a summary of the amendment.

(e) Unless (1) a greater percentage vote, or action by 1 or more additional separate voting groups, is required by the articles of organization, pursuant to subsection (a) of section 7.27, by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to subsection (c) of section 10.03, or (2) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the amendment requires:

(1) except as otherwise provided in clause (2), the affirmative vote of two-thirds of all the shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares of any voting group entitled to vote separately on the matter by the chapter, by the articles, by the bylaws, or by action of the board of directors pursuant to subsection (c) of section 10.03, or

(2) if the amendment relates solely to (A) an increase or reduction in the corporation's capital stock of any class or series then authorized, (B) a change in its authorized shares into a different number of shares or the exchange thereof pro rata for a different number of shares of the same class or series, or (C) a change of its corporate name, the required vote shall be a majority rather than two-thirds, except that if the vote of a separate voting group is required under section 10.04, the required vote of that voting group shall remain two-thirds.

If the amendment to the articles of organization changes a quorum or voting requirement for action by the shareholders, approval by the shareholders shall satisfy not only the quorum and voting requirement then applicable for amendment of the articles but also the particular quorum or voting requirement being changed.

(f) The articles of organization of any corporation, a plan of reorganization of which, pursuant to any applicable statute of the United States relating to reorganizations of corporations, has been or shall be confirmed by the decree or order of a court of competent

jurisdiction may be amended as provided in section 14.34, notwithstanding the terms of this section.

Section 10.04. VOTING ON AMENDMENTS BY VOTING GROUPS

(a) The holders of the outstanding shares of a class or of a series of a class are entitled to vote as a separate voting group, whether or not shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of organization if the amendment would:

(1) increase or decrease the aggregate number of authorized shares of the class or the series;

(2) authorize an exchange or effect a reclassification of all or part of the shares of the class or series into shares of another class or series;

(3) authorize an exchange or create a right of exchange, or effect a reclassification, of all or part of the outstanding shares of another class or series into shares of the class or series;

(4) change the designation, or the stated rights, preferences or limitations of all or part of the shares of the class or the series;

(5) change all or part of the shares of the class or series into a different number of shares of the same class or series;

(6) increase the voting rights of the outstanding shares of another class or series relative to the voting rights of the subject class or series;

(7) increase directly the stated rights or preferences of the outstanding shares of another class or series with respect to distributions or to dissolution, to make them prior, superior, or substantially equal to the rights or preferences of the subject class or series, or do so indirectly by way of implementing an exchange or reclassification of the outstanding shares of the other class or series into shares of a third class or series;

(8) limit or deny an existing preemptive right of all or part of the outstanding shares of the class or series; or

(9) cancel or otherwise affect interests in distributions or dividends that have accumulated but not yet been declared on all or part of the outstanding shares of the class or series.

(b) If a proposed amendment that entitles the holders of 2 or more classes or series of shares to vote as separate voting groups under this section would affect those 2 or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of organization or required by the board of directors.

(c) A class or series of shares is entitled to the voting rights granted by this section although the articles of organization provide that the shares are nonvoting shares.

Section 10.05. AMENDMENT BY BOARD OF DIRECTORS

Unless the articles of organization provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of organization without share-

holder approval:

(1) to extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) if the corporation has only one class of shares outstanding:

(a) to change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or

(b) to increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;

(3) to change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;

(4) to reflect a reduction in authorized shares, as a result of the operation of subsection (b) of section 6.31, when the corporation has acquired its own shares and the articles of organization prohibit the reissue of the acquired shares;

(5) to delete a class or series of shares from the articles of organization, as a result of the operation of subsection (b) of section 6.31 or of the conversion of the shares, when there are no remaining shares of the class or series because the corporation has acquired all shares of the class or series, or all shares of the class or series have been converted into other securities, and the articles of organization prohibit the reissue of the acquired or converted shares; or

(6) to make any change expressly permitted by section 6.02 to be made without shareholder approval.

Section 10.06. ARTICLES OF AMENDMENT

After an amendment to the articles of organization has been adopted and approved in the manner required by the chapter and by the articles of organization, the corporation shall deliver to the secretary of state for filing articles of amendment setting forth:

(1) the name of the corporation;

(2) the text of each amendment adopted;

(3) if an amendment authorizes an exchange, or effects a reclassification or cancellation, of issued shares, provisions for implementing that action unless contained in the amendment itself;

(4) the date of each amendment's adoption;

(5) if an amendment:

(a) was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required;

(b) required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of organization.

Section 10.07. RESTATED ARTICLES OF ORGANIZATION

(a) A corporation's board of directors may restate its articles of organization at any time, with or without shareholder approval, to consolidate all amendments into a single document.

(b) If the restated articles include one or more new amendments that require shareholder approval, the amendments must be adopted and approved as provided in section 10.03.

(c) A corporation that restates its articles of organization shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of organization together with a certificate which states that the restated articles consolidate all amendments into a single document and, if a new amendment is included in the restated articles, which also includes the statements required under section 10.06.

(d) Duly adopted restated articles of organization supersede the original articles of organization and all amendments thereto.

(e) The secretary of state may certify restated articles of organization as the articles of organization currently in effect, without including the certificate information required by subsection (c).

Section 10.08. EFFECT OF AMENDMENT

An amendment to the articles of organization shall not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

SUBDIVISION B.

AMENDMENT OF BYLAWS

Section 10.20. AMENDMENT BY BOARD OF DIRECTORS OR SHAREHOLDERS

(a) The power to make, amend or repeal bylaws shall be in the shareholders. If authorized by the articles of organization, or by the bylaws pursuant to authorization in the articles, the board of directors may also make, amend or repeal bylaws in whole or in part, except with respect to any provision thereof which by virtue of an express provision in this chapter, the articles of organization, or the bylaws, requires action by the shareholders.

(b) Not later than the time of giving notice of the meeting of shareholders next following the making, amending or repealing by the board of directors of any bylaw, notice stating the substance of the action taken by the board of directors shall be given to all shareholders entitled to vote on amending the bylaws. Any action taken by the board of directors with respect to the bylaws may be amended or repealed by the shareholders.

Section 10.21. BYLAW DEALING WITH QUORUM OR VOTING REQUIREMENTS FOR SHAREHOLDERS

(a) If authorized by the articles of organization, the initial bylaws or a bylaw subsequently adopted by shareholders may provide for a greater or lesser quorum requirement for action by any voting group of shareholders, or for a greater affirmative vote requirement, including additional separate voting groups, than is provided for by this chapter.

(b) Approval of an amendment to the bylaws that changes or deletes a quorum or voting requirement for action by shareholders must satisfy both the applicable quorum and voting requirements for action by shareholders with respect to amendment of the bylaws and also the particular quorum and voting requirements sought to be changed or deleted.

(c) A bylaw dealing with quorum or voting requirements for shareholders, including additional voting groups, may not be adopted, amended or repealed by the board of directors.

Section 10.22. BYLAW DEALING WITH QUORUM OR VOTING REQUIREMENTS FOR BOARD OF DIRECTORS

(a) A bylaw that fixes a greater or lesser quorum requirement for action by the board of directors, or a greater voting requirement, than provided for by this Act may be adopted in the initial bylaws, or thereafter by the shareholders pursuant to subsection (a) of section 10.20, or by the board of directors if authorized by subsection (a) of section 10.20.

(b) A bylaw authorized by subsection (a) may be amended or repealed by the shareholders, or by the board of directors if authorized by subsection (a) of section 10.20;

(c) A bylaw adopted or amended by the shareholders pursuant to subsection (a) may provide that it may be amended or repealed only by a specified vote of the shareholders, or by a specified vote of the board of directors if the board is authorized to act by both subsection (a) of section 10.20 and subsection (b) of this section.

(d) If the board of directors is authorized to amend the bylaws by subsection (a) of section 10.20, approval by the board of directors of an amendment to the bylaws that changes or deletes a quorum or voting requirement for action by the board of directors must satisfy both the applicable quorum and voting requirements for action by the board of directors with respect to amendment of the bylaws, and also the particular quorum and voting requirements sought to be changed or deleted.

PART 11

Section 11.01. DEFINITIONS

As used in this PART:

"Interests", includes any form of membership in a domestic or foreign nonprofit corporation.

"Merger", a business combination pursuant to section 11.02.

"Other entity", includes a domestic or foreign nonprofit corporation.

"Party to a merger" or "party to a share exchange", any domestic or foreign corporation or other entity that will either:

(1) merger under a plan of merger;

(2) acquire shares or interests of another corporation or an other entity in a share exchange; or

(3) have all of its shares or interests or all of one or more classes or series of its shares or interests acquired in a share exchange.

"Share exchange", a business combination pursuant to section 11.03.

"Survivor", in a merger, the corporation or other entity into which one or more other corporations or other entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

Section 11.02. MERGER

One or more domestic corporations may merge with a domestic or foreign corporation or other entity pursuant to a plan of merger.

(a) A foreign corporation, or a foreign other entity, may be a party to the merger, or may be created by the terms of the plan of merger, only if:

(1) the merger is permitted by the laws under which the corporation or other entity is organized or by which it is governed; and

(2) in effecting the merger, the corporation or other entity complies with such laws and with its articles of organization or organizational documents.

(b) If the law under which a domestic other entity is organized does not provide procedures for the approval of a merger, a plan of merger may be adopted and approved, and the merger effectuated, by the other entity in accordance with the procedures in this PART and PART 13 applicable to domestic business corporations, and for the purposes of applying this chapter:

(1) the other entity, its interest holders, interests and filed organizational document, if any, shall be considered to be a domestic business corporation, shareholders, shares and articles of organization, respectively; and

(2) if the affairs of the other entity are managed by a group of persons that is not identical to the interest holders, that group shall be considered to be the board of directors.

(c) The plan of merger shall include:

(1) the name of each corporation or other entity that will merge and the name of the corporation or other entity that will be the survivor of the merger;

(2) the terms and conditions of the merger;

(3) the manner and basis of converting the shares of each merging corporation and interests of each merging other entity into shares or other securities, interests, obligations, rights to acquire shares or other securities, rights to acquire interests, cash, other property, or any combination of the foregoing;

(4) the articles of organization of any corporation, or the organizational documents of any other entity, to be created by the merger, or if a new corporation or other entity is not to be created by the merger, any amendments to the survivor's articles of organization or organizational documents; and

(5) any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of organization or organizational documents of any such party.

(d) The plan of merger may set forth:

(1) to the extent not inconsistent with contractual rights, the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations or other securities of the surviving or any other corporation or into cash or other property in whole or in part; and

(2) other provisions relating to the merger.

(e) The plan of merger may also include a provision that the plan may be amended before filing the articles of merger with the secretary of state; but, if the shareholders of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by the shareholders the plan may not be amended to:

(1) change the amount or kind of shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property to be received by the shareholders of or owners of interests in any party to the merger upon conversion of their shares or interests under the plan;

(2) change the articles of organization of any corporation, or the organizational documents of any other entity, that will survive or be created as a result of the merger, except for changes permitted by section 10.05 or by comparable provisions of the laws under which the foreign corporation or other entity is organized or governed; or

(3) change any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

Section 11.03. SHARE EXCHANGE

(a) Through a share exchange:

(1) a domestic corporation may acquire all of the shares of 1 or more classes or series of shares of another domestic or foreign corporation, or all of the interests of 1 or more classes or series of interests of a domestic or foreign other entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange; or

(2) all of the shares of 1 or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or other entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

(b) If the law under which a domestic other entity is organized does not provide procedures for the approval of a share exchange, a plan of share exchange may be adopted and approved, and the share exchange effectuated, in accordance with the procedures, if any, for a merger. If the law under which a domestic other entity is organized does not provide procedures for the approval of either a share exchange or a merger, a plan of share exchange may be adopted and approved, and the share exchange effectuated, by the other entity in accordance with the procedures in this chapter and chapter 13 applicable to domestic business corporations; and for the purposes of applying this PART and PART 13:

(1) the other entity, its interest holders, interests and filed organizational document, if any, shall be considered to be a domestic business corporation, shareholders, shares and articles of organization, respectively; and

(2) if the affairs of the other entity are managed by a group of persons that it is not identical to the interest holders, that group shall be considered to be the board of directors.

(c) A foreign corporation, or a domestic or foreign other entity, may be a party to the share exchange only if:

(1) the share exchange is permitted by the laws under which the corporation or other entity is organized or by which it is governed; and

(2) in effecting the share exchange, the corporation or other entity complies with such laws and with its articles of organization or organizational documents.

(d) The plan of share exchange shall include:

(1) the name of each corporation or other entity whose shares or interests will be acquired and the name of the corporation or other entity that will acquire those shares or interests;

(2) the terms and conditions of the share exchange;

(3) the manner and basis of exchanging shares of a corporation or interests in an other entity whose shares or interests will be acquired under the share exchange into shares or other securities, interests, obligations, rights to acquire shares or other securities, rights to acquire interests, cash, other property, or any combination of the foregoing; and

(4) any other provisions required by the laws under which any party to the share exchange is organized or by the articles of organization or organizational documents of any such party.

(e) The terms described in clauses (2) and (3) of subsection (d) may be made dependent on facts ascertainable outside the plan of share exchange, provided that those facts are objectively ascertainable. The term "facts" shall include, but shall not be limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation or other entity.

(f) The plan of share exchange may also include a provision that the plan may be amended prior to filing of the articles of share exchange with the secretary of state, provided that if the shareholders of a domestic corporation that is a party to the share exchange are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by such shareholders the plan may not be amended to:

(1) change the amount or kind of shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property to be issued by the corporation or to be received by the shareholders of or owners of interests in any party to the share exchange in exchange for their shares or interests under the plan; or

(2) change any of the terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(g) This section shall not limit the power of a domestic corporation to acquire shares

of another corporation or interests in another entity in a transaction other than a share exchange.

Section 11.04. ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE

In the case of a domestic corporation that is a party to a merger or share exchange:

(1) The plan of merger or share exchange shall be adopted by the board of directors.

(2) Except as provided in clause (7) and in section 11.05, after adopting the plan of merger or share exchange the board of directors must submit the plan to the shareholders for their approval.

(3) The board of directors may condition its submission of the plan of merger or share exchange to the shareholders on any basis.

(4) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or other entity, the notice shall also include or be accompanied by a copy or summary of the articles of organization or organizational documents of that corporation or other entity. If the corporation is to be merged into a corporation or other entity that is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or a summary of the articles of organization or organizational documents of the new corporation or other entity.

(5) Unless (i) a greater percentage vote, or one or more additional separate voting groups, is required by the articles of organization, pursuant to subsection (a) of section 7.27, by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to clause (3) of this section, or (ii) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the plan of merger or share exchange requires approval by two-thirds of all the shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares in any voting group entitled to vote separately on the matter by the Act, by the articles, by the bylaws, or by action of the board of directors pursuant to subsection (c) of section 11.04.

(6) Except as otherwise expressly provided in the article of organization, voting by a class or series of shares as a separate voting group is required on a plan of merger or share exchange if the plan contains a provision that, if contained in a proposed amendment to articles of organization, would entitle such class or series to vote as a separate voting group on the proposed amendment under section 10.04; provided however, that (i) receipt of shares of a class or series of shares in exchange for shares pursuant to a plan of merger or share exchange involving each outstanding class and series shall not, in and of itself, entitle holders of the exchanged class or series to vote as a separate voting group, and (ii) if the proposed provision would, as an amendment, entitle two or more classes or series of shares to vote separately but would affect those classes or series in the same or a substantially similar way,

the shares of all such classes or series shall, unless the articles of organization provide otherwise, vote together as a single voting group on the plan.

(7) Unless the articles of organization otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if:

(i) the corporation will survive the merger or is the acquiring corporation in a share exchange;

(ii) except for amendments permitted by section 10.05, its articles of organization will not be changed;

(iii) each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and relative rights, immediately after the effective date of change; and

(iv) the shares of any class or series of stock of such corporation to be issued or delivered pursuant to the plan of merger does not exceed 20 per cent of the shares of such corporation of the same class or series outstanding immediately before the effective date of the merger.

(8) If as a result of a merger or share exchange 1 or more shareholders of a domestic corporation would become subject to owner liability for the obligations or liabilities of any other person or entity, approval of the plan of merger shall require the execution, by each such shareholder, of a separate written consent to become subject to such owner liability.

Section 11.05. MERGER BETWEEN PARENT AND SUBSIDIARY OR BETWEEN SUBSIDIARIES

(a) A domestic parent corporation that owns shares of a domestic or foreign subsidiary corporation that carry at least 90 per cent of the voting power of each class and series of the outstanding shares of the subsidiary that have voting power may merge the subsidiary into itself or into another such subsidiary, or merge itself into the subsidiary, without the approval of the board of directors or shareholders of the subsidiary, unless the articles of organization of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.

(b) If under subsection (a) approval of a merger by the subsidiary's shareholders is not required, the parent corporation shall, within 10 days after the effective date of the merger, notify each of the subsidiary's shareholders that a merger has become effective.

(c) Except as provided in subsections (a) and (b), a merger between a parent and subsidiary shall be governed by PART 11 applicable to mergers generally.

Section 11.06. ARTICLES OF MERGER OR SHARE EXCHANGE

(a) After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange shall be executed on behalf of each party to the merger or share exchange by any officer or other duly authorized representative. The articles shall set forth:

(1) the names of the parties to the merger or share exchange and the date on which the merger or share exchange occurred or is to be effective;

(2) if the articles of organization of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of organization or the articles of organization of the new corporation;

(3) if the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of organization;

(4) if the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(5) as to each foreign corporation and each other entity that was a party to the merger or share exchange, a statement that the participation of the foreign corporation or other entity was duly authorized by the laws under which the corporation or other entity is organized or by which it is governed and by all action required by such laws, and by its articles of organization or other organizational documents.

(b) Articles of merger or share exchange shall be delivered to the secretary of state for filing by the survivor of the merger or the acquiring corporation in a share exchange and shall take effect at the effective time provided in section 1.23.

(c) The survivor of the merger or share exchange shall file a copy of the articles of merger or share exchange certified by the state secretary in the registry of deeds in each district within the commonwealth in which real property of any constituent corporation is situated, except that no filing need be made with respect to real property of a constituent corporation which is the survivor. The effectiveness of the merger or share exchange shall not be affected by this requirement.

Section 11.07. EFFECT OF MERGER OR SHARE EXCHANGE

(a) When a merger becomes effective:

(1) the corporation or other entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be;

(2) the separate existence of every corporation or other entity that is merged into the survivor ceases;

(3) all property owned by, and every contract right possessed by each corporation or other entity that merges into the survivor is vested in the survivor without reversion or impairment;

(4) all liabilities of each corporation or other entity that is merged into the survivor are vested in the survivor;

(5) the name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) the articles of organization or organizational documents of the survivor are amended to the extent provided in the plan of merger;

(7) the articles of organization or organizational documents of a survivor that is created by the merger become effective; and

(8) the shares of each corporation that is a party to the merger, and the interests in an other entity that is a party to a merger, that are to be converted under the plan of merger into shares, interests, obligations, rights to acquire securities, other securities, cash, other property, or any combination of the foregoing, are converted, and the former holders of such shares or interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under PART 13.

(b) When a share exchange becomes effective, the shares of each domestic corporation that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under PART 13.

(c) A person who becomes subject to owner liability for some or all of the debts, obligations or liabilities of any entity as a result of a merger or share exchange shall have owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations and liabilities that arise after the effective time of the articles of merger or share exchange.

(d) Upon a merger becoming effective, a foreign corporation, or a foreign other entity, that is the survivor of the merger is deemed:

(1) unless, in the case of a foreign corporation, it is qualified as a foreign corporation under PART 15 after the effectiveness of the merger, to revoke the authority of its registered agent to accept service on its behalf and appoint the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in the commonwealth and to appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights, and

(2) to agree that it will promptly pay the amount, if any, to which such shareholders are entitled under PART 13.

(e) The effect of a merger or share exchange on the owner liability of a person who had owner liability for some or all of the debts, obligations or liabilities of a party to the plan of merger or share exchange shall be as follows:

(1) The merger or share exchange does not discharge any owner liability under the organic law of the entity in which the person was a shareholder or interest holder to the extent any such owner liability arose before the effective time of the articles of merger or share exchange.

(2) The person shall not have owner liability under the organic law of the entity in which the person was a shareholder or interest holder before the merger or share exchange for any debt, obligation or liability that arises after the effective time of the articles of merger

or share exchange.

(3) The organic law of any entity for which the person had owner liability before the merger or share exchange shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1), as if the merger or share exchange had not occurred.

(4) The person shall have whatever rights of contribution from other persons are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by paragraph (1), as if the merger or share exchange had not occurred.

Section 11.08. ABANDONMENT OF A MERGER OR SHARE EXCHANGE

(a) Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign corporation or a domestic or foreign other entity that is a party to a merger or a share exchange is organized or by which it is governed, after the plan has been adopted and approved as required by this chapter, and at any time before the merger or share exchange has become effective, it may be abandoned by any party thereto without action by the party's shareholders or owners of interests, in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors of a corporation, or the managers of an other entity, subject to any contractual rights of other parties to the merger or share exchange.

(b) If a merger or share exchange is abandoned under subsection (a) after articles of merger or share exchange have been filed with the secretary of state but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

PART 12

Section 12.01. SALE OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OF ASSETS

(a) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:

(1) sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business;

(2) mortgage, pledge, including any sale upon foreclosure of such pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber all or substantially all of its property whether or not in the usual and regular course of business;

(3) transfer all, or substantially all, of its property to another corporation all of the shares of which are owned, directly or indirectly, by the corporation; or

(4) distribute assets pro rata to the holders of 1 or more classes or series of the corporation's shares.

(b) Unless the articles of organization require it, approval by the shareholders of a transaction described in subsection (a) is not required.

Section 12.02. SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS

(a) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and the shareholders entitled to vote approve the proposed transaction.

(b) The board of directors may condition its submission of the proposed transaction to the shareholders on any basis.

(c) When seeking the approval of the shareholders, the corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05. The notice shall also state that the purpose, or 1 of the purposes, of the meeting is to consider the sale, lease, exchange or other disposition, as the case may be, of all, or substantially all, the property of the corporation, otherwise than in the usual and regular course of business, and shall contain or be accompanied by a description of the proposed transaction.

(d) The shareholders may approve the terms and conditions of the proposed transaction, and the consideration to be received by the corporation, as previously determined by the board of directors or may fix, or authorize the board of directors to fix, the terms and conditions of the proposed transaction and the consideration to be received by the corporation.

(e) Unless (1) a greater percentage vote, or one or more additional separate voting groups, is required by the articles of organization, pursuant to subsection (a) of section 7.27, by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to subsection (c) of section 12.02, or (2) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, approval of the transaction requires the affirmative vote of two-thirds of all the shares entitled generally to vote on the matter by the articles of organization, and in addition two-thirds of the shares in any voting group entitled to vote separately on the matter by the articles, by the bylaws, or by action of the board of directors pursuant to subsection (c) of section 12.02.

(f) After such a transaction is approved by shareholders, but before it has been consummated, it may be abandoned by the corporation without further shareholder action, subject to any contractual rights which may have arisen.

(g) A transaction that constitutes a pro rata distribution of the corporation's property to its shareholders is governed by section 6.40 and not by this section.

PART 13

SUBDIVISION A.

RIGHT TO DISSENT AND OBTAIN PAYMENT FOR SHARES

Section 13.01. DEFINITIONS

In this PART the following words shall have the following meanings unless the context requires otherwise:

"Affiliate", any person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control of or with another person.

"Beneficial shareholder", the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

"Corporation", the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in sections 13.22 to 13.31, inclusive, includes the surviving entity in a merger.

"Fair value", with respect to shares being appraised, the value of the shares immediately before the effective date of the corporate action to which the shareholder demanding appraisal objects, excluding any element of value arising from the expectation or accomplishment of the proposed corporate action unless exclusion would be inequitable.

"Interest", interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

"Marketable securities", securities held of record by, or by financial intermediaries or depositories on behalf of, at least 1,000 persons and which were

(a) listed on a national securities exchange,

(b) designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or

(c) listed on a regional securities exchange or traded in an interdealer quotation system or other trading system and had at least 250,000 outstanding shares, exclusive of shares held by officers, directors and affiliates, which have a market value of at least \$5,000,000.

"Officer", the chief executive officer, president, chief operating officer, chief financial officer, and any vice president in charge of a principal business unit or function of the issuer.

"Person", any individual, corporation, partnership, unincorporated association or other entity.

"Record shareholder", the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

"Shareholder", the record shareholder or the beneficial shareholder.

Section 13.02. RIGHT TO APPRAISAL

(a) A shareholder is entitled to appraisal rights, and obtain payment of the fair value of his shares in the event of, any of the following corporate or other actions:

(1) consummation of a plan of merger to which the corporation is a party if shareholder approval is required for the merger by section 11.04 or the articles of organization or if the corporation is a subsidiary that is merged with its parent under section 11.05, unless, in either case, (A) all shareholders are to receive only cash for their shares in amounts

equal to what they would receive upon a dissolution of the corporation or, in the case of shareholders already holding marketable securities in the merging corporation, only marketable securities of the surviving corporation and/or cash and (B) no director, officer or controlling shareholder has a direct or indirect material financial interest in the merger other than in his capacity as (i) a shareholder of the corporation, (ii) a director, officer, employee or consultant of either the merging or the surviving corporation or of any affiliate of the surviving corporation if his financial interest is pursuant to bona fide arrangements with either corporation or any such affiliate, or (iii) in any other capacity so long as the shareholder owns not more than five percent of the voting shares of all classes and series of the corporation in the aggregate;

(2) consummation of a plan of share exchange in which his shares are included unless: (A) both his existing shares and the shares, obligations or other securities to be acquired are marketable securities; and (B) no director, officer or controlling shareholder has a direct or indirect material financial interest in the share exchange other than in his capacity as (i) a shareholder of the corporation whose shares are to be exchanged, (ii) a director, officer, employee or consultant of either the corporation whose shares are to be exchanged or the acquiring corporation or of any affiliate of the acquiring corporation if his financial interest is pursuant to bona fide arrangements with either corporation or any such affiliate, or (iii) in any other capacity so long as the shareholder owns not more than five percent of the voting shares of all classes and series of the corporation whose shares are to be exchanged in the aggregate;

(3) consummation of a sale or exchange of all, or substantially all, of the property of the corporation if the sale or exchange is subject to section 12.02, or a sale or exchange of all, or substantially all, of the property of a corporation in dissolution, unless:

(i) his shares are then redeemable by the corporation at a price not greater than the cash to be received in exchange for his shares; or

(ii) the sale or exchange is pursuant to court order; or

(iii) in the case of a sale or exchange of all or substantially all the property of the corporation subject to section 12.02, approval of shareholders for the sale or exchange is conditioned upon the dissolution of the corporation and the distribution in cash or, if his shares are marketable securities, in marketable securities and/or cash, of substantially all of its net assets, in excess of a reasonable amount reserved to meet unknown claims under section 14.07, to the shareholders in accordance with their respective interests within one year after the sale or exchange and no director, officer or controlling shareholder has a direct or indirect material financial interest in the sale or exchange other than in his capacity as (i) a shareholder of the corporation, (ii) a director, officer, employee or consultant of either the corporation or the acquiring corporation or of any affiliate of the acquiring corporation if his financial interest is pursuant to bona fide arrangements with either corporation or any such affiliate, or (iii) in any other capacity so long as the shareholder owns not more than five percent of the voting shares of all classes and series of the corporation in the aggregate;

(4) an amendment of the articles of organization that materially and adversely affects rights in respect of a shareholder's shares because it:

(i) creates, alters or abolishes the stated rights or preferences of the shares with respect to distributions or to dissolution, including making non-cumulative in whole or in part a dividend theretofore stated as cumulative;

(ii) creates, alters or abolishes a stated right in respect of conversion or redemption, including any provision relating to any sinking fund or purchase, of the shares;

(iii) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;

(iv) excludes or limits the right of the holder of the shares to vote on any matter, or to cumulate votes, except as such right may be limited by voting rights given to new shares then being authorized of an existing or new class; or

(v) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 6.04;

(5) an amendment of the articles of organization or of the bylaws or the entering into by the corporation of any agreement to which the shareholder is not a party that adds restrictions on the transfer or registration or any outstanding shares held by the shareholder or amends any pre-existing restrictions on the transfer or registration of his shares in a manner which is materially adverse to the ability of the shareholder to transfer his shares;

(6) any corporate action taken pursuant to a shareholder vote to the extent the articles of organization, bylaws or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to appraisal;

(7) consummation of a conversion of the corporation to nonprofit status pursuant to subdivision B of PART 9; or

(8) consummation of a conversion of the corporation into a form of other entity pursuant to subdivision D of PART 9.

(b) Except as otherwise provided in subsection (a) of section 13.03, in the event of corporate action specified in clauses (1), (2), (3), (7) or (8) of subsection (a), a shareholder may assert appraisal rights only if he seeks them with respect to all of his shares of whatever class or series.

(c) Except as otherwise provided in subsection (a) of section 13.03, in the event of an amendment to the articles of organization specified in clause (4) of subsection (a) or in the event of an amendment of the articles of organization or the bylaws or an agreement to which the shareholder is not a party specified in clause (5) of subsection (a), a shareholder may assert appraisal rights with respect to those shares adversely affected by the amendment or agreement only if he seeks them as to all of such shares and, in the case of an amendment to the articles of organization or the bylaws, has not voted any of his shares of any class or series in favor of the proposed amendment.

(d) The shareholder's right to obtain payment of the fair value of his shares shall terminate upon the occurrence of any of the following events:

(i) the proposed action is abandoned or rescinded; or
(ii) a court having jurisdiction permanently enjoins or sets aside the action; or
(iii) the shareholder's demand for payment is withdrawn with the written consent of the corporation.

(e) A shareholder entitled to appraisal rights under this chapter may not challenge the action creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Section 13.03. ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS

(a) A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder and notifies the corporation in writing of the name and address of each beneficial shareholder on whose behalf appraisal rights are being asserted. The rights of a record shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

(b) A beneficial shareholder may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if such shareholder:

(1) submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in subclause (ii) of clause (2) of subsection (b) of section 13.22; and

(2) does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder.

SUBDIVISION B.

PROCEDURE FOR EXERCISE OF APPRAISAL RIGHTS

Section 13.20. NOTICE OF APPRAISAL RIGHTS

(a) If proposed corporate action described in subsection (a) of section 13.02 is to be submitted to a vote at a shareholders' meeting or through the solicitation of written consents, the meeting notice or solicitation of consents shall state that the corporation has concluded that shareholders are, are not or may be entitled to assert appraisal rights under this chapter and refer to the necessity of the shareholder delivering, before the vote is taken, written notice of his intent to demand payment and to the requirement that he not vote his shares in favor of the proposed action. If the corporation concludes that appraisal rights are or may be available, a copy of this chapter shall accompany the meeting notice sent to those record shareholders entitled to exercise appraisal rights.

(b) In a merger pursuant to section 11.05, the parent corporation shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. Such notice shall be sent within 10 days after the corporate action became effective and include the materials described in section 13.22.

Section 13.21. NOTICE OF INTENT TO DEMAND PAYMENT

(a) If proposed corporate action requiring appraisal rights under section 13.02 is submitted to vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares:

(1) shall deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment if the proposed action is effectuated; and

(2) shall not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(b) A shareholder who does not satisfy the requirements of subsection (a) is not entitled to payment under this chapter.

Section 13.22. APPRAISAL NOTICE AND FORM

(a) If proposed corporate action requiring appraisal rights under subsection (a) of section 13.02 becomes effective, the corporation shall deliver a written appraisal notice and form required by clause (1) of subsection (b) to all shareholders who satisfied the requirements of section 13.21 or, if the action was taken by written consent, did not consent. In the case of a merger under section 11.05, the parent shall deliver a written appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

(b) The appraisal notice shall be sent no earlier than the date the corporate action became effective and no later than 10 days after such date and must:

(1) supply a form that specifies the date of the first announcement to shareholders of the principal terms of the proposed corporate action and requires the shareholder asserting appraisal rights to certify (A) whether or not beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date and (B) that the shareholder did not vote for the transaction;

(2) state:

(i) where the form shall be sent and where certificates for certificated shares shall be deposited and the date by which those certificates shall be deposited, which date may not be earlier than the date for receiving the required form under subclause (ii);

(ii) a date by which the corporation shall receive the form which date may not be fewer than 40 nor more than 60 days after the date the subsection (a) appraisal notice and form are sent, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

(iii) the corporation's estimate of the fair value of the shares;

(iv) that, if requested in writing, the corporation will provide, to the shareholder so requesting, within 10 days after the date specified in clause (ii) the number of shareholders who return the forms by the specified date and the total number of shares owned by them; and

(v) the date by which the notice to withdraw under section 13.23 shall be received, which date shall be within 20 days after the date specified in subclause (ii) of this subsection; and

(3) be accompanied by a copy of this chapter.

Section 13.23. PERFECTION OF RIGHTS; RIGHT TO WITHDRAW

(a) A shareholder who receives notice pursuant to section 13.22 and who wishes to exercise appraisal rights shall certify on the form sent by the corporation whether the beneficial owner of the shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to clause (1) of subsection (b) of section 13.22. If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 13.25. In addition, a shareholder who wishes to exercise appraisal rights shall execute and return the form and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to subclause (ii) of clause (2) of subsection (b) of section 13.22. Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the executed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to said subsection (b).

(b) A shareholder who has complied with subsection (a) may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to subclause (v) of clause (2) of subsection (b) of section 13.22. A shareholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the corporation's written consent.

(c) A shareholder who does not execute and return the form and, in the case of certificated shares, deposit that shareholder's share certificates where required, each by the date set forth in the notice described in subsection (b) of section 13.22, shall not be entitled to payment under this chapter.

Section 13.24. PAYMENT

(a) Except as provided in section 13.25, within 30 days after the form required by subclause (ii) of clause (2) of subsection (b) of section 13.22 is due, the corporation shall pay in cash to those shareholders who complied with subsection (a) of section 13.23 the amount the corporation estimates to be the fair value of their shares, plus interest.

(b) The payment to each shareholder pursuant to subsection (a) shall be accompanied by:

(1) financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any;

(2) a statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to subclause (iii) of clause (2) of subsection (b) of section 13.22; and

(3) a statement that shareholders described in subsection (a) have the right to demand further payment under section 13.26 and that if any such shareholder does not do so within the time period specified therein, such shareholder shall be deemed to have accepted the payment in full satisfaction of the corporation's obligations under this chapter.

Section 13.25. AFTER-ACQUIRED SHARES

(a) A corporation may elect to withhold payment required by section 13.24 from any shareholder who did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to clause (1) of subsection (b) of section 13.22.

(b) If the corporation elected to withhold payment under subsection (a), it must, within 30 days after the form required by subclause (ii) of clause (2) of subsection (b) of section 13.22 is due, notify all shareholders who are described in subsection (a):

(1) of the information required by clause (1) of subsection (b) of section 13.24;

(2) of the corporation's estimate of fair value pursuant to clause (2) of subsection (b) of said section 13.24;

(3) that they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 13.26;

(4) that those shareholders who wish to accept the offer shall so notify the corporation of their acceptance of the corporation's offer within 30 days after receiving the offer; and

(5) that those shareholders who do not satisfy the requirements for demanding appraisal under section 13.26 shall be deemed to have accepted the corporation's offer.

(c) Within 10 days after receiving the shareholder's acceptance pursuant to subsection(b), the corporation shall pay in cash the amount it offered under clause (2) of subsection (b) to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

(d) Within 40 days after sending the notice described in subsection (b), the corporation must pay in cash the amount if offered to pay under clause (2) of subsection (b) to each shareholder deserved in clause (5) of subsection (b).

Section 13.26. PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OFFER

(a) A shareholder paid pursuant to section 13.24 who is dissatisfied with the amount of the payment shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate plus interest, less any payment under section 13.24. A shareholder offered payment under section 13.25 who is dissatisfied with that offer shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

(b) A shareholder who fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection (a) within 30 days after receiving the corporation's payment or offer of payment under section 13.24 or section 13.25, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

SUBDIVISION C.

JUDICIAL APPRAISAL OF SHARES

Section 13.30. COURT ACTION

(a) If a shareholder makes demand for payment under section 13.26 which remains unsettled, the corporation shall commence an equitable proceeding within 60 days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to section 13.26 plus interest.

(b) The corporation shall commence the proceeding in the appropriate court of the county where the corporation's principal office, or, if none, its registered office, in the commonwealth is located. If the corporation is a foreign corporation without a registered office in the commonwealth, it shall commence the proceeding in the county in the commonwealth where the principal office or registered office of the domestic corporation merged with the foreign corporation was located at the time of the transaction.

(c) The corporation shall make all shareholders, whether or not residents of the commonwealth, whose demands remain unsettled parties to the proceeding as an action against their shares, and all parties shall be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law or otherwise as ordered by the court.

(d) The jurisdiction of the court in which the proceeding is commenced under subsection (b) is plenary and exclusive. The court may appoint 1 or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings.

(e) Each shareholder made a party to the proceeding is entitled to judgment (i) for the amount, if any, by which the court finds the fair value of the shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares or (ii) for the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under section 13.25.

Section 13.31. COURT COSTS AND COUNSEL FEES

(a) The court in an appraisal proceeding commenced under section 13.30 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess cost against all or some of the shareholders demanding appraisal, in amounts the court finds equitable, to the extent the court finds such shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this chapter.

(b) The court in an appraisal proceeding may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(1) against the corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements

of sections 13.20, 13.22, 13.24 or 13.25; or

(2) against either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this chapter.

(c) If the court in an appraisal proceeding finds that the services of counsel for any shareholder were of substantial benefit to other shareholders similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to such counsel reasonable fees to be paid out of the amounts awarded the shareholders who were benefited.

(d) To the extent the corporation fails to make a required payment pursuant to sections 13.24, 13.25, or 13.26, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including counsel fees.

PART 14

SUBDIVISION A.

VOLUNTARY DISSOLUTION

Section 14.01. DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the secretary of state for filing articles of dissolution that set forth:

- (1) the name of the corporation;
- (2) the date of its incorporation;
- (3) either (i) that none of the corporation's shares has been issued or (ii) that the corporation has not commenced business;
- (4) that no debt of the corporation remains unpaid;
- (5) that the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and
- (6) that a majority of the incorporators or initial directors authorized the dissolution.

Section 14.02. DISSOLUTION BY BOARD OF DIRECTORS AND SHAREHOLDERS, OR OTHERWISE IN ACCORDANCE WITH ARTICLES OF ORGANIZATION

(a) A corporation may voluntarily authorize dissolution by any method or procedure specified in its articles of organization. The articles of organization may condition the availability of the method or procedure on any basis. Notwithstanding anything else contained in this subsection, any provision in the articles of organization adopted pursuant to this subsection shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traded in a market maintained by 1 or more members of a national or affiliated securities association. If a provision of the articles of organization ceases to be effective for any reason, the board of directors may, without shareholder action, adopt an amendment to the articles of organization, and, if appropriate,

to the bylaws of the corporation, to delete such a provision and any references to it.

(b) In the absence of any specified methods or procedures in the articles of organization, and in addition to any methods or procedures so specified unless the articles of organization state that the specified methods or procedures are exclusive, a corporation may voluntarily authorize dissolution as follows:

(1) the board of directors shall submit a proposal for and terms of the proposed dissolution to the shareholders; and

(2) the shareholders entitled to vote shall approve the dissolution as provided in subsection (e).

(c) The board of directors may condition any submission to the shareholders of a proposal for dissolution under subsection (b) on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting, in connection with any submission of a proposal for dissolution under subsection (b), in accordance with section 7.05. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(e) Unless (1) a greater percentage vote, or the vote of one or more additional separate voting groups, is required by the articles of organization, pursuant to subsection (a) of section 7.27, by the bylaws, pursuant to section 10.21, or by the board of directors, acting pursuant to subsection (c) of this section, or (2) the articles provide for a lesser percentage vote, in accordance with subsection (b) of section 7.27, and subject, except as otherwise permitted by subsection (a) of this section, to the requirement that such lesser percentage be not less than a majority of all the votes entitled to be cast on the proposal, adoption of the proposal to dissolve requires approval by two-thirds of all the votes entitled generally to be cast on the matter by the articles of organization.

Section 14.03. ARTICLES OF DISSOLUTION

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth:

(1) the name of the corporation;

(2) the date dissolution was authorized;

(3) if dissolution was approved by the shareholders under subsection (b) of section 14.02:

(i) the number of votes entitled to be cast on the proposal to dissolve; and

(ii) either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.

(4) If voting by voting groups was required on a dissolution proposal under subsection (b) of section 14.02, the information required by subparagraph (3) of this section shall be separately provided for each voting group entitled to vote separately on the proposal to dissolve.

(5) If dissolution was authorized by a method or procedure specified in the articles of organization pursuant to subsection (a) of section 14.02, the articles of dissolution shall set forth such method or procedure, together with sufficient information to establish that the corporation has complied therewith.

(b) A corporation is dissolved upon the effective date of its articles of dissolution.

Section 14.04. REVOCATION OF DISSOLUTION

(a) A corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of a dissolution under subsection (b) of section 14.02 shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action. Revocation of a dissolution under subsection (a) of section 14.02 may be authorized only as specifically contemplated by the articles of organization.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(1) the name of the corporation;

(2) the effective date of the dissolution that was revoked;

(3) the date that the revocation of dissolution was authorized;

(4) if the corporation's board of directors, or incorporators, revoked the dissolution, a statement to that effect;

(5) if the corporation's board of directors revoked a dissolution authorized by the shareholders under subsection (b) of section 14.02, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization;

(6) if shareholder action was required under subsection (b) of section 14.02 to revoke the dissolution, the information required by clauses (3) or (4) of subsection (a) of section 14.03; and

(7) if the dissolution being revoked was authorized under subsection (a) of section 14.02, sufficient information to establish that the corporation has complied with the provisions of its articles of organization governing such revocation.

(d) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

Section 14.05. EFFECT OF DISSOLUTION

(a) A dissolved corporation continues its corporate existence but may not carry on any business except such as is necessary in connection with winding up and liquidating its business and affairs, including:

(1) collecting its assets;

- (2) disposing of its properties that will not be distributed in kind to its shareholders;
 - (3) making adequate provision, by payment or otherwise, and after giving effect to the provisions of sections 14.06, 14.07 and 14.08, for all of the corporation's existing and reasonably foreseeable debts, liabilities, and obligations, whether or not liquidated, matured, asserted, or contingent;
 - (4) distributing its remaining property among its shareholders according to their interests; and
 - (5) doing every other act necessary to wind up and liquidate its business and affairs.
- (b) Dissolution of a corporation shall not:
- (1) transfer title to the corporation's property;
 - (2) prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;
 - (3) subject its directors or officers to standards of conduct different from those prescribed in PART 8;
 - (4) change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;
 - (5) prevent commencement of a proceeding by or against the corporation in its corporate name;
 - (6) abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or
 - (7) terminate the authority of the registered agent of the corporation.

Section 14.06. KNOWN NON-CONTINGENT CLAIMS AGAINST DISSOLVED CORPORATION

(a) With respect to any non-contingent claim against the corporation, whether or not matured, known to the corporation at any time prior to the end of the 3-year period specified in clause (3) of subsection (b) of section 14.07, to the extent that the corporation in good faith disputes the claim, a dissolved corporation may, subject to paragraph (f), limit the assets out of which the claim may be satisfied to the assets retained by the corporation plus, to the extent provided in section 6.41, any assets distributed to its shareholders within 3 years after the effective date of the corporation's dissolution, by following the procedure described in this section.

(b) The dissolved corporation may send notice in writing of the dissolution at any time after its effective date to any known claimant whose claim the corporation disputes in whole or in part. The written notice shall:

- (1) include a copy or a summary of this section;
- (2) state the amount of the claim that is disputed;
- (3) state that the assets out of which the claim may be satisfied shall be limited as provided in subsection (c) unless a statement of the claim is received within the deadline specified in the notice by which the dissolved corporation shall receive the statement of the

claim, which deadline may not be earlier than 3 years after the effective date of the corporation's dissolution or 120 days after the effective date of the written notice, whichever is later;

- (4) describe the information that shall be included in the statement of the claim; and
- (5) provide the mailing address to which the statement shall be sent.

(c) To the extent that the corporation in good faith disputes any non-contingent claim against the corporation, whether or not matured, known to the corporation at any time before the end of the 3-year period specified in clause (3) of subsection (b) of section 14.07, and if written notice of the claim was given under subsection (b), the assets out of which the claim may be satisfied shall be limited, except as provided in subsection (a) of section 14.09, to the assets retained by the corporation plus, to the extent provided in section 6.41, any assets distributed to its shareholders within 3 years after the effective date of the corporation's dissolution:

(1) if a claimant does not deliver a statement of the claim to the dissolved corporation by the specified deadline; or

(2) if a claimant, who has delivered a statement of the claim to the dissolved corporation and the claim was rejected in writing by the dissolved corporation, does not furnish notice to the corporation by the later of the specified deadline and 90 days from the effective date of the rejection notice that the holder intends to commence a proceeding to enforce the claim, and does not actually commence the proceeding by the later of the specified deadline and 270 days from the effective date of the rejection notice.

(d) If a claim described in subsection (a) has not been asserted against the dissolved corporation and the corporation has reason to believe that the claimant is unaware of the claim, the claim shall be considered to be unknown and subject to section 14.07 rather than section 14.06, unless the notice described in subsection (b) contains a reasonable description of the claim the corporation believes the claimant may have.

(e) The giving of notice by the dissolved corporation pursuant to section 14.06 is not evidence or admission of the existence or validity of any claim or amount.

Section 14.07. UNKNOWN CLAIMS AGAINST DISSOLVED CORPORATION

(a) With respect to any unknown claim against the corporation, including unknown contingent claims, a dissolved corporation may limit the assets out of which the claim may be satisfied to the assets retained by the corporation plus, to the extent provided in section 6.41, any assets distributed to its shareholders within three years after the effective date of the corporation's dissolution, by following the procedure described in this section.

(b) The dissolved corporation may publish notice of the dissolution at any time after its effective date, and request that any person with a claim against the corporation send a statement of it in accordance with the notice. The notice shall:

(1) be published 1 time in a newspaper of general circulation in the city, town or county where the dissolved corporation's principal office, or, if none in the state, its registered office, is or was last located and, if such dissolved corporation then has a website, posting the notice on the website until the earlier to occur of 30 days or the discontinuance

of such website, and, if the dissolved corporation at the time of its dissolution had a class of securities registered under the Securities Exchange Act of 1934, as amended, in addition at least once in a daily newspaper with national circulation;

(2) describe the information that shall be included in the statement of the claim and provide a mailing address where the statement is to be sent; and

(3) state that the assets out of which any unknown claim against the corporation, including unknown contingent claims, may be satisfied will be limited as provided in subsection (c) unless a statement of the claim is received within three years after the publication of the notice.

(c) If the dissolved corporation follows the procedure in subsection (b), except as provided in subsection (a) of section 14.09,

(1) the assets out of which any unknown claim described in paragraph (a) may be satisfied will be limited to the assets retained by the corporation plus, to the extent provided in section 6.41, any assets distributed to its shareholders within three years after the effective date of the corporation's dissolution, if a statement of the claim is not presented to the corporation within the three-year period specified in clause (3) of subsection (b), and

(2) the assets out of which any previously unknown non-contingent claim which has been presented to the corporation and rejected in writing may be satisfied will be limited as provided in clause (1) of subsection (c) if the claimant does not furnish notice to the corporation by the later of the deadline specified in clause (1) of subsection (c) and 90 days from the effective date of the rejection notice that the holder intends to commence a proceeding to enforce the claim, and does not actually commence the proceeding by the later of the specified deadline and 270 days from the effective date of the rejection notice.

Section 14.08. CREATION OF RESERVES AS ADEQUATE PROVISION FOR UNASSERTED PRODUCT LIABILITY CLAIMS AND KNOWN CONTINGENT CLAIMS AGAINST DISSOLVED CORPORATION

(a) At any time after the end of the 3-year period specified in clause (3) of subsection (b) of section 14.07, it shall constitute adequate provision by a dissolved corporation under subsection (h) of section 6.40 and clause (3) of subsection (a) of section 14.05:

(1) for all unasserted claims for personal injury, wrongful death, loss of consortium or property damage based upon products or services provided by the corporation which may thereafter be asserted against the corporation, if the corporation

(i) sets aside in a reserve a reasonable amount of its assets, including by purchasing paid-up insurance or obtaining an assumption of liability by a responsible third party, to cover such claims, in compliance with subsection (b), and

(ii) publishes a notice as described in clause (1) of subsection (b) of section 14.07 stating that the corporation has complied with this section 14.08; and

(2) for all remaining known but still contingent claims against the corporation, if it

(i) creates a separate reserve in accordance with subclause (i) of clause (1) of subsection (a) to cover such claims or increases by a reasonable amount the assets set aside in a reserve for unasserted liability claims specified in clause (1) of subsection (a) and makes

such reserve also applicable to known but contingent claims, and

(ii) sends written notice to each holder of a known but still contingent claim against the corporation stating that, pursuant to this section 14.08, if such claim thereafter becomes due and payable and is not paid by the corporation, the assets out of which such claim may be satisfied will be limited as provided in subsection (c).

(b) To meet the requirement of subsection (a) that the amount of assets set aside in a reserve be reasonable, the directors or those acting in their place must comply with the applicable standards of conduct under section 8.30 in determining the amount needed to provide for payment of the category or categories of claims to which such reserve is directed, after taking into account any other claims against the corporation for which the assets in such reserve might be reached because of the lack of other adequate provision.

(c) With respect to any claims described in clause (1) and (2) of subsection (a) not paid by the corporation, upon compliance by the dissolved corporation with subsections (a) and (b), except as provided in section 14.09(a), the assets out of which the claims may be satisfied will be limited to the assets retained by the corporation, including the applicable reserve created pursuant to subsection (a), plus, to the extent provided in section 6.41, any assets distributed to shareholders within 3 years after the effective date of the corporation's dissolution.

Section 14.09. ENFORCEMENT OF CLAIMS AGAINST DISSOLVED CORPORATION

(a) A claim against a dissolved corporation described in sections 14.06, 14.07 or 14.08, and which is not barred under the applicable statute of limitations, may be enforced against the dissolved corporation to the extent of any undistributed assets, including any available assets in a reserve created under section 14.08, any available proceeds under an insurance policy, and any applicable assumption of the dissolved corporation's liabilities by a third party.

(b) The giving of notice and/or the setting aside of any reserve hereunder or otherwise by the dissolved corporation is not an admission of the existence or validity of any claim or amount.

(c) No time periods set forth in sections 14.06, 14.07 or 14.08 extend or shorten any applicable statute of limitations.

(d) No liability shall be imposed upon the dissolved corporation's shareholders or directors, or those acting in their place, under section 6.41 or otherwise with respect to any claim described in sections 14.06, 14.07 or 14.08 if the procedures described in those sections are followed.

SUBDIVISION B.

ADMINISTRATIVE DISSOLUTION

Section 14.20. GROUNDS FOR ADMINISTRATIVE DISSOLUTION

The secretary of state may commence a proceeding under section 14.21 to dissolve a corporation administratively if:

(a) the corporation has failed to comply with the provisions of law requiring the filing of reports with the secretary of state or the filing of any tax returns or the payment of any taxes under the General Laws for 2 or more consecutive years; or

(b) the secretary of state is satisfied that the corporation has become inactive and that its dissolution would be in the public interest.

Section 14.21. PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION

(a) If the secretary of state determines that 1 or more grounds exist under section 14.20 for dissolving a corporation, he shall serve the corporation with written notice of his determination under section 5.04.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 90 days after service of the notice is perfected under section 5.04, the secretary of state shall administratively dissolve the corporation.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under section 14.05 and notify claimants under sections 14.06, 14.07 and 14.08.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

Section 14.22. REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION

(a) A corporation administratively dissolved under section 14.21 may apply to the secretary of state for reinstatement at any time. The application shall:

(1) recite the name of the corporation and the effective date of its administrative dissolution;

(2) state that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) state that the corporation's name satisfies the requirements of section 4.01; and

(4) contain a certificate from the department of revenue reciting that all corporate excise taxes owed by the corporation, and any related penalties, have been paid.

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, he shall reinstate the corporation.

(c) The secretary of state may subject the reinstatement to such terms and conditions, including the payment of reasonable fees, as in his judgment the public interest may require. He may in his discretion make the reinstatement effective for all purposes or for any specified purpose or purposes, in each case with or without limitation of time. When the reinstatement is effective, if by its terms it is effective for all purposes or if the secretary of state specifies that it shall be effective for purposes of this sentence, then the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never

occurred, with all its original powers and duties and with liability, for all contracts, acts, matters and things made, done or performed in its name and on its behalf prior to reinstatement, as if the administrative dissolution had never occurred, and with all acts and proceedings of its officers, directors and shareholders, acting or purporting to act as such, which would have been legal and valid but for such dissolution, standing ratified and confirmed, in each case except as otherwise specified by the secretary of state.

(d) The certificate of reinstatement, or other equivalent public record, filed by the secretary of state pursuant to this section shall constitute an amendment of the articles of organization of the corporation, effective when filed. Any specification in the certificate of the purpose or purposes of reinstatement, or of a limitation of the time thereof, may, by further certificate filed as aforesaid, be amended by the secretary of state for cause shown to his satisfaction.

Section 14.23. APPEAL FROM DENIAL OF REINSTATEMENT

(a) If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation under section 5.04 with a written notice that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the superior court for Suffolk county within 30 days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate, or other public record, of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

(c) The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as in other civil proceedings.

SUBDIVISION C.

JUDICIAL DISSOLUTION

Section 14.30. GROUNDS FOR JUDICIAL DISSOLUTION

The superior court located in the county set forth in section 14.31 may dissolve a corporation:

(1) in a proceeding by the attorney general if it is established that:

(i) the corporation obtained its articles of organization through fraud; or

(ii) the corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) upon a petition filed by the shareholders holding not less than 40 per cent of the total combined voting power of all the shares of the corporation's stock outstanding and entitled to vote on the question of dissolution, if it is established that:

(i) the directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(ii) the shareholders are deadlocked in voting power and have failed, for a period that

includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have expired, or would have expired upon the election of their successors, and irreparable injury to the corporation is threatened or being suffered;

(3) in a proceeding by a creditor if it is established that:

(i) the creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(ii) the corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

Section 14.31. PROCEDURE FOR JUDICIAL DISSOLUTION

(a) Venue for a proceeding by the attorney general to dissolve a corporation lies in Suffolk county. Venue for a proceeding brought by any other party named in section 14.30 lies in the county where a corporation's principal office, or, if none in the commonwealth, its registered office, is or was last located.

(b) It is not necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(c) A court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

Section 14.32. RECEIVERSHIP OR CUSTODIANSHIP

(a) A court in a judicial proceeding brought to dissolve a corporation may appoint 1 or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(b) The court may appoint an individual or a domestic or foreign corporation, authorized to transact business in the commonwealth, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(1) the receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and (ii) may sue and defend in his own name as receiver of the corporation in all courts of the commonwealth;

(2) the custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(d) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and creditors.

(e) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and his counsel from the assets of the corporation or proceeds from the sale of the assets.

Section 14.33. DECREE OF DISSOLUTION

(a) If after a hearing the court determines that 1 or more grounds for judicial dissolution described in section 14.30 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with section 14.05 and, to the extent not theretofore completed, the notification of claimants in accordance with sections 14.06 and 14.07.

Section 14.34. REORGANIZATION UNDER A STATUTE OF THE UNITED STATES: EFFECTUATION

(a) Any corporation, a plan of reorganization of which, pursuant to any applicable statute of the United States relating to reorganizations of corporations, has been or shall be confirmed by the decree or order of a court of competent jurisdiction, may put into effect and carry out the plan and the decrees and orders of the court or judge relative thereto and may take any proceeding and do any act provided in the plan or directed by the decrees and orders, without further action by its directors or shareholders. The power and authority may be exercised, and the proceedings and acts may be taken, as may be directed by the decrees or orders, by the trustee or trustees of the corporation appointed in the reorganization proceedings, or a majority thereof, or if none be appointed and acting, by designated officers of the corporation, or by a master or other representative appointed by the court or judge, with like effect as if exercised and taken by unanimous action of the directors and shareholders of the corporation.

(b) The corporation may, in the manner provided in subsection (a), but without limiting the generality or effect of the foregoing, alter, amend, or repeal its bylaws; constitute or reconstitute and classify or reclassify its board of directors, and name, constitute or appoint directors and officers in place of or in addition to all or some of the directors or officers then in office; amend its articles of organization, and make any change in its capital or capital stock, or any other amendment, change, or alteration, or provision, authorized by this chapter; be dissolved; sell or otherwise transfer all or part of its assets, merge or consolidate as permitted by this chapter, in any of which cases, however, no shareholder shall have any statutory right of appraisal of his shares pursuant to section 13.02; change the location of its registered office, change its registered agent, and remove or appoint any agent

to receive service of process; authorize, fix the terms, manner and conditions of the issuance of, and issue bonds, debentures or other obligations, whether or not convertible into shares of any class or series, or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class or series; or lease its property and franchises to any corporation or other party, if permitted by law.

(c) Articles of amendment, merger, share exchange or dissolution effected by the corporation pursuant to the foregoing provisions shall be filed with the secretary of state, and shall become effective, all in accordance with this chapter. The articles shall be made, executed and acknowledged, as may be directed by the decrees or orders, by the trustee or trustees appointed in the reorganization proceedings, or a majority thereof, or, if none be appointed and acting, by the officers of the corporation, or by a master or other representative appointed by the court or judge, and shall certify that provision for the making and filing of the articles is contained in a decree or order of a court or judge having jurisdiction of a proceeding under the applicable statute of the United States for the reorganization of the corporation.

(d) This section shall cease to apply to the corporation upon the entry of a final decree in the reorganization proceedings closing the case and discharging the trustee or trustees, if any.

(e) On filing any articles or other instrument made or executed pursuant to this section, there shall be paid to the secretary of state the same fees as are payable by corporations not in reorganization upon the filing of like articles or instruments.

SUBDIVISION D.

MISCELLANEOUS

Section 14.40. DEPOSIT WITH TREASURER OF THE COMMONWEALTH

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the treasurer of the commonwealth or other appropriate official of the commonwealth for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the treasurer or other appropriate official of the commonwealth shall pay him or his representative that amount.

PART 15

SUBDIVISION A.

REQUIREMENTS FOR AUTHORITY TO TRANSACT BUSINESS

Section 15.01. AUTHORITY TO TRANSACT BUSINESS REQUIRED

(a) A foreign corporation that transacts business or has a usual place of business in the commonwealth shall deliver the certificate required by section 15.03 to the secretary of state for filing.

(b) The following activities, among others, do constitute transacting business within the meaning of subsection (a):

- (1) the ownership or leasing of real estate in the commonwealth;
- (2) engaging in the construction, alteration or repair of any structure, railway or road;

or

- (3) engaging in any other activity requiring the performance of labor.

(c) The following activities, among others, without more, do not constitute transacting business within the meaning of subsection (a):

- (1) maintaining, defending, or settling any proceeding;
- (2) holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange, and registration of the corporations own securities or maintaining trustees or depositories with respect to those securities;

- (5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the commonwealth before they become contracts;

(7) creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(9) conducting an isolated transaction that is not one in the course of repeated transactions of a like nature;

- (10) transacting business in interstate commerce; or

(11) performing activities subject to regulation under chapter 167 or chapter 175, if the foreign corporation has complied with applicable chapter.

- (d) The list of activities in subsections (b) and (c) is not exhaustive.

Section 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

(a) A foreign corporation transacting business in the commonwealth without delivering to the secretary of state for filing the certificate required by section 15.03 shall not maintain a proceeding in any court in the commonwealth until the certificate is delivered and filed.

(b) The successor to a foreign corporation that transacted business in the commonwealth without delivering to the secretary of state for filing the certificate required by section 15.03 and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in the commonwealth until the foreign corporation or its successor delivers the certificate and it is filed.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor is required to deliver to the secretary of state for filing the certificate required by section 15.03.

If it so determines, the court may further stay the proceeding until the foreign corporation or its successor delivers the certificate and it is filed.

(d) A foreign corporation is liable to the commonwealth for the years or parts of years during which it transacted business in the commonwealth without delivering to the secretary of state for filing the certificate required by section 15.03, in an amount equal to (1) all late fees which would have been imposed by law had it duly delivered the certificate and (2) all interest and penalties imposed by law for failure to pay the fees. A foreign corporation is further liable to the commonwealth, for each month or part thereof during which it transacted business without delivering the certificate, in an amount determined by the secretary of state, which amount shall in no event exceed the amount established by the commissioner of administration under section 3B of chapter 7, except that a foreign corporation which has delivered such certificate shall not be liable for such monthly penalty for the first 10 days during which it transacted business without delivering such certificate. Such fees and penalties may be levied by the secretary of state. The attorney general may bring an action necessary to recover amounts due to the commonwealth under this subsection including an action to restrain a foreign corporation against which fees and penalties have been imposed pursuant to this subsection from transacting business in the commonwealth until the fees and penalties have been paid.

(e) Notwithstanding subsections (a) and (b), the failure of a foreign corporation to deliver to the secretary of state for filing the certificate required by section 15.03 shall not impair the validity of its corporate acts or prevent it from defending any proceeding in the commonwealth, or affect the validity of any contract entered into by the foreign corporation.

Section 15.03. DELIVERING CERTIFICATE BY FOREIGN CORPORATION

(a) A foreign corporation shall, not later than 10 days after it commences transacting business in the commonwealth, deliver to the secretary of state for filing a certificate setting forth:

- (1) the name of the foreign corporation or, if its name is unavailable for use in the commonwealth, a corporate name that satisfies the requirements of section 15.06;
- (2) the name of the state or country under whose law it is incorporated;
- (3) its date of incorporation and period of duration;
- (4) the street address of its principal office;
- (5) the address of its registered office in the commonwealth, the name of its registered agent at that office and the agent's written consent, either on the certificate or attached to it, to its appointment as agent;
- (6) its fiscal year;
- (7) a brief description of the activities to be conducted by the foreign corporation in the commonwealth; and
- (8) the names and usual business addresses of its current directors and officers.

(b) The foreign corporation shall deliver with the completed certificate a certificate of existence, or a document of similar import, duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it

is incorporated.

(c) The secretary of state shall examine and endorse his approval on the certificate delivered by the foreign corporation if the business of the foreign corporation is not prohibited by law to a corporation formed under the laws of the commonwealth and if the secretary of state determines that the certificate complies with this section. Upon such approval and payment of the required fee, the certificate shall be filed by the secretary of state and the foreign corporation shall be considered to be registered to transact business in the commonwealth.

Section 15.04. AMENDED CERTIFICATE

(a) A foreign corporation that has delivered to the secretary of state for filing the certificate required by section 15.03 shall deliver an amendment to the certificate if it changes:

- (1) its corporate name;
- (2) the period of its duration;
- (3) the state or country of its incorporation;
- (4) the street address of its principal office;
- (5) its fiscal year; or
- (6) the activities conducted by the foreign corporation in the commonwealth.

(b) A foreign corporation that changes its corporate name or the state or country of its incorporation shall deliver with the completed amendment a certificate evidencing the changes duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated.

(c) A foreign corporation that has delivered to the secretary of state for filing the certificate required by section 15.03 may deliver an amendment to the certificate for any other reason.

(d) The requirements of section 15.03 for delivering to the secretary of state for filing an original certificate apply to delivering any amendment thereto under this section, except that an amendment need not contain any of the information the original certificate that is not being changed and the certificate required by subsection (b) of this section need be delivered only in the circumstances set forth in said subsection (b).

Section 15.05. EFFECT OF FILING OF CERTIFICATE

(a) The delivering by the foreign corporation to the secretary of state for filing of the certificate required by section 15.03 authorizes the foreign corporation to transact business in the commonwealth subject, however, to the right of the commonwealth to revoke the authority as provided in this chapter.

(b) A foreign corporation authorized to do business in the commonwealth has the same but no greater rights and has the same but no greater privileges as, and except as otherwise provided by this chapter is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic corporation of like character.

(c) Subject to the constitution of the commonwealth, a foreign corporations organization and internal affairs and the liability of its stockholders and directors shall be governed

by the laws of the jurisdiction under which it is organized. A foreign corporation may not be denied the authority to transact business in the commonwealth by reason of any difference between such laws and the laws of the commonwealth.

Section 15.06. CORPORATE NAME OF FOREIGN CORPORATION

(a) If the corporate name of a foreign corporation does not satisfy the requirements of section 4.01, the foreign corporation, to obtain or maintain a certificate of authority to transact business in the commonwealth:

(1) may add the word "corporation", "incorporated", "company", or "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", to its corporate name for use in the commonwealth; or

(2) may use a fictitious name to transact business in the commonwealth if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(b) Except as authorized by subsections (c) and (d), the corporate name (including a fictitious name) of a foreign corporation may not be the same as, or so similar that it is likely to be mistaken for:

(1) the corporate name or trade name of a corporation organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth;

(2) a corporate name reserved under section 4.02;

(3) the fictitious name of another foreign corporation or entity authorized to transact business or otherwise lawfully conducting business in the commonwealth because its real or trade name is unavailable;

(4) the corporate name or trade name of a not-for-profit corporation organized, authorized to conduct its activities or otherwise lawfully conducting its activities in the commonwealth;

(5) the name or trade name of a partnership, business trust or other entity organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth; or

(6) a trademark or service mark registered with the secretary of state under chapter 110B.

(c) A foreign corporation may apply to the secretary of state for authorization to use a corporate name that does not comply with the requirements of subsection (b). The secretary of state shall authorize use of the name applied for if:

(1) the other corporation consents to the use in writing and, if required by the secretary of state, submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is not the same as or so similar that it is likely to be mistaken for the name of the applicant; or

(2) the applicant delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the applicants right to use the name applied for in the commonwealth.

(d) A foreign corporation may use the name, including the fictitious name, or mark of another entity that is used in the commonwealth if the other entity is organized, authorized to transact business or otherwise lawfully conducting business in the commonwealth and the foreign corporation:

- (1) has merged with the other entity;
- (2) has been formed by reorganization of the other entity; or
- (3) has acquired all or substantially all of the assets, including the name and marks,

of the other entity.

(e) If a foreign corporation authorized to transact business in the commonwealth changes its corporate name to one that does not satisfy the requirements of section 4.01, it may not transact business in the commonwealth under the changed name until it adopts a name satisfying the requirements of section 4.01 and files with the secretary of state, under section 15.04, an amendment to the certificate required to be filed by it under section 15.03.

(f) Within 90 days after the delivery to the secretary of state for filing of a certificate under section 15.03, or of an amendment to such certificate under section 15.04 that effects an amendment reflecting a change in the name of a foreign corporation used in the commonwealth, any person who is registered, qualified or carrying on business in the commonwealth at that time or who has reserved or registered a name under sections 4.02, 15.03 or 15.04 may protest in writing to the secretary of state that the name used by the foreign corporation in the commonwealth is the same as or so similar that it is likely to be mistaken for the name of such person in violation of this section. In that event, if the secretary of state decides to conduct a hearing regarding the dispute, he shall give notice thereof as soon as possible to the protesting party and the foreign corporation using the name in the commonwealth. If as a result of the hearing or otherwise, the secretary of state determines that the use in the commonwealth of the corporate name violates this section, he shall file a statement withdrawing his approval of the amendment insofar as it relates to the name used by the foreign corporation and shall give written notice thereof to the protesting party and the foreign corporation. The withdrawal of approval shall take effect on the date specified by the secretary of state, which shall be not later than 180 days after the date of the filing which was protested. After the effective date of the withdrawal of approval, the foreign corporation shall have no right to use the name in the commonwealth and may be enjoined from doing business under the name by the superior court upon application of any interested person.

Section 15.07. REGISTERED OFFICE AND REGISTERED AGENT OF FOREIGN CORPORATION

Each foreign corporation authorized to transact business in the commonwealth shall continuously maintain in the commonwealth:

- (1) a registered office that may be the same as any of its places of business; and
- (2) a registered agent, who may be:

- (i) an individual who resides in the commonwealth and whose business office is identical with the registered office;

(ii) a domestic corporation, not-for-profit domestic corporation or domestic limited liability company whose business office is identical with the registered office; or

(iii) a foreign corporation, foreign not-for-profit corporation or foreign limited liability company authorized to transact business in the commonwealth whose business office is identical with the registered office.

Section 15.08. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT OF FOREIGN CORPORATION

(a) A foreign corporation authorized to transact business in the commonwealth may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(1) its name;

(2) the street address of its current registered office;

(3) if the current registered office is to be changed, the street address of its new registered office;

(4) the name of its current registered agent;

(5) if the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(6) that after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the street address of his business office, he may change the street address of the registered office of any foreign corporation for which he is the registered agent by notifying the foreign corporation in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (a) and recites that the foreign corporation has been notified of the change. If the street addresses of more than one foreign corporation are being changed at the same time, there may be included in a single statement the names of all foreign corporations the street addresses of the registered office of which are being changed.

Section 15.09. RESIGNATION OF REGISTERED AGENT OF FOREIGN CORPORATION

(a) The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing a statement of resignation. The registered agent shall furnish a copy of the statement to the foreign corporation. The statement of resignation may include a statement that the registered office is also discontinued.

(b) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Section 15.10. LIABILITY TO BE SUED; SERVICE ON FOREIGN CORPORATION

(a) Foreign corporations shall be liable to be sued and to have their property attached in the same manner and to the same extent as individuals who are residents of other states.

(b) Every foreign corporation doing business in the commonwealth which has not complied with section 15.03 and every foreign corporation which has complied with said section 15.03 but whose resident agent cannot, after a diligent search by an officer authorized to serve legal process, be found at the business address of such resident agent stated in its most recent certificate filed with the secretary of state pursuant to this chapter or its most recent annual report filed with the secretary of state pursuant to section 16.22 and every foreign corporation whose resident agent refuses to act as such, shall be deemed to have appointed the secretary of state and his successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding may be served so long as any liability incurred in the commonwealth while it was doing business shall remain outstanding.

(c) Service of process in all actions and proceedings in the commonwealth against such a foreign corporation may be made upon the secretary of state. Service of process in all actions and proceedings in the commonwealth against a foreign corporation formerly doing business in the commonwealth that has not complied with the provision of section 15.03, or against a foreign corporation formerly doing business in the commonwealth that has withdrawn from the commonwealth pursuant to this chapter, may be made upon the secretary of state if the action or proceeding involves a liability alleged to have been incurred by the foreign corporation while it was doing business in the commonwealth.

(d) When lawful process in any action or proceeding against any foreign corporation which pursuant to this section may be made upon the secretary of state is served upon the secretary of state, the secretary of state shall immediately forward the process by mail, postage prepaid, directed to such foreign corporation at its last known principal office or, in the case of a foreign corporation established in a foreign country, to the resident manager, if any, in the United States. A fee of \$10 shall be paid by the plaintiff to the secretary of state at the time of the service and the fees shall be taxed in his costs, if he prevails in the suit. The secretary of state shall keep a record of all such processes, which shall show the day of service.

(e) In the case of service of process on a foreign corporation that has not complied with section 15.03, the notice herein provided for shall be mailed by the secretary of state to the proper address of the foreign corporation furnished to him by the plaintiff or his attorney.

(f) Service of process upon a foreign corporation for violation of any criminal law of the commonwealth may be made in the manner hereinabove provided except that no fee shall be paid to the secretary of state.

(g) This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

Section 15.11. FALSE REPORTS OR STATEMENTS

(a) An officer of a foreign corporation who signs any statement or report required by this chapter which is false in any material representation and that he knows or has reason to

know to be false shall be liable to a creditor of the foreign corporation who has relied upon the false representation to the extent of the actual damage sustained by him by reason of such reliance; but the officer signing the statement or report shall not be liable to creditors for debts contracted or contracts entered into after the filing of a statement or report or a corrected statement or report that is not false in any material representation.

(b) No liability shall be imposed under this section upon any director or officer who shall have discharged the duties of his position in good faith and with the degree of diligence, care and skill that prudent men would ordinarily exercise under similar circumstances in a like position. In discharging his duties the person, when acting in good faith shall be entitled to rely upon the books of account of the foreign corporation or upon written reports made to the foreign corporation by any of its officers, other than such person, or by an independent public accountant.

(c) Any director or officer who pays on a judgment rendered on a claim asserted under this section shall be entitled to contribution from the other directors and officers against whom judgment has been entered on the same claim or who shall be ascertained to be liable to the plaintiff upon the same claim.

(d) Whoever knowingly makes, executes, delivers or publishes any report or statement required by law to be made, executed, filed or published by a foreign corporation in the commonwealth, or whoever causes the same to be done, which report or statement is false in any material representation, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 3 years, or both.

(e) Whoever knowingly makes, executes, delivers or publishes any report or statement required by the law of another state or country to be made, executed, or published by a foreign corporation, or whoever causes the same to be done, within the commonwealth, which report or statement is false in any material representation, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 3 years, or both.

SUBDIVISION B.

WITHDRAWAL OR TRANSFER OF AUTHORITY

Section 15.20. WITHDRAWAL OF FOREIGN CORPORATION

(a) A foreign corporation authorized to transact business in the commonwealth may not withdraw from the commonwealth until it obtains the consent of the secretary of state.

(b) A foreign corporation authorized to transact business in the commonwealth may apply for withdrawal by delivering an application to the secretary of state for filing. The application shall set forth:

(1) the name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(2) that it is not transacting business in the commonwealth and that it surrenders its authority to transact business in the commonwealth;

(3) that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based

on a cause of action arising during the time it was authorized to transact business in the commonwealth;

(4) a mailing address to which the secretary of state may mail a copy of any process served on him under clause (3);

(5) a commitment to notify the secretary of state in the future of any change in its mailing address; and

(6) a certification that all taxes known to the corporation to be due to the commonwealth have been paid or provided for.

(c) After the withdrawal of the corporation is effective, service of process on the secretary of state under this section is service on the foreign corporation. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign corporation at the mailing address set forth under subsection (b).

Section 15.21. AUTOMATIC WITHDRAWAL UPON CERTAIN CONVERSIONS

A foreign business corporation authorized to transact business in the commonwealth that converts into a domestic nonprofit corporation or any form of domestic filing entity shall be considered to have withdrawn on the effective date of the conversion.

Section 15.22. WITHDRAWAL UPON CONVERSION TO A NONFILING ENTITY

(a) A foreign corporation authorized to transact business in the commonwealth that converts into a form of domestic or foreign nonfiling entity shall apply for withdrawal by delivering an application to the secretary of state for filing. The application shall set forth:

(1) the name of the foreign business corporation and the name of the state or country under whose law it was incorporated before the conversion;

(2) that it surrenders its authority to transact business in the commonwealth as a foreign business corporation;

(3) the type of other entity into which it has been converted and the jurisdiction whose laws govern its internal affairs;

(4) if it has been converted into a foreign other entity:

(i) that it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in the commonwealth;

(ii) a mailing address to which the secretary of state may mail a copy of any process served on him under subclause (i); and

(iii) a commitment to notify the secretary of state in the future of any change in its mailing address.

(b) After the withdrawal under this section of a corporation that has converted into a foreign other entity is effective, service of process on the secretary of state is service on the foreign other entity. Upon receipt of process, the secretary of state shall mail a copy of the process to the foreign other entity at the mailing address set forth under clause (4) of subsection (a).

(c) After the withdrawal under this section of a corporation that has converted into a domestic other entity is effective, service of process shall be made on the other entity in accordance with the regular procedures for service of process on the form of other entity into which the corporation was converted.

Section 15.23. TRANSFER OF AUTHORITY

(a) A foreign business corporation authorized to transact business in the commonwealth that converts into a foreign nonprofit corporation or into any form of foreign other entity that is required to deliver for filing an application for authority to transact business in the commonwealth or make a similar type of delivery with the secretary of state if it transacts business in the commonwealth shall deliver to the secretary of state for filing an application for transfer of authority executed by any officer or other duly authorized representative. The application shall set forth:

(1) the name of the corporation;

(2) the type of other entity into which it has been converted and the jurisdiction whose laws govern its internal affairs;

(3) any other information that would be required in a filing under the laws of the commonwealth by an other entity of the type the corporation has become seeking authority to transact business in the commonwealth.

(b) The application for transfer of authority shall be delivered to the secretary of state for filing and shall take effect on the effective date provided in section 1.23.

(c) Upon the effectiveness of the application for transfer of authority, the authority of the corporation under this chapter to transact business in the commonwealth shall be transferred without interruption to the other entity which shall thereafter hold such authority subject to the provisions of the laws of the commonwealth applicable to that type of other entity.

SUBDIVISION C.

REVOCATION OF AUTHORITY TO TRANSACT BUSINESS

Section 15.30. GROUNDS FOR REVOCATION

The secretary of state may commence a proceeding under section 15.31 to revoke the authority of a foreign corporation to transact business in the commonwealth if the foreign corporation has failed to comply with laws requiring the filing of reports with the secretary of state or the filing of any tax returns or the payment of any taxes under chapter 62C or chapter 63 for 2 or more consecutive years.

Section 15.31. PROCEDURE FOR AND EFFECT OF REVOCATION

(a) If the secretary of state determines that 1 or more grounds exist under section 15.30 for revocation of the authority of a foreign corporation to transact business in the commonwealth, he shall serve the foreign corporation with written notice of his determination, by mail addressed to its principal office as stated in the certificate required to be filed pursuant to section 15.03 or its most recent annual report.

(b) If the foreign corporation does not correct each ground for revocation or demon-

strate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within 90 days after the notice is given, the secretary of state may revoke the foreign corporations authority to transact business in the commonwealth. The secretary of state shall note the fact of revocation on his records, including the effective date thereof.

(c) The authority of a foreign corporation to transact business in the commonwealth ceases on the date on which the secretary of state makes revocation of such authority effective.

(d) Revocation of a foreign corporations authority to transact business in the commonwealth does not terminate the authority of the registered agent of the corporation until the registered agent resigns his agency pursuant to section 15.09.

Section 15.32. APPEAL FROM REVOCATION

(a) A foreign corporation the authority to transact business in the commonwealth of which has been revoked under section 15.30 may apply to the secretary of state for reinstatement of such authority at any time. The application shall:

(1) recite the name of the foreign corporation and the effective date of the revocation;

(2) state that the ground or grounds for revocation either did not exist or have been eliminated;

(3) state that the foreign corporations name satisfies the requirements of sections 4.01 and 15.06; and

(4) contain a certificate from the department of revenue reciting that all tax returns required to be filed by the foreign corporation under chapters 62C and 63 have been filed and all taxes shown due on such returns and any related penalties have been paid.

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, he shall reinstate the authority of the foreign corporation to transact business in the commonwealth and shall note the fact of reinstatement on his records and the effective date of reinstatement.

(c) The secretary of state may subject such reinstatement to such terms and conditions, including the payment of reasonable fees, as in his judgment the public interest may require. He may in his discretion make the reinstatement effective for all purposes or for any specified purpose or purposes, in each case with or without limitation of time. When the reinstatement is effective, if by its terms it is effective for all purposes or if the secretary of state specifies that it shall be effective for purposes of this sentence, then the reinstatement relates back to and takes effect as of the effective date of the revocation of authority and the corporation resumes carrying on its business as if the revocation of authority had never occurred, with all its original powers and duties and with liability, for all contracts, acts, matters and things made, done or performed in its name and on its behalf before reinstatement, as if the revocation of authority had never occurred, except as otherwise specified by the secretary of state.

(d) Any limitation in the reinstatement relative to the purpose or purposes of reinstatement, or of a limitation of the time thereof, may be amended by the secretary of state

for cause shown to his satisfaction.

PART 16

SUBDIVISION A.

RECORDS

Section 16.01. CORPORATE RECORDS

(a) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep within the commonwealth a copy of the following records at its principal office or an office of its transfer agent or of its secretary or assistant secretary or of its registered agent:

(1) its articles or restated articles of organization and all amendments to them currently in effect;

(2) its bylaws or restated bylaws and all amendments to them currently in effect;

(3) resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(4) the minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past 3 years;

(5) all written communications to shareholders generally within the past 3 years, including the financial statements furnished under section 16.20 for the past 3 years;

(6) a list of the names and business addresses of its current directors and officers; and

(7) its most recent annual report delivered to the secretary of state under section 16.22.

Section 16.02. INSPECTION OF RECORDS BY SHAREHOLDERS

(a) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the office where they are maintained pursuant to subsection (e) of section 16.01, copies of any of the records of the corporation described in said subsection (e) of said section 16.01 if he gives the corporation written notice of his demand at least five business days before the date on which he wishes to inspect and copy.

(b) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (c) and gives the corporation written notice of his demand at least 5 business days before the date

on which he wishes to inspect and copy:

(1) excerpts from minutes reflecting action taken at any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (a) of section 16.02;

(2) accounting records of the corporation, but if the financial statements of the corporation are audited by a certified public accountant, inspection shall be limited to the financial statements and the supporting schedules reasonably necessary to verify any line item on those statements; and

(3) the record of shareholders described in section 16.01(c).

(c) A shareholder may inspect and copy the records described in subsection (b) only if:

(1) his demand is made in good faith and for a proper purpose;

(2) he describes with reasonable particularity his purpose and the records he desires to inspect;

(3) the records are directly connected with his purpose; and

(4) the corporation shall not have determined in good faith that disclosure of the records sought would adversely affect the corporation in the conduct of its business or, in the case of a public corporation, constitute material non-public information at the time when the shareholder's notice of demand to inspect and copy is received by the corporation.

(d) The right of inspection granted by this section may not be abolished or limited by a corporation's articles of organization or bylaws.

(e) This section shall not affect:

(1) the right of a shareholder to inspect records under section 7.20 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(2) the power of a court, independently of this chapter, to compel the production of corporate records for examination, provided that, in the case of production of records described in subsection (b) at the request of a shareholder, the shareholder has met the requirements of subsection (c).

(f) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on his behalf.

Section 16.03. SCOPE OF INSPECTION RIGHT

(a) A shareholder's agent or attorney has the same inspection and copying rights as the shareholder represented.

(b) The corporation may, if reasonable, satisfy the right of a shareholder to copy records under section 16.02 by furnishing to the shareholder copies by photocopy or other means chosen by the corporation including copies furnished through an electronic transmission.

(c) The corporation may impose a reasonable charge, covering the costs of labor, material, transmission and delivery, for copies of any documents provided to the shareholder.

The charge may not exceed the estimated cost of production, reproduction, transmission or delivery of the records.

(d) The corporation may comply at its expense, with a shareholder's demand to inspect the record of shareholders under clause (3) of subsection (b) of section 16.02 by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

(e) The corporation may impose reasonable restrictions on the use or distribution of records by the demanding shareholder.

Section 16.04. COURT-ORDERED INSPECTION

(a) If a corporation does not allow a shareholder who complies with section 16.02(a) to inspect and copy any records required by that subsection to be available for inspection, the superior court of the county where the corporation's principal office or, if none in the commonwealth, its registered office is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder who complies with subsections (b) and (c) of section 16.02 may apply to the superior court in the county where the corporation's principal office or, if none in the commonwealth, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the records demanded under section 16.02, it shall also order the corporation to pay the shareholder's costs, including reasonable counsel fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded; and the court may order the corporation to pay the shareholder's costs if it orders inspection and copying of records other than under section 16.02.

(d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

Section 16.05. INSPECTION OF RECORDS BY DIRECTORS

(a) A director of a corporation is entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) If a corporation does not allow a director who purports to be entitled thereto pursuant to subsection (a) of section 16.05 to inspect and copy any books, records or documents required by that subsection to be available for inspection, the superior court of the county where the corporation's principal office or, if none in the commonwealth, its registered office is located may order inspection and copying of the books, records and docu-

ments demanded at the corporation's expense upon application of the director, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the court orders inspection and copying of the books, records and documents demanded, it may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to pay the director's costs, including reasonable counsel fees, incurred in connection with the application.

Section 16.06 EXCEPTION TO NOTICE REQUIREMENT; CONSEQUENCES OF INABILITY TO DELIVER NOTICE

(a) Whenever notice is required to be given under any provision of this chapter to any shareholder, the notice shall not be required to be given if:

(1) notice of 2 consecutive annual meetings, and all notices of meetings during the period between the 2 consecutive annual meetings, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable; or

(2) all, but not less than 2, payments of dividends on securities during a 12-month period, or 2 consecutive payments of dividends on securities during a period of more than 12 months, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(b) If the shareholder shall deliver to the corporation a written notice setting forth the shareholder's then-current address, the requirement that notice be given to the shareholder shall be reinstated.

(c) If the corporation is unable to deliver notice to any shareholder to an address furnished by the shareholder for the purpose and the inability becomes known to the secretary or an assistant secretary of the corporation, the transfer agent or other person responsible for the giving of notice, the corporation shall take such action as shall be reasonable in the circumstances to inform the shareholder of the inability and to request the shareholder to furnish a new address for the receipt of notices. Attempting to contact the shareholder at such other address, if any, as the corporation may have for the shareholder is deemed reasonable. The corporation may continue to rely on the address last furnished by the shareholder for notice until it is furnished in writing a new address for notice. The failure of the corporation to take the action required by this subsection shall not invalidate any meeting or other action.

SUBDIVISION B.

REPORTS

Section 16.20. FINANCIAL STATEMENTS FOR SHAREHOLDERS

(a) A corporation shall furnish to its shareholders upon request annual financial statements, which may be consolidated or combined statements of the corporation and 1 or

more of its subsidiaries, as appropriate, that include a balance sheet as at the end of the fiscal year, an income statement for that year and, if available, a statement of changes in shareholder equity for that year unless that information appears elsewhere in the financial statements. If prepared by the corporation, the corporation shall also furnish a statement of cash flows for that year. If financial statements are prepared by the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis. For purposes of this subsection, financial statements may consist of copies of federal tax returns or other comparable information which is reasonable under the circumstances in the case where the corporation does not prepare financial statements as described above.

(b) If the annual financial statements are reported upon by a public accountant, his report shall accompany those statements. If not, those statements shall be accompanied by a certificate of the president or the person responsible for the corporation's accounting records:

(1) stating his reasonable belief whether the statements were prepared in accordance with generally accepted accounting principles or, if not, describing the basis of preparation; and

(2) describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) A corporation shall deliver the annual financial statements, or a written notice of their availability, to each shareholder before the earlier to occur of the annual meeting of shareholders or 120 days after the close of the fiscal year. Thereafter, the corporation shall deliver its most recent financial statements upon the written request of any shareholder to whom the statements were not delivered.

(d) A corporation shall not be required to furnish its annual financial statements to a shareholder if it can demonstrate a proper corporate purpose for withholding information contained in those statements from that shareholder.

Section 16.21. BY-LAW AMENDMENTS

If the board of directors of a corporation makes, amends or repeals any bylaw, the corporation shall report in writing the substance of the change to the shareholders entitled to vote on amending the bylaws, with or before the notice of the next shareholders meeting. Any bylaw adopted by the board of directors may be amended or repealed by the shareholders.

Section 16.22. ANNUAL REPORT FOR SECRETARY OF STATE

(a) Each domestic corporation, and each foreign corporation authorized to transact business in the commonwealth, shall deliver to the secretary of state for filing an annual report that sets forth:

(1) the name of the corporation and the state or country under whose law it is incorporated;

(2) the address of its registered office and the name of its registered agent at that office in the commonwealth;

- (3) the address of its principal office;
 - (4) the names and business addresses of its directors, officers required by section 8.40(a), and chief executive officer and chief financial officer, if different;
 - (5) a brief description of any change in the nature of its business;
 - (6) the total number of authorized shares, itemized by class and series, if any, within each class;
 - (7) the total number of issued and outstanding shares, itemized by class and series, if any, within each class; and
 - (8) any change in the fiscal year of the corporation.
- (b) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.
- (c) The annual report shall be delivered to the secretary of state within 2 ½ months after the end of the fiscal year of the corporation.
- (d) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction.

PART 17

TRANSITION PROVISIONS

Section 17.01. APPLICATION TO EXISTING DOMESTIC CORPORATIONS

Except so far as such application may be inconsistent with (i) provisions still in force of any special acts of incorporation, enacted before March 11, 1831, and not subject to amendment, alteration or repeal by the general court, or (ii) chapter 156A applicable to professional corporations incorporated thereunder, this chapter shall apply to:

(1) all domestic corporations having capital stock whether established before or after the effective date of this chapter, either by general or special law, for the purpose of carrying on business for profit except corporations organized for the purpose of carrying on the business of a bank, savings bank, co-operative bank, trust company, credit union, surety or indemnity company, or safe deposit company, or for the purpose of carrying on within the commonwealth the business of an insurance company, railroad, electric railroad, street railway or trolley motor company, telegraph or telephone company, gas or electric light, heat or power company, canal, aqueduct or water company, cemetery or crematory company, any other corporations which on October 1, 1965 have or may thereafter have the right to take land within the commonwealth by eminent domain or to exercise franchises in public ways granted by the commonwealth or by any county, city or town, and corporations subject to chapter 157 and corporations subject to chapter 157A; and

(2) notwithstanding anything to the contrary in clause (1), all other corporations to which this chapter is made applicable by the express provisions of any other general or special law to the extent provided thereby.

Section 17.02. APPLICATION TO QUALIFIED FOREIGN CORPORATIONS

A foreign corporation authorized to transact business in the commonwealth on the

effective date of this chapter is subject to this chapter but is not required to apply for new authority to transact business under this chapter.

Section 17.03. SAVING PROVISIONS

(a) Except as provided in subsection (b), the repeal of chapter 181 shall not affect:

(1) the operation of said chapter 181 or any action taken under it before its repeal;

(2) any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under said chapter 181 before its repeal;

(3) any violation of said chapter 181, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal; or

(4) any proceeding commenced under said chapter 181 before its repeal, and the proceeding may be completed in accordance with said chapter 181 as if it had not been repealed.

(b) If a penalty or punishment imposed for a violation of said chapter 181 is reduced by chapter 156D, the penalty or punishment if not already imposed shall be imposed in accordance with this chapter.

Section 17.04. SEVERABILITY

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

SECTION 18. Section 3 of chapter 157A of the General Laws, as so appearing, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any corporation organized under chapter 156D may elect to be governed as an employee cooperative under this chapter, by so stating in its articles of organization or articles of amendment filed in accordance with chapter 156B.

SECTION 19. Section 19E of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Upon compliance with the requirements and completion of the proceedings prescribed by this section, a domestic mutual life insurance company may (i) convert into a domestic stock life insurance company or (ii) so convert as part of a plan of reorganization in which a majority or all of the common shares of the domestic stock life insurance company is acquired by a parent corporation or another corporation which may be, but need not be, a corporation organized for such purposes and may be a subsidiary or other affiliate of such domestic mutual life insurance company prior to such acquisition, and, in either case, may merge as part of the plan of demutualization with a domestic stock life insurance company or a corporation organized under chapter 156D and the consideration to be provided in such merger may be shares of the resulting or surviving corporation or any other corporation, cash, or other consideration. Any such merger shall be authorized under this section and approved as provided under paragraph (2) and not pursuant to section 19A.

SECTION 20. Section 37 of chapter 223 of the General Laws, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In an action against a domestic corporation other than one mentioned in the preceding paragraph, service shall be made upon the president, treasurer, clerk, resident agent appointed pursuant to section 49 of chapter 156D, cashier, secretary, agent or other officer in charge of its business, or, if no such officer is found within the county, upon any member of the corporation. If an officer authorized to serve legal process makes a return on such process that, after diligent search, he can find no one upon whom he can lawfully make service as aforesaid, the court to which such process is returned may upon application issue an order of notice to such corporation, directing it to appear and answer within a designated period.

SECTION 21. The first paragraph of section 14 of chapter 224 of the General Laws, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following 2 sentences:-

If the debtor is a corporation, service shall be made by delivery in hand to, or by leaving a copy at a business office of, the president, treasurer, clerk, resident agent appointed pursuant to chapter 5 of chapter 156D, cashier, secretary, agent or other officer in charge of its business, or, if no such officer is found within the county, any member of the corporation. If the debtor is a trust with transferable shares, service shall be made in the same manner on any trustee.

SECTION 22. Chapter 156D of the General Laws, as established by this act, shall apply to domestic corporations having capital stock as were established before July 1, 2004 and which were, on June 30, 2004, subject to chapter 156B of the General Laws.

SECTION 23. Any reference contained in the General Laws to chapter 156B or to any section of chapter 156B which has been superseded and replaced by this act shall be considered a reference to chapter 156D.

SECTION 24. This act shall take effect on July 1, 2004.

Approved November 26, 2003.

Chapter 128. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF ANDOVER TO GRANT AN EASEMENT.

Be it enacted, etc., as follows:

SECTION 1. 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 sewer pipes within the parcel. The parcel is shown as land on town of Andover assessor's map 81, lot 1.

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

Approved November 26, 2003.

Chapter 129. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO MODIFY, EXTINGUISH AND RELOCATE A CERTAIN EASEMENT IN THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation may, notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, modify, extinguish and relocate a certain easement previously granted to the city of Lawrence. The easement is currently under the control of and used by the department of conservation and recreation for conservation and recreational purposes for the specific use of a certain swimming pool facility in the city of Lawrence, Essex County. The easement is to be granted to the city of Lawrence, its successors and assigns, in order to relocate a certain main sanitary sewer line currently operated by the town of Andover on land owned by the city of Lawrence, and allow the city of Lawrence to relocate the main sewer line to commence construction of new Lawrence High School, subject to sections 2, 3 and 4, and to such additional terms and conditions consistent with this act as the commissioner may prescribe in consultation with the department of conservation and recreation. The easement area contains 15 square feet of land and is a portion of that parcel of land described in an instrument recorded with the North Essex registry of deeds in Book 1291, Page 180 shown on a plan entitled "Easement Plan of Land" located in Lawrence, Massachusetts, prepared for the city of Lawrence, prepared by Meridian Engineering, Inc., scale 1"=100' dated August 7, 2002 on file with the department of conservation and recreation and to be recorded with North Essex registry of deeds. To carry out the purposes of this act, modifications to the plan described above may be made before the easement grant.

SECTION 2. No grant of easement, by or on behalf of the commonwealth, granting the easement on the property described in section 1 shall be valid unless the grant provides that the easement area shall be used solely for the purposes described in section 1. The grant of easement shall include a stipulation that title to the easement area will revert to the commonwealth and be assigned to the care, custody and control of the department of conservation and recreation if the easement area ceases to be utilized for the express purposes for which it was conveyed.

SECTION 3. The grantees of the easement shall pay the cost of any appraisals, surveys and other expenses considered necessary by the commissioner of capital asset management and maintenance for granting the easement.

SECTION 4. The grantees shall compensate the commonwealth through the grant of an easement to the commonwealth, equal to or greater in value than the full and fair market value of the easement area described in section 1, or its value in use as proposed, whichever is the greater, as determined by independent appraisal, or in a sum equal to the full

and fair market value of the easement area or its value in use as proposed, whichever is greater, as determined by independent appraisal, or through some combination thereof.

SECTION 5. 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 the agreement or amendment. The commissioner of capital asset management and maintenance 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 before the execution of the agreement. The grantees of the easement shall transfer the grant of easement or pay the purchase price as determined under section 4 as set forth in the agreement.

Approved November 26, 2003.

Chapter 130. AN ACT RELATIVE TO DEBT COLLECTION AND LOAN SERVICING AGENCIES.

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by striking out sections 24 to 25, inclusive, as appearing in the 2002 Official Edition, and inserting in place thereof the following 13 sections:-

Section 24. As used in sections 24 to 28, inclusive the following words shall have the following meanings, unless the context requires otherwise:-

"Commissioner", the commissioner of banks.

"Consumer", any natural person obligated or allegedly obligated to pay any debt.

"Creditor", any person who offers or extends credit creating a debt or to whom a debt is owed, but the term shall not include a person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of the debt for another.

"Debt", any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not the obligation has been reduced to judgment.

"Debt collector", any person who uses an instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of a debt, or who regularly collects or attempts to collect, directly or indirectly, a debt owed or due or asserted

to be owed or due another. Notwithstanding the exclusion provided by clause (f), debt collector shall include a creditor who, in the process of collecting his own debt, uses any name other than his own which would indicate that a third person is collecting or attempting to collect the debt. Debt collector shall also include a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the enforcement of security interests. Debt collector shall not include:-

(a) an officer or employee of a creditor while, in the name of the creditor, collecting debts for the creditor;

(b) a person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for a person to whom it is so related or affiliated and if the principal business of the person is not the collection of a debt;

(c) an officer or employee of the United States or a state of the United States to the extent that collecting or attempting to collect a debt is in the performance of his official duty;

(d) a person while serving or attempting to serve legal process on another person in connection with the judicial enforcement of a debt;

(e) a nonprofit organization which, at the request of a consumer, performs bona fide consumer credit counseling and assists the consumer in the liquidation of debts by receiving payments from the consumer and distributing the amounts to creditors;

(f) a person collecting or attempting to collect a debt owed or due or asserted to be owed or due another to the extent the activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by the person; (iii) concerns a debt which was not in default at the time it was obtained by the person; or (iv) concerns a debt obtained by the person as a secured party in a commercial credit transaction involving the creditor;

(g) attorneys-at-law collecting a debt on behalf of a client; and

(h) an agent or independent contractor employed for the purpose of collecting a charge or bill owed by a tenant to a landlord or owed by a customer to a corporation subject to the supervision of the department of telecommunications and energy or the division of insurance insofar as the person collects charges or bills only for the landlord or supervised corporations.

"Register", filing a notice with the commissioner on a form prescribed by the commissioner that notifies the commissioner of the intent to engage in the activities of a third party loan servicer in this state and the payment of a fee required under this act, along with the other documents, proofs, and fees required by the commissioner.

"Servicing", receiving a scheduled periodic payment from a borrower pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments to the owner of the loan or other third party of principal and interest and other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the servicing loan document or servicing contract. In the case of a home equity conversion

mortgage or reverse mortgage as referenced in this section, servicing includes making payments to the borrower.

"Third party loan servicer", a person who uses an instrumentality of interstate commerce or the mails in any business the principal purpose of servicing a loan directly or indirectly, owed or due or asserted to be owed or due another.

Section 24A. (a) No person shall directly or indirectly engage in the commonwealth in the business of a debt collector, or engage in the commonwealth in soliciting the right to collect or receive payment for another of an account, bill or other indebtedness, or advertise for or solicit in print the right to collect or receive payment for another of an account, bill or other indebtedness, without first obtaining from the commissioner a license to carry on the business, nor unless the person or the person for whom he or it may be acting as agent has on file with the state treasurer a good and sufficient bond.

(b) A person shall not directly or indirectly engage in the commonwealth in the business of a third party loan servicer without registering with the commissioner. A registrant shall not be required to comply with sections 24F to 27, inclusive.

(c) This section shall not apply to a bank as defined in section 1 of chapter 167, a national banking association, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association or credit union organized under the laws of any other state of the United States, or any subsidiary of the above; but except as provided herein, this section shall apply to a subsidiary or affiliate, as defined by the commissioner, of an exempted entity and of a bank holding company established in accordance with state or federal law. The commissioner may adopt, amend or repeal rules and regulations, to aid in the administration and enforcement of this chapter.

(d) The commissioner may from time to time establish regulations pertaining to the conduct of the business of a debt collector or a third party loan servicer as he considers necessary.

Section 24B. (a) The application for the license shall be in writing, shall contain information as the commissioner may determine and shall be accompanied by an investigation fee to be determined annually by the commissioner of administration under section 3B of chapter 7. The commissioner may reject an application for a license or an application for the renewal of a license if he is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which the application for a license is filed will be operated lawfully, honestly and fairly. The application shall also include a description of the activities of the applicant, in such detail and for such periods, as the commissioner may require, as well as further information as the commissioner may require. If the licensee desires to carry on business in more than one place, he shall procure a license for each place where the business is to be conducted.

(b) The license shall be for a period of 1 year as of a date determined by the commissioner. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the place where the business is to be carried on; but, the business shall at all times be conducted in the name of the licensee as it appears on the license. The fee for the license shall be determined annually by the commissioner of administration under section 3B of chapter 7. The license shall not be transferable nor assignable. A change of location of an office of a licensee shall require the prior approval of the commissioner. A request for relocation shall be in writing setting forth the reason for the request, and shall be accompanied by a relocation investigation fee to be determined annually by the commissioner of administration under the provisions of said section 3B of said chapter 7.

Section 24C. (a) The registration of a third party loan servicer shall be in writing, shall contain information as the commissioner may determine and shall be accompanied by an investigation fee to be determined annually by the commissioner of administration under section 3B of chapter 7.

(b) The registration shall be for a period of 1 year as of a date determined by the commissioner. Each registration shall plainly state the name of the registrant and the city or town with the name of the street and number, if any, of the place where the business is to be carried on; but, the business shall at all times be conducted in the name of the registrant as it appears on the registration. The fee for the registration shall be determined annually by the commissioner of administration under section 3B of chapter 7. The registration shall not be transferable nor assignable. A change of location of an office of a registrant requires notification in writing to the commissioner.

(c) A registration accepted by the commissioner under this section does not approve the use of, or indemnify the registrant against claims for, the improper use of the business name stated in the registration. The registration shall also include a description of the activities of the applicant, in such detail and for such periods, as the commissioner may require, as well as further information as the commissioner may require.

Section 24D. (a) The commissioner may investigate the collection records of a licensee or registrant, and for that purpose the commissioner shall have free access to the books and papers of a licensee or registrant relating thereto. A licensee or registrant shall keep and use the business records in such form and at such location as the commissioner, by regulation, shall determine, which shall enable the commissioner to determine whether the licensee or registrant is complying with this chapter and rules or regulations promulgated hereunder by the commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed or registered under this chapter.

(b) The commissioner shall preserve a full record of each examination of a licensee including a statement of its condition. All records of investigations and reports of examinations by the commissioner, including workpapers, information derived from the reports or responses to the reports, and any copies thereof in the possession of a licensee under the supervision of the commissioner, shall be confidential and privileged communications, shall

not be subject to subpoena and shall not be made public. For the purposes of this subsection, records of investigation and reports of examinations shall include records of investigation and reports of examinations conducted by a financial regulatory agency of the federal government and any other state, and of a foreign government which are considered confidential by the agency or foreign government and which are in possession of the commissioner. In a proceeding before a court, the court may issue a protective order in appropriate circumstances to protect the confidentiality of the record and order that the record on file with the court or filed in connection with the court proceeding be sealed and that the public be excluded from any portion of the proceeding at which the record is disclosed. Copies of the reports of examination shall be furnished to a licensee for its use only and shall not be exhibited to any other person, organization or agency without prior written approval by the commissioner. The commissioner may furnish to regulatory agencies of the federal government, or other states, or of foreign countries, and a law enforcement agency, information, reports and statements relating to the licensees under his supervision as he considers appropriate.

(c) If a licensee or registrant violates sections 24 to 25, inclusive, or fails to maintain its financial condition sufficient to qualify for a license on an original application or for other just cause as the commissioner may determine, the commissioner may, after notice and hearing pursuant to the provisions of chapter 30A, revoke a license or registration or suspend the license or registration for a period as he considers proper.

Section 24E. The commissioner may from time to time on an annual or periodic basis require each licensee and registrant to file a report with the commissioner containing information as the commissioner may require concerning the business and operations conducted by a licensee or registrant in the commonwealth. A licensee or registrant neglecting to file the report or failing to amend the same within 15 days of notice from the commissioner directing the same, unless such neglect or failure is due to justifiable cause and not due to wilful neglect, shall pay to the commonwealth \$5 for each day during which the neglect or failure continues.

Section 24F. The commissioner, or such other of his assistants as he may designate, may summon a licensee, or any of his agents or employees, and other witnesses as he considers necessary, and examine them relative to their transactions, may require the production of books and papers and, for those purposes may administer oaths. Whoever, without justifiable cause, fails or refuses to appear and testify or to produce books and papers when so required, or obstructs the commissioner or his representatives in the performance of their duties, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both. Each day a violation occurs or continues shall be considered a separate offense.

Section 24G. (a) Upon the filing of an application for a license, if the commissioner finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant, and of the partners or members thereof if the applicant is a partnership or association, and of the officers, directors and principal employees if the applicant is a corp-

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oration, are such as to warrant belief that the business will be operated honestly, fairly, soundly and efficiently in the public interest consistent with the purposes of this chapter, he shall thereupon issue the applicant a license to engage in the business of a debt collector. If the commissioner shall not so find, he shall not issue a license and shall notify the applicant of the denial. The commissioner may also reject an application for a license if he finds that any of the following exist:

(1) the applicant made a false statement of a material fact in the application for a license;

(2) an officer, director or member of the applicant's business has, within 10 years before the filing of the application, been (i) convicted of or pleaded *nolo contendere* to a felony, or (ii) committed an act involving fraud or deceit, which act is substantially related to the qualifications, functions or duties of a person engaged in the business of a debt collector; or

(3) the applicant violated this chapter or regulations promulgated hereunder, any similar regulatory scheme of another jurisdiction, or any other law applicable to the conduct of the business sought to be licensed.

(b) Within 20 days thereafter, the commissioner shall enter upon the records a written decision and findings containing the reasons supporting the denial and shall forthwith give written notice thereof by registered mail to the applicant. Within 30 days after the date of the notice, the applicant may appeal from the denial to the superior court for Suffolk county, sitting in equity. The court shall hear all pertinent evidence and determine the facts and upon the facts as so determined, review the denial and, as justice and equity may require, affirm the same or order the commissioner to issue the license. The commissioner shall approve or deny every application for a license within 90 days after the filing thereof, but any failure of the commissioner to act within that period shall not be considered an approval of an application.

Section 24H. (a) The commissioner, if he has reason to believe that a person other than a licensee has violated this act, shall have the power to make an investigation as he considers necessary, and, to the extent necessary for this purpose, he may examine the person and shall have the power to compel the production of all relevant books, records, accounts and documents.

(b) The state police and the police of the cities or towns shall carry out the directions of the commissioner in enforcing this chapter and any rules or regulations made hereunder. A violation of this chapter shall also be a violation of chapter 93A.

Section 24I. (a) The commissioner may suspend or revoke a license issued pursuant to this chapter if the commissioner finds that:

(1) the licensee has violated this chapter or any rule or regulation adopted hereunder, or any other law applicable to the conduct of its business; or

(2) any fact or condition exists which, if it had existed at the time of the original application for the license, would have warranted the commissioner in refusing to issue the license.

(b) Except as provided in section 7, a license shall not be revoked or suspended except after notice and a hearing thereon pursuant to chapter 30A.

(c) A licensee may surrender a license by delivering to the commissioner written notice that it thereby surrenders the license, but the surrender shall not affect the civil or criminal liability of the licensee for acts committed before the surrender.

(d) A revocation, suspension or surrender of any license shall not impair or affect the obligation of any pre-existing lawful contract between the licensee and another person.

Section 24J. (a) If the commissioner determines, after giving notice of and opportunity for a hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a violation of this chapter or a rule, regulation or order hereunder, he may order the licensee to cease and desist from the unlawful act or practice and take affirmative action as in his judgment will effect the purposes of this chapter.

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify, in writing, the licensee affected thereby that the order has been so entered, the reasons therefor, and that within 20 days after the receipt of a written request from the licensee, the matter will be scheduled for hearing to determine whether or not the temporary order shall become permanent and final. If no hearing is requested and none is ordered by the commissioner, the order shall remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and opportunity for a hearing to the licensee subject to the order, by written finding of facts and conclusions of law, shall vacate, modify or make permanent the order.

(c) No order under this section, except an order issued pursuant to subsection (b), may be entered without prior notice of and opportunity for a hearing. The commissioner may vacate or modify an order under this section upon finding that the conditions which required the order have changed and that it is in the public interest to so vacate or modify.

(d) Any order issued pursuant to this section shall be subject to review as provided in chapter 30A.

Section 24K. The commissioner may enforce this chapter, or restrain any violations thereof, by filing a civil action in any court of competent jurisdiction.

Section 25. The bond required under section 24 shall run to the state treasurer and shall cover an indeterminate period but it may be cancelled at any time as provided in section 26. The bond shall be in the sum of \$25,000. The bond shall provide that the person giving the same, shall, upon written demand, pay and turn over to or for the person whom any account, bill or other indebtedness is taken for collection the proceeds of the collection in accordance with the terms of the agreement upon which it was received for collection. The bond shall be in such form and shall contain such further provisions and conditions as the state treasurer with the advice and consent of the governor and council considers necessary or proper.

Approved November 26, 2003.

Chapter 131. AN ACT AUTHORIZING THE DEPARTMENT OF HIGHWAYS AND THE CITY OF WESTFIELD TO DIVERT THE USE OF CERTAIN PARCELS OF LAND IN THE CITY OF WESTFIELD.

Be it enacted, etc., as follows:

The department of highways and the city of Westfield may change the use of certain parcels of land in said city. The parcels are owned by said city and are designated and used for park purposes but may be used for highway purposes in connection with the Great River Bridge Project in the city of Westfield.

The parcels are shown on a plan entitled, "The Commonwealth of Massachusetts Plan of Land in the City of Westfield Hampden County Transfer of Land for Park Purposes to the City of Westfield by the Department of Highway scale: 40 feet to the inch." This plan shall be kept on file with the chief engineer of the department of highways.

Approved November 26, 2003.

Chapter 132. AN ACT RELATIVE TO THE DUTIES OF THE CLERK AND ASSISTANT CLERKS OF THE SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY.

Be it enacted, etc., as follows:

Chapter 221 of the General Laws is hereby amended by striking out section 15, as appearing in the 2002 Official Edition and inserting in place thereof the following section:-

Section 15. The clerk of the supreme judicial court for Suffolk county shall attend all sessions of the court, except when sitting as a full court; shall record the proceedings and shall preserve all the files and papers thereof, including electronic filings; shall keep an electronic or paper docket record of all complaints, petitions, including petitions for admission to the bar, or other processes presented to the court. The clerk shall maintain care and custody of all court forms, all electronic and paper dockets, all electronic and paper information, including but not limited to notes, data, audit trails, statuses, and statistics, all electronic and paper reports of every nature and description, and all records, books and papers, both in electronic and paper format, which are filed or deposited in the county clerk's office. The clerk shall make copies of all papers on file in the court and of the docket record thereof, if desired, and certify them under the seal of the court, shall issue such writs or other processes as the court orders, shall charge the fees provided by law for like services for clerks of courts, and if no express fee is provided, the clerk shall receive a fair compensation for the services required in analogy to like services for which a compensation is fixed by law. Each assistant clerk shall under the direction of the clerk perform any of the above duties of the clerk and shall pay over to the clerk all fees and amounts received as such assistant. When the assistant clerk is so acting his attestation as assistant clerk shall be sufficient without further

designation. The clerk of the supreme judicial court for Suffolk county shall have responsibility for the internal administration of the clerk's office, including personnel, staff services and record keeping.

Approved November 26, 2003.

Chapter 133. AN ACT FACILITATING ELECTRONIC TRANSACTIONS.

Be it enacted, etc., as follows:

SECTION 1. The fifth paragraph of section 187 of chapter 94 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the definition of "Written prescription" and inserting in place thereof the following definition:-

"Written prescription", that prescription which has been issued by a physician, dentist or veterinarian either on paper or electronically, and bears the handwritten or electronic signature and address of the prescriber, the date of the prescription, the name and amount of the drug prescribed, the name of the patient, directions for use, the number of times to be refilled, and any cautionary statements needed.

SECTION 2. Section 23 of chapter 94C of the General Laws, as so appearing, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g) Unless otherwise prohibited by law, a prescription shall be: (1) written in ink, indelible pencil or by other means; or (2) transmitted electronically; and (3) signed by the prescriber. A prescription may be transmitted electronically with the electronic signature and electronic instructions of the prescriber, and shall be transmitted directly from the prescriber to the pharmacy designated by the patient without alteration of the prescription information, except that third-party intermediaries may act as conduits to route the prescription from the prescriber to the pharmacy.

SECTION 3. The General Laws are hereby amended by inserting after chapter 110F the following chapter:-

CHAPTER 110G.

UNIFORM ELECTRONIC TRANSACTIONS.

Section 1. This chapter maybe cited as "The Uniform Electronic Transactions Act".

Section 2. In this chapter, the following words shall have the following meanings:-

"Agreement", the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

"Automated transaction", a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

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"Chief information officer", the chief information officer of the information technology division within the executive office for administration and finance as defined in subparagraph (d) of section 4A of chapter 7.

"Computer program", a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

"Contract", the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

"Electronic", relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

"Electronic agent", a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

"Electronic record", a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature", an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Executive department", those parts of the executive branch of the commonwealth serving under the governor or within one of the executive offices headed by a secretary appointed by the governor.

"Governmental agency", an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or a state or a county, municipality, or other political subdivision of a state.

"Information", data, text, images, sounds, codes, computer programs, software, databases or the like.

"Information processing system", an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.

"Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

"Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Security procedure", a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

"State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

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"Supervisor", the supervisor of records as defined in section 1 of chapter 66 .

"Transaction", an action or set of actions occurring between 2 or more persons relating to the conduct of business, commercial, or governmental affairs.

Section 3. (a) Except as otherwise provided in subsection (b), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter shall not apply to a transaction to the extent it is governed by:

(1) A law governing the creation and execution of wills, codicils or testamentary trusts;

(2) Chapter 106, other than sections 1-107 and 1-206, section 2 and section 2A of said chapter 106;

(3) This chapter applies to a transaction governed by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. section 7001 et. seq., but is not intended to limit, modify or supersede section 101(c) of that Act, 15 U.S.C. section 7001(c). This chapter shall not apply to a signature, contract or other record, or otherwise to any transaction, to the extent it is governed by any of the laws or bodies of law indicated in the following subsection:-

(i) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(ii) a state statute, regulation, or other rule of law governing adoption, divorce or other matters of family law;

(iii) court orders or notices, or official court documents, including briefs, pleadings and other writings, required to be executed in connection with court proceedings;

(iv) a statute, regulation, or other rule of law governing any notice of the cancellation or termination of utility services, including water, heat and power; or of the default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;

(v) a statute, regulation, or other rule of law governing the cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities;

(vi) a statute, regulation, or other rule of law governing recall of a product, or material failure of a product, that risks endangering health or safety; or

(vii) any document, required by a statute, regulation, or other rule of law governing, to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) to the extent it is governed by a law other than those specified in said subsection (b).

(d) A transaction subject to this chapter shall also be subject to other applicable substantive law.

Section 4. This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this chapter.

Section 5. (a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in this chapter of the words "unless otherwise agreed", or words of similar import, shall not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

Section 6. This chapter shall be construed and applied:

(1) to facilitate electronic transactions consistent with other applicable law;

(2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Section 7. (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

Section 8. (a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a law, other than this chapter, requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

(1) The record shall be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in subparagraph (2) of subsection (d), the record shall be sent, communicated, or transmitted by the method specified in the other law.

(3) The record shall contain the information formatted in the manner specified in the other law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record shall not be enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, but:

(1) to the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(2) a requirement under a law other than this chapter to send, communicate, or transmit a record by regular United States mail, may be varied by agreement to the extent permitted by the other law.

Section 9. (a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

Section 10. If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules shall apply:-

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(A) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person; and

(B) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subparagraph (1) nor subparagraph (2) applies, the change or error has the effect provided by other law and the parties' contract, if any.

(4) Subparagraphs (2) and (3) may not be varied by agreement.

Section 11. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Section 12. (a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record which:-

(1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(2) remains accessible for later reference.

(b) A requirement to retain a record in accordance with subsection (a) shall not apply to any information the sole purpose of which is to enable the record to be sent, communicated or received.

(c) A person may satisfy subsection (a) by using the services of another person if the requirements of that subsection are satisfied.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a).

(f) A record retained as an electronic record in accordance with subsection (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose.

(g) This section shall not preclude a governmental agency of the commonwealth from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Section 13. In a legal proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

Section 14. In an automated transaction, the following rules shall apply:-

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

Section 15. (a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:-

(1) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) is in a form capable of being processed by that system; and

(3) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(1) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) it is in a form capable of being processed by that system.

(c) Subsection (b) applies even if the place the information processing system is located is different from the place the electronic record is considered to be received under subsection (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules shall apply:-

(1) If the sender or recipient has more than 1 place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under subsection (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a), or purportedly received under subsection (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

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Section 16. (a) In this section, "transferable record" means an electronic record that:

(1) would be a note under section 3 of chapter 106 or a document under section 7 if the electronic record were in writing; and

(2) the issuer of the electronic record expressly has agreed is a transferable record.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(c) A system satisfies subsection (b), and a person is considered to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:-

(1) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subparagraphs (4), (5) and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:-

(A) the person to which the transferable record was issued; or

(B) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1-201(20) of chapter 106, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under said chapter 106, including, if the applicable statutory requirements under section 3-302(a), 7-501, or 9-308 of said chapter 106 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under chapter 106.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Chap. 133

Section 17. (a) The supervisor of records under section 1 of chapter 66 and clause Twenty-sixth of section 7 of chapter 4, the records conservation board under section 42 of chapter 30, and the information technology division under section 7 of chapter 4A, shall determine whether, the extent to which and the manner by which each executive department agency shall create, maintain and preserve electronic records, signatures and contracts and the method of converting paper government records to electronic format. Nothing in this chapter shall affect the existing authority of the supervisor of records, the records conservation board or the information technology division under the cited sections.

(b) The supervisor of records under section 1 of chapter 66 and clause Twenty-sixth of section 7 of chapter 4, and the records conservation board under section 42 of chapter 30, shall determine whether, the extent to which and the manner by which each government agency not in the executive department, nor in the legislative or judicial departments, shall create, maintain and preserve electronic records, signatures and contracts and the method of converting paper government records to electronic format.

Section 18. The chief information officer and the supervisor of records shall encourage and promote consistency and interoperability with other governmental agencies and nongovernmental persons. If appropriate, they may specify differing levels of standards from which governmental agencies of the commonwealth may choose in implementing the most appropriate standard for a particular application.

SECTION 4. Section 12D of chapter 112 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

Every prescription issued in the commonwealth by a practitioner shall meet the standards for format established by the department. Only by signing the prescription in accordance with the standards shall the practitioner validate the prescription.

The standards shall permit the practitioner to instruct the pharmacist to dispense a brand name drug product by indicating "no substitution". The standards shall require that the indication of "no substitution" shall not be the default indication and further that the prescription indicate the "Interchange is mandated unless the practitioner indicates 'no substitution' in accordance with the law". Where the practitioner has so indicated "no substitution", the pharmacist shall dispense the exact drug product as indicated by the practitioner.

Approved November 26, 2003.

Chapter 134. AN ACT AUTHORIZING THE TOWN OF DRACUT TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Chap. 134

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Dracut may grant to QIKSLV, Inc. d/b/a Li'l Peach of Mammoth Road, Dracut 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 all of said chapter 138 except said section 17.

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

Approved November 26, 2003.

Chapter 135. AN ACT ESTABLISHING REASONABLE FEES FOR COPYING MEDICAL RECORDS.

Be it enacted, etc., as follows:

SECTION 1. Section 70 of chapter 111 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in lines 25 and 26, the words, "and a copy shall be furnished upon the request and a payment of a reasonable fee" and inserting in place thereof the following words:- and a copy shall be furnished upon the payment of a reasonable fee, which for the purposes of this section shall mean a base charge of not more than \$15 for each request for a hospital or clinic medical record; a per page charge of not more than \$0.50 for each of the first 100 pages of a hospital or clinic medical record that is copied per request; and not more than \$0.25 per page for each page in excess of 100 pages of a hospital or clinic medical record that is copied per request.

SECTION 2. Said section 70 of said chapter 111, as so appearing, is hereby further amended by adding the following paragraph:-

The reasonable fee under this section may be adjusted to reflect the consumer price index for medical care services, such that the base amount and the per page charge shall be increased by the proportional consumer price index in effect as of October of the calendar year in which the request is made, rounded to the nearest dollar. A hospital or clinic may also charge an additional fee to cover the cost of postage, other priority mailing and preparation of an explanation or summary of the hospital or clinic medical record if so requested.

SECTION 3. Section 12CC of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "and payment of a reasonable fee shall make a copy of such patients records" and inserting in place thereof the following words:- a copy of such patient's record shall be furnished upon payment of a reasonable fee, as defined in section 70 of chapter 111.

SECTION 4. For the purposes of determining the applicable consumer price index set forth in section 2, the period for applying the consumer price index rate increase shall begin in the next calendar year after the effective date of this act.

Chap. 135

SECTION 5. This act shall take effect on July 1, 2004.

Approved November 26, 2003.

Chapter 136. AN ACT RELATIVE TO THE TAXATION OF CORPORATIONS.

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

Be it enacted, etc., as follows:

Chapter 63 of the General Laws is hereby amended by inserting after section 31J the following section:-

Section 31K. The adjustments required in subsection (b) of section 31I as they relate to royalty expenses and costs and related interest expenses and costs, and in subsection (a) of section 31J as they relate to interest expenses and costs, shall not apply if the taxpayer establishes by clear and convincing evidence, as determined by the commissioner and consistent with section 3A of chapter 62C that:

(1) the royalty expenses and costs and related interest expenses and costs under section 31I, or interest expenses and costs under section 31J, were directly or indirectly paid or incurred to a related member, as defined in section 31I, that is not a controlled foreign corporation within the meaning of section 957 of the Internal Revenue Code, as amended and in effect for the taxable year; and

(2) all of the following requirements are complied with:

(i) the related member is a resident of a nation which has in force a comprehensive income tax treaty with the United States;

(ii) the amounts are deductible under federal income tax law;

(iii) the transaction giving rise to the royalty expenses and costs and related interest expenses and costs under section 31I, or interest expenses and costs under section 31J, have a valid business purpose other than the avoidance of tax that would otherwise be due; and

(iv) all terms and conditions of the transaction would have been agreed to in an arm's length negotiation between independent parties.

Approved November 26, 2003.

Chapter 137. AN ACT RELATIVE TO PUBLIC EMPLOYEES SERVING IN THE ARMED FORCES OF THE UNITED STATES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the salaries of certain public employees who served or are serving in

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

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, an employee in the service of the commonwealth or a county, city or town that accepts this section as provided in this section, including an employee of a school district, who has been granted a military leave of absence because the employee is a member of the army national guard, the air national guard or a reserve component of the armed forces of the United States called to active service in the armed forces of the United States after September 11, 2001, shall be entitled to receive pay at his regular base salary as such a public employee, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime. An employee eligible under this section shall be paid his regular base salary as such a public employee for each pay period of such military leave of absence after September 11, 2001, reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period, excluding overtime pay, shift differential pay, hazardous duty pay or any other additional compensation. For the purposes of this section, the words "active service" shall not include active duty for training in the army national guard or air national guard or as a reservist in the armed forces of the United States. This section shall take effect in a county, city or town upon its acceptance in a county, by vote of the county commissioners; in a city or town, as provided in section 4 of chapter 4 of the General Laws; and in a regional school district, by vote of the school committee. Nothing in this section shall limit or reduce a person's entitlement to benefits under section 59 of chapter 33 of the General Laws, and nothing in this section shall entitle a person to benefits in excess of the maximum benefit provided under said section 59 of said chapter 33 for any period during which that person is receiving benefits under this section.

SECTION 2. Notwithstanding any general or special law to the contrary, state agencies and municipal governments may expend in the current fiscal year associated costs incurred in prior fiscal years pursuant to this act.

SECTION 3. Notwithstanding any general or special law to the contrary, any employee eligible for retirement under section 616 of chapter 26 of the acts of 2003 who was stationed outside of the commonwealth on active military duty during the period from July 15, 2003 through September 1, 2003, inclusive, shall file his application for retirement with the state board of retirement within 30 days of discharge from active military duty outside the commonwealth or within 30 days of the effective date of this act. The retirement date requested shall be no more than 60 days and no less than 30 days from the date said application is filed with the state board of retirement.

SECTION 4. Section 40N of chapter 7 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the definition "Minority business" the following definition:-

"Veteran-owned business", a contracting or subcontracting business which is beneficially owned by 1 or more veterans as defined in clause Forty-third of section 7 of chapter 4, meeting the requirements set forth in clauses (1) to (4), inclusive, of the definition of minority business, except that the terms "veteran", "veteran owners", and "veteran-owned business", shall be substituted for the terms "minority" and "minority persons", "minority owners", and "minority business" as appearing in that definition.

SECTION 5. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 47 after the word "businesses", in lines 47 and 57, each time it appears, the following words:- , and veteran-owned businesses.

SECTION 6. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 62 after the word "businesses", in line 62, the following words:- and 3 per cent for veteran-owned businesses,.

SECTION 7. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "women-owned", in lines 66, 100 and 106, each time it appears, the following words:- and veteran-owned.

SECTION 8. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting in line 68 after the word "women-owned", in lines 68, 72 and 103, each time it appears, the following words:- or veteran-owned.

SECTION 9. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "business", in line 71, the following words:- or 3 per cent for a veteran-owned business,.

SECTION 10. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "per cent", in line 77, the following words:- or veteran-owned business set-aside below 3 per cent.

SECTION 11. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the word "section", in line 85, the following words:- ; nor shall any portion of contracting and subcontracting work reserved for minority-owned businesses under this section be awarded to any veteran-owned business not meeting the requirements of a minority-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for women-owned businesses under this section be awarded to any veteran-owned business not meeting the requirements of a women-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for veteran-owned businesses under this section be awarded to any minority-owned business not meeting the requirements of a veteran-owned business under this section; nor shall any portion of contracting and subcontracting work reserved for veteran-owned businesses be awarded to any women-owned business not meeting the requirements of a veteran-owned business under this section.

SECTION 12. Said section 40N of chapter 7, as so appearing, is hereby further amended by inserting after the word "court", in line 98, the following words:- and, in the case of veteran-owned businesses, to the department of veterans' services.

Chap. 137

SECTION 13. Said section 40N of said chapter 7, as so appearing, is hereby further amended by adding the following paragraph:-

SOMBA shall work in collaboration with the Massachusetts Small Business Development Center Network and The National Veterans Business Development Corporation to establish and update, by periodic additions and deletions, a list of veteran-owned businesses under this section and shall cause the list to be published in the central register established in section 20 of chapter 9, and filed with the joint committee on state administration and in such other publications as the commissioner shall designate.

SECTION 14. Section 39 of chapter 23A of the General Laws, as so appearing, is hereby amended by inserting after the word "Minority", in line 5, the following words:- , women and veterans.

SECTION 15. Said section 39 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word "minority", in line 7, the following words:- , women and veterans.

SECTION 16. Section 40 of said chapter 23A, as so appearing, is hereby amended by inserting after the definition of "OMWBDE" the following definition:-

"Veteran business enterprise", for the purpose or receipt of services from SOMWBA, a business enterprise that is both owned and controlled by 1 or more veterans. as defined in section 7 of chapter 4, who have invested in an ongoing business free of conversion rights.

SECTION 17. Section 44 of said chapter 23A, as so appearing, is hereby amended by inserting after the word "women", in line 2, and in line 16, the second time it appears, and in lines 23, 51 and 57, in each instance, the following words:- and veteran.

SECTION 18. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word "women", in line 16, the first time it appears, the following words:- or veteran.

SECTION 19. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 76, the words "or women-owned" and inserting in place thereof the following words:- or women-or veteran-owned.

SECTION 20. Section 18 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "forty N" and inserting in place thereof the following words:- 40N and any business beneficially owned by 1 or more veterans as provided in the definition of "veteran-owned business" as set forth in section 40N.

SECTION 21. Sections 1, 2 and 3 shall expire on September 11, 2005.

Approved November 26, 2003.

Chapter 138. AN ACT FURTHER REGULATING PROPERTY TAX PAYMENTS IN CITIES AND TOWNS.

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

is forthwith to regulate certain property tax payments in the current fiscal year, therefore 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 section 57C of chapter 59 of the General Laws, the commissioner of revenue shall allow cities and towns to issue a third-quarter preliminary tax bill in fiscal year 2004. This third-quarter preliminary tax payment may not exceed 125 per cent of the first-quarter preliminary tax payment.

SECTION 2. There shall be a special commission to draft legislation to mitigate the dramatic increase in residential property tax bills caused by the recent rapid increase in residential assessed values and corresponding decline in commercial and industrial assessed values. The commission shall consist of 5 members, 2 of whom shall be the house and senate chairs of the joint committee on taxation, who shall serve as co-chairs; 1 of whom shall be the commissioner of revenue; 1 of whom shall be the president of the Greater Boston Chamber of Commerce; and 1 of whom shall be the mayor of the city of Medford.

The commission shall develop legislation that allows cities and towns to impose a levy on the commercial, industrial and personal property which may temporarily exceed 175 per cent, but never exceed 200 per cent, of the full and fair cash valuation of the taxable property in these classes divided by the full and fair cash valuation of all taxable real and personal property in the city or town, for the purpose of providing that the residential property class does not bear a lower percentage of the total property tax levy than the percentage that was imposed upon that class in fiscal year 2003; but, no city or town may increase its threshold by more than 25 percentage points. Any increase in the 175 per cent threshold shall be restored to the 175 per cent threshold over the subsequent 4 fiscal years, or sooner if increasing commercial, industrial and personal property values restores the residential share of the total tax levy to its fiscal year 2003 level. The commission shall consider mechanisms to mitigate the potential negative impact of such a measure on business establishments, including, but not limited to, amendments to the existing small business exemption, and shall consider the consequences of taxing agricultural land at the open space tax rate.

The commission shall hold any hearings or meetings that it considers necessary and shall file the legislation with the clerks of the house of representatives and the senate not later than January 12, 2004.

Approved November 26, 2003.

Chapter 139. AN ACT GRANTING CIVIL SERVICE PREFERENCE TO THE CHILDREN OF A CERTAIN DECEASED POLICE OFFICER.

Be it enacted, etc., as follows:

Notwithstanding section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, any child of Richard Magan, a police officer in the city of Fall River, who on August 11, 2000 while coming to the assistance of a fellow officer fell from a wall and died, shall have their names certified for original appointment for police service in the commonwealth before all other persons on the eligible list for such an appointment, if the son or daughter passes the required written and physical examinations for entrance to the police service. If more than 1 person becomes eligible pursuant to this act, the names of such persons shall be certified in the order of their respective scores on the open competitive civil service examination for the police service.

Approved November 26, 2003.

Chapter 140. AN ACT MAKING APPROPRIATIONS FOR FISCAL YEAR 2004 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 forthwith to make appropriations for the fiscal year beginning July 1, 2003, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2004, 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, 2004, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items. Provided that appropriations in this act may be used to pay obligations incurred in the prior fiscal year.

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0320-0003 \$696,000

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0321-0100 \$75,000

Trial Court

0330-0300 \$10,603,296

0339-1004 \$820,000

DISTRICT ATTORNEYS.

District Attorney's Association.

0340-0500 \$400,000

0340-2101 \$82,758

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0611-1000 \$16,900

Massachusetts Cultural Council.

0640-0300 \$300,000

STATE AUDITOR.

Office of the State Auditor.

0710-0000 \$57,250

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Bureau of State Office Buildings.

1102-3301 \$150,000

1102-3302 \$534,858

Division of Human Resources

1750-0300 \$1,068,127

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Department of Fish and Game

2330-0100 \$173,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Veterans Services

1410-0010 \$20,000

1410-0400 \$762,656

Department of Transitional Assistance

4408-1000 \$2,400,000

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Department of Public Health.

4512-0200	\$518,925
4513-1000	\$2,000,000

Department of Social Services.

4800-0015	\$3,752,497
4800-0038	\$500,000
4800-1400	\$60,000

Department of Mental Health

5046-2000	\$1,500,000
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Department of Mental Retardation

5920-2000	\$3,200,000
5930-1000	\$832,362

Office of Elder Services

4000-0600	\$600,000
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EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT

Department of Labor.

7002-0800	\$180,000
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Division of Insurance

7006-0020	\$250,000
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Department of Business and Technology.

7007-1300	\$1,100,000
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University of Massachusetts

7100-0200	\$10,000,000
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EXECUTIVE OFFICE OF PUBLIC SAFETY

Office of the Secretary

8000-0040	\$513,056
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LEGISLATURE

Joint Legislative Expenses

9700-0000	\$8,686,000
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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, 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, 2004, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items. Provided that appropriations in this act may be used to pay obligations incurred in the prior fiscal year.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-2500	For a reserve for the continuation of certain historic preservation projects authorized pursuant to item 1599-0051 of section 2A of chapter 236 of the acts of 2000	\$28,977
1599-3000	For the Suffolk county sheriff's Department to cover costs relating to a deficit incurred by the Mack Settlement, so-called, in fiscal year 2003	\$2,000,000
1599-3001	For the Barnstable county sheriff's department for costs associated with the opening of a new correctional facility in fiscal year 2004	\$2,900,000
1599-4121	For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various collective bargaining agreements negotiated between the board of trustees of the University of Massachusetts and: the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA; the Professional Staff Union, Local 509, Service Employees International Union, AFL-CIO/CLC; the University Staff Association/Massachusetts Teachers Association/NEA; the International Brotherhood of Police Officers, Local 432, Units A and B; the International Brotherhood of Teamsters, Local 25 (two units); the University of Massachusetts and the International Brotherhood of Police Officers, Local 399; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 507; the National Association of Government Employees, Local 245; the American Federation of Teachers, Local 1895, AFL-CIO, Faculty Federation; the American Federation of Teachers, Local 1895, AFL-CIO, Educational Services; International Association of Police Officers, Local 399; the Massachusetts Society of Professors/Lowell; the American Federation of State, County and Municipal Employees, AFL-CIO, Council 93, Local 1776; the Graduate Employee Organization, Local	

2322, UAW; the Service Employees' International Union, Local 509, Unit B; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Clerical-Technical Unit; the Service Employees' International Union, Local 254, AFL-CIO, CLC, Professional/Mid-Management Unit; the National Association of Government Employees; the Graduate Employee Organization, Local 1596, UAW; and the Graduate Employee Organization Boston, Local 1596, UAW; provided, that said payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided that the salary of each employee covered by the terms of the collective bargaining agreements listed in this item shall be increased by an amount of money which shall cause said employee to be paid, effective on January first, two thousand and four, the salary specified in the relevant agreement which would have been in effect as of January first, two thousand and four in accordance with the provisions of such agreement; provided, further, that employees covered by the terms of the collective bargaining agreements listed in this item shall, subject to appropriation in fiscal year two thousand and five and thereafter, continue to be paid salaries specified in this item until the parties to said collective bargaining agreements reach agreement or lawful impasse in negotiations for successor agreements; provided, further, that the president of the University of Massachusetts is authorized and directed to expend these funds for such salary adjustments and other economic items in accordance with the provisions herein and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the University based upon a schedule submitted by the president of the University of Massachusetts; provided, further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding the provisions of chapter one hundred and fifty E of the General

Laws, including subsection (c) of section seven of said chapter one hundred and fifty E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the provisions of any collective bargaining agreement to the contrary; provided further, that notwithstanding the provisions of chapter 150E of the General Laws or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to other than fiscal year 2004, as otherwise provided in such collective bargaining agreements \$25,960,285

1599-4122 For a reserve for the payment of a portion of the salary adjustments and other economic items provided for in various collective bargaining agreements negotiated between the board of higher education and: the Association of Professional Administrators; and the American Federation of State, County and Municipal Employees, Council 93, Local 1067, AFL-CIO; provided, that said payments shall fund the fiscal year 2004 payments associated with salary adjustments and other economic benefits provided for in such collective bargaining agreements; provided that the salary of each employee covered by the terms of the collective bargaining agreements listed in this item shall be increased by an amount of money which shall cause said employee to be paid, effective on January first, two thousand and four, the salary specified in the relevant agreement which would have been in effect as of January first, two thousand and four in accordance with the provisions of such agreement; provided, further, that employees covered by the terms of the collective bargaining agreements listed in this item shall, subject to appropriation in fiscal year two thousand and five and thereafter, continue to be paid salaries specified in this item until the parties to said collective bargaining agreements reach agreement or law-

ful impasse in negotiations for successor agreements; provided, further, that the chancellor of the board of higher education is authorized and directed to expend these funds for such salary adjustments and other economic items in accordance with the provisions herein and the terms of the collective bargaining agreements listed in this item; provided further, that funds appropriated herein shall be transferred by the comptroller to the board of higher education based upon a schedule submitted by the chancellor of the board of higher education; provided, further, that any requirement that the employer shall submit to the general court a request for an appropriation necessary to fund cost items in a collective bargaining agreement shall not apply to the funding for salary adjustments and other economic items set forth in this item for the collective bargaining agreements listed in this item, notwithstanding the provisions of chapter one hundred and fifty E of the General Laws, including subsection (c) of section seven of said chapter one hundred and fifty E or any other general or special law or collective bargaining agreement to the contrary and any contractual requirement relative to allocation of appropriations which would interfere with or impede the payment of salary adjustments and other economic items provided for in this item for the collective bargaining agreements listed in this item shall not apply to the payment of such salary adjustments and other economic items, notwithstanding the provisions of any collective bargaining agreement to the contrary; provided further, that notwithstanding the provisions of chapter 150E of the General Laws or any other general or special law to the contrary, appropriation or expenditure of funds in this item shall not constitute or create an obligation for the commonwealth or any institutions of public higher education to provide any other salary adjustments or economic benefits associated with any fiscal year prior to other than fiscal year 2004, as otherwise provided in such collective bargaining agreement \$8,216,573

1599-4148 For a reserve for the commonwealth's share of the cost associated with training and skills development pursuant to sections 3 and 4 of article 20 of the agreement between the commonwealth and the State Police Association of Massachusetts, as amended by the memorandum of agreement signed July 12,

	2001; provided, that this appropriation shall expire on June 30, 2004	\$200,278
1599-4500	For a reserve to leverage a federal grant for the Help America Vote Act; provided, that the secretary of the commonwealth shall submit a report no later than December 20, 2003 to the house and senate committees on ways and means that shall include but not be limited to the following; summarizing the implementation of this act, amount of federal funds received as a result of this appropriation, how the state and federal funds will be spent, how much in state spending is needed to access the remainder of federal funds associated with the Help America Vote Act	\$1,727,500
1599-4501	For a reserve for the department of Youth Services; provided that the secretary of administration and finance shall file a report with the House and Senate committees on ways and means no later than Dec 31, 2003 that shall include, but not be limited to, the following; a schedule of transfers from this item to other items of appropriation, the amount of and reasons for such transfers	\$3,100,000
1599-6300	For a one-time reserve for a loan to the town of Webster to help defray certain unanticipated costs associated with the implementation of chapter 24 of the acts of 2003; provided, that the town shall be obligated to repay to the Commonwealth the full amount appropriated by this item no later than June 30, 2006	\$125,000
1599-7104	For a reserve for the facilities costs associated with the college of visual and performing arts at the university of Massachusetts at Dartmouth; provided, that funds may be expended for Bristol community college	\$2,700,000
1599-8002	For a reserve for public safety costs, including but not limited to, the increased security costs for salary and employee related costs for additional state police officers at Logan Airport	\$575,500

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Public Health.

4590-0301	The department of public health may expend an amount not to exceed \$6,000,000 generated from revenues received from the collection of federal financial participation for the school health services program; provided, that the revenue shall be directed toward additional resources for the school health services program	\$6,000,000
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EXECUTIVE OFFICE OF PUBLIC SAFETY

Department of Forensic Sciences

8000-0106	For costs related to the collection of DNA samples pursuant to Chapter of the acts of 2003	\$3,650,000
8000-0190	For a retained revenue account for the criminal history systems board; provided, that said board may expend not more than \$185,000 from fees collected for criminal offender record information requests; and 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 as reported in the state accounting system	\$185,000

SECTION 2B. Notwithstanding any general or special law to the contrary, the agencies listed in this section may expend such amounts as are listed in this section for the provisions of services to agencies listed in section 2; provided, that all expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established by section 2Q of chapter 29 of the General Laws; provided further, that no expenditures shall be made from the Intragovernmental Service Fund which would cause said fund to be in deficit at the close of fiscal year 2004; provided further, that all authorizations in this section shall be charged to the Intragovernmental Service Fund; and provided further, that any balance remaining at the close of fiscal year 2004 shall be transferred to the General Fund.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Bureau of State Office Buildings.

1102-3336		\$350,000
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SECTION 3. Section 41 of chapter 3 of the General Laws is hereby amended by striking out the second paragraph, as amended by section 4 of chapter 26 of the acts of 2003, and inserting in place thereof the following paragraph:-

The state secretary shall assess each executive and legislative agent an annual filing fee of \$1,000 upon entering the agent's name upon the docket. The state secretary, in his discretion, may waive this annual filing fee for good cause and upon written request for executive and legislative agents who exclusively file to represent not-for-profit entities. The state secretary shall assess each employer of an executive and or legislative agent or agents an annual filing fee of \$100 when the employer files the initial agent's name upon the docket as provided in section 40.

SECTION 4. Section 17 of chapter 6 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 7, the words ", the alcoholic beverages control commission".

SECTION 5. Section 178D of chapter 6 of the General Laws is hereby amended by inserting after the first paragraph the following 2 paragraphs:-

Notwithstanding sections 178C to 178P, inclusive, or any other general or special law to the contrary and in addition to any responsibility otherwise imposed upon the board, the board shall make the sex offender information contained in the sex offender registry, delineated below in subsections (i) to (viii), inclusive, available for inspection by the general public in the form of a comprehensive database published on the internet, known as the "sex offender internet database"; provided, however, that no registration data relating to a sex offender given a level 1 or level 2 designation by the board under section 178K shall be published in the sex offender internet database but may be disseminated by the board as otherwise permitted by said sections 178C to 178P, inclusive; and provided further, that the board shall keep confidential and shall not publish in the sex offender internet database any information relating to requests for registration data under sections 178I and 178J:

- (i) the name of the sex offender;
- (ii) the offender's home address;
- (iii) the offender's work address;
- (iv) the offense for which the offender was convicted or adjudicated and the date of the conviction or adjudication;
- (v) the sex offender's age, sex, race, height, weight, eye and hair color;
- (vi) a photograph of the sex offender, if available;
- (vii) whether the sex offender has been designated a sexually violent predator; and
- (viii) whether the offender is in compliance with the registration obligations of sections 178C to 178P, inclusive.

All information provided to the general public through the sex offender internet database shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under section 4 of chapter 275. The sex offender internet database shall be updated regularly, based on information available to the board and shall be open to searches by the public at any time without charge or subscription. The board shall promulgate rules and regulations to implement, update and maintain such a sex offender internet database, to ensure the accuracy, integrity and security of information contained therein, to ensure the prompt and complete removal of registration data for persons whose duty to register has terminated or expired under section 178G, 178L or 178M or any other law and to protect against the inaccurate, improper or inadvertent publication of registration data on the internet.

SECTION 6. Section 178E of said chapter 6 is hereby amended by inserting after the word "register", in lines 12, 43 and 61, as so appearing, the following words:- in the commonwealth and in any state where he resides, is employed, carries on a vocation or is a student.

SECTION 7. Said section 178E of said chapter 6 is hereby further amended by inserting after the word "address", in line 14, in line 44, the second time it appears, and in

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line 63, as so appearing, the following words:- within the commonwealth or in another state.

SECTION 8. Said section 178E of said chapter 6, as so appearing, is hereby further amended by striking out, in line 23, the word "after" and inserting in place thereof the following word:- before.

SECTION 9. Subsection (a) of said section 178E of said chapter 6, as so appearing, is hereby amended by adding the following sentence:- No sex offender shall be released from custody unless such registration has been filled out, signed and mailed to the board.

SECTION 10. The first sentence of subsection (p) of said section 178E of said chapter 6, as appearing in section 11 of chapter 77 of the acts of 2003, is hereby amended by inserting after the words "attending or" the following words:- stop attending.

SECTION 11. Said section 178E of said chapter 6 is hereby amended by striking out, in line 194, as appearing in the 2002 Official Edition, the figure "178I" and inserting in place thereof the following:- 178D, 178I.

SECTION 12. Section 178F ½ of said chapter 6 is hereby amended by inserting after the word "offender", in line 54, as so appearing, the following words:- , except as otherwise provided by sections 178C to 178P, inclusive.

SECTION 13. Section 178K of said chapter 6 is hereby amended by striking out, in line 161, as so appearing, the figure "178I" and inserting in place thereof the following:- 178D, 178I.

SECTION 14. Section 178O of said chapter 6, as so appearing, is hereby amended by inserting after the word "any", in line 2, the following words:- publication on the internet under section 178D or other.

SECTION 15. Section 70 of chapter 10 of the General Laws, inserted by section 48 of chapter 26 of the acts of 2003, is hereby amended by striking out the seventh sentence.

SECTION 16. Section 65 of chapter 30 of the General Laws, added by section 173 of said chapter 26, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Instead of making the certificate under clause (1) of subsection (a), the governor's chief legal counsel may, upon written request by the head of any department, agency, board or commission, with the written approval of the head thereof and with the voluntary written consent of the attorney, provide specific legal services for the requesting department, agency, board or commission for a period not exceeding 3 months but subject to renewal with the voluntary written consent of the attorney. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor's chief legal counsel.

SECTION 17. Chapter 38 of the General Laws is hereby amended by striking out section 6, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 6. It shall be the duty of any person who discovers unmarked human skeletal remains or who knowingly causes human remains to be disturbed through construction or agricultural activity, to immediately notify the office. The office shall conduct an inquiry to determine whether the remains are suspected of being 100 years old or more, and, if so determined, shall immediately notify the state archaeologist. The state archaeologist shall determine if the skeletal remains are Native American. If the remains are deemed likely to be Native American, the state archaeologist shall immediately notify the commission on Indian affairs which shall cause a site evaluation to be made to determine if the place where the remains were found is a Native American burial site.

SECTION 18. Said chapter 38 is hereby amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. A medical examiner or forensic investigator designated by the chief medical examiner shall, on payment of a fee as determined from time to time by the secretary of public safety, which shall be not less than \$75, view the body and make personal inquiry concerning the cause and manner of death of any person whose body is intended for cremation or burial at sea and shall authorize such cremation or burial at sea only when no further examination or judicial inquiry concerning such death is necessary. Said fee shall be paid by the person to whom such authorization for cremation or burial at sea is given. Cremation fees collected by the office of the chief medical examiner shall be utilized to support the comprehensive system of medico-legal investigative services delivered by the agency. District medical examiners employed on a fee-for-service basis shall be compensated for performance of cremation views at a rate set by the secretary of public safety. Other medical examiners or forensic investigators performing cremation views will not receive additional compensation beyond their specified salaries.

SECTION 19. The first paragraph of section 5B of chapter 40 of the General Laws, as appearing in section 14 of chapter 46 of the acts of 2003, is hereby amended by adding the following sentence:- Any interest shall be added to and become part of the fund.

SECTION 20. Chapter 41 of the General Laws is hereby amended by striking out section 95A, inserted by section 20 of said chapter 46, and inserting in place thereof the following section:-

Section 95A. Constables appointed pursuant to the provisions of sections 91, 91A and 91B or otherwise elected to serve as such in a city or town shall, not later than the fifth day of every month, deposit with the city or town treasurer 25 per cent of the fees collected by them during the preceding month for the service of civil process under the fee structure established in section 8 of chapter 262. The treasurer shall deposit such funds into the General Fund of the city or town and they shall be expended, subject to appropriation by a majority vote of the city council in a city or by a majority vote of town meeting in a town, for any purpose for which the city or town deems necessary.

SECTION 21. Said chapter 41, as so appearing, is hereby further amended by striking out section 95B, inserted by said section 20 of said chapter 46, and inserting in place thereof the following section:-

Section 95B. Each constable shall annually on or before April 15 file with the city or town treasurer an account signed under the penalties of perjury of all fees and money received by him under section 8 of chapter 262 for the service of civil process. Such account shall include an itemization of all civil process fees charged by the constable's civil process office, all revenue received from said fees and all amounts paid by the constable to any city or town treasurer on account of such civil process fees under section 95A.

SECTION 22. Section 2F of chapter 90 of the General Laws is hereby amended by inserting after the word "prevention", in line 31, as appearing in the 2002 Official Edition, the following words:- ; The New England Patriots Charitable Foundation, Inc.; Mini Fenway Park.

SECTION 23. Subsection (c) of said section 2F of said chapter 90, as appearing in section 3 of chapter 334 of the acts of 2002, is hereby amended by striking out the words "only plates" and inserting in place thereof the following words:- , but not be limited to, plates.

SECTION 24. Section 20E of said chapter 90 is hereby amended by striking out subsection (b), as amended by section 1 of chapter 222 of the acts of 2002, and inserting in place thereof the following subsection:-

(b) Within 45 days, the registered owner shall furnish to such parking clerk in writing the name and address of the lessee or rentee of such motor vehicle at the time of such violation; and if the lessee or rentee is also the operator, the lessee's or rentee's driver's license number, state of issuance of such driver's license and the lessee's or rentee's date of birth.

SECTION 25. Said section 20E of said chapter 90, added by section 2 of said chapter 222 of the acts of 2002, is hereby amended by striking out subsection (j).

SECTION 26. Section 25A of chapter 111 of the General Laws is hereby amended by adding the following paragraph:-

The department of public health may establish an Amyotrophic Lateral Sclerosis registry, by areas and regions of the commonwealth, with specific data to be obtained from urban, low and median income communities, and minority communities of the commonwealth.

SECTION 27. Section 111B of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the word "disease", in lines 2 and 8, the following words:- and benign brain-related tumors.

SECTION 28. Said section 111B of said chapter 111 of the General Laws, as so appearing, is hereby further amended by inserting after the word "cancer", in line 5, the following words:- and benign brain-related tumors.

SECTION 29. Section 12 of chapter 118E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, no health plan offered by,

or under a contract with, the division under section 9D or part (a)(26) of 42 USC section 1396d shall constitute the business of insurance and no such plan shall be subject to chapters 175 to 176O, inclusive. Nothing in this paragraph shall affect the legal status or obligations under such insurance laws of any entity otherwise constituting or conducting the business of insurance for any other purpose.

SECTION 30. The third sentence of subsection (c 1/2) of section 31 of chapter 118E of the General Laws, inserted by section 329 of chapter 26 of the acts of 2003, is hereby amended by inserting after the word "assets" the following words:- , not including life insurance policies,.

SECTION 31. Clause (2) of subsection (b) of section 32 of said chapter 118E, as appearing in section 330 of said chapter 26, is hereby amended by striking out the words "annuities and life insurance policies held on the life of a decedent age 55 or older" and inserting in place thereof the following words:- an annuity contract that was owned by a decedent age 55 or older who, at the time of his death, was a resident of the commonwealth.

SECTION 32. The third paragraph of section 18A of chapter 138 of the General Laws is hereby amended by inserting after the figure "\$5,000", inserted by section 414 of said chapter 26, the following words:- ; provided, however, that for any licensee who represents more than 1 principal, the license fee shall be \$500 for each principal more than 1; and provided further, that there shall be a cap on the fees paid to represent multiple principals of \$6,500.

SECTION 33. Section 24 of chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 2, the word "governor" and inserting in place thereof the following word:- treasurer.

SECTION 34. Section 129B of chapter 140 of the General Laws is hereby amended by striking out clause (9), as most recently amended by section 102 of chapter 46 of the acts of 2003, and inserting in place thereof the following 3 clauses:-

(9) A firearm identification card shall be valid, unless revoked or suspended, for a period of not more than 4 years from the date of issue. A card issued on February 29 shall expire on March 1. The executive director of the criminal history systems board shall send by first class mail to the holder of a firearm identification card, a notice of the expiration of the card not less than 90 days before its expiration, and shall enclose with the notice a form for the renewal of the card. The executive director of the criminal history systems board shall include in the notice all pertinent information about the penalties that may be imposed if the firearm identification card is not renewed within the 90 days before expiration.

(9A) Except as provided in clause (9B), the fee for an application for a firearm identification card shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited in the General Fund; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

(9B) The application fee for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid,

gas or powder designed to temporarily incapacitate shall be \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in the case of revocation or denial. The licensing authority shall retain 50 per cent of the fee and the remaining portion shall be deposited in the General Fund. There shall be no application fee for the renewal of a firearm identification card issued under this clause.

A firearm identification card issued under this clause shall display, in clear and conspicuous language, that the card shall be valid only for the purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate.

SECTION 35. The definition of "Employer" or "public employer" in section 1 of chapter 150E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence:- In the case of employees of the alcoholic beverage control commission, "employer" shall mean the state treasurer or his designee.

SECTION 36. Section 7 of said chapter 150E, as so appearing, is hereby amended by inserting after the word "sheriff", in lines 8 and 22, the following words:- , the alcoholic beverage control commission.

SECTION 37. The first paragraph of section 1A of chapter 151 of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:- In any work week in which an employee of a retail business is employed on a Sunday or certain holidays at a rate of one and one-half times the regular rate of compensation at which he is employed as provided in chapter 136, the hours so worked on Sunday or certain holidays shall be excluded from the calculation of overtime pay as required by this section, unless a collectively bargained labor agreement provides otherwise. Except as otherwise provided in the second sentence, nothing in this section shall be construed to otherwise limit an employee's right to receive one and one-half times the regular rate of compensation for an employee on Sundays or certain holidays or to limit the voluntary nature of work on Sundays or certain holidays, as provided for in said chapter 136.

SECTION 38. Section 105A of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the words "one thousand dollars" and inserting in place thereof the following figure:- \$50,000.

SECTION 39. Said section 105A of said chapter 164, as so appearing, is hereby further amended by striking out, in line 23, the words "two hundred thousand dollars" and inserting in place thereof the following figure:- \$1,000,000.

SECTION 40. The fifth sentence of the first paragraph of subsection (a) of section 24E of chapter 175, as appearing in section 445 of said chapter 26, is hereby amended by striking out the words "are subject" and inserting in place thereof the following words:- may be subject.

SECTION 41. Said fifth sentence of said first paragraph of said subsection (a) of said section 24E of said chapter 175, as appearing in said section 445 of said chapter 26, is hereby further amended by striking out the words "is subject" and inserting in place thereof

the following words:- may be subject.

SECTION 42. The first sentence of the second paragraph of said subsection (a) of said section 24E of said chapter 175, as so appearing, is hereby amended by striking out the words ", a beneficiary under a life insurance contract issued in the Commonwealth, or a beneficiary living in the Commonwealth who is designated to receive payment under a life insurance contract issued by a company licensed in the Commonwealth".

SECTION 43. The second sentence of said second paragraph of said subsection (a) of said section 24E of said chapter 175, as so appearing, is hereby amended by striking out the words "subsection (e)" and inserting in place thereof the following words:- subsection (f).

SECTION 44. Said section 24E of said chapter 175, inserted by said section 445 of said chapter 26, is hereby amended by inserting after subsection (b) the following subsection:-

(b½) A company shall not be required under subsection (a) to exchange information with the division of medical assistance and the department of transitional assistance regarding payments to a third party where there is documentation showing that the third party has provided or agreed to provide the claimant with a benefit or service related to the claim including, but not limited to, the services of an attorney or a physician or payments for damage to or loss of real or personal property. Nothing herein shall subordinate the rights of the division of medical assistance under section 22 of chapter 118E and the department of transitional assistance under section 5G of chapter 18 to other third parties.

SECTION 45. The third sentence of subsection (c) of said section 24E of said chapter 175, as appearing in said section 445 of said chapter 26, is hereby amended by striking out the word "agency" and inserting in place thereof the following words:- division of medical assistance or the department of transitional assistance.

SECTION 46. Subsection (d) of said section 24E of said chapter 175, as so appearing, is hereby amended by striking out the word "agency" each time it appears, and inserting in place thereof the following words:- Title IV-D agency.

SECTION 47. Subsection (e) of said section 24E of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Information provided by the division of medical assistance and the department of transitional assistance to a company under this section may only be used for the purpose of assisting the division or the department in collecting public assistance benefits.

SECTION 48. The second sentence of said subsection (e) of said section 24E of said chapter 175, as so appearing, is hereby amended by striking out the word "agency" and inserting in place thereof the following words:- division or department.

SECTION 49. The first paragraph of section 17J of chapter 180 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first sentence the following 3 sentences:- Deductions in an amount determined by the employee

and in compliance with applicable law may also be made for any committee on political education designated by the employee pursuant to this section. The approval of the comptroller shall not be required for such deductions. All deductions pursuant to this section shall be made without charge to any person or entity.

SECTION 50. Said section 1 of said chapter 218, as amended by section 1 of chapter 45 of the acts of 2003, is hereby further amended by striking out, under the caption of "Middlesex," the seventh paragraph and inserting in place thereof the following paragraph:-

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston, Sudbury, Wayland and Hopkinton.

SECTION 51. Said section 1 of said chapter 218, as amended by said section 1 of said chapter 45, is hereby further amended by striking out, under the caption "Middlesex", the tenth paragraph and inserting in place thereof the following paragraph:-

The district court of Natick, held at Natick, Natick and Sherborn.

SECTION 52. The second paragraph of section 18 of chapter 773 of the acts of 1960, as appearing in section 15 of chapter 319 of the acts of 1998, is hereby further amended by inserting after the word "for", in line 4, the first time it appears, the following words:- certain projects at the Amherst campus designated by the president of the university and the chancellor of the Amherst campus pursuant to a two year pilot program for projects initiated in the 2004 and 2005 calendar years, and.

SECTION 53. Section 2 of chapter 405 of the acts of 1984 is hereby amended by striking out, in lines 6 and 7, the words "three hundred and twelve of the acts of nineteen hundred and eighty-two" and inserting in place thereof the following words:- 40J of the General Laws or a limited liability company or other affiliate established by the corporation.

SECTION 54. Said section 2 of said chapter 405 is hereby further amended, by inserting after the word "Center", in line 8, the following words:- , or for residential, commercial, residential treatment, rehabilitation and educational purposes, or for such other purposes as are not inconsistent with said chapter 40J.

SECTION 55. Section 3 of said chapter 405 is hereby amended by striking out, in lines 5 to 7, inclusive, the words "said chapter three hundred and twelve of the acts of nineteen hundred and eighty-two" and inserting in place thereof the following words:- chapter 40J of the General Laws.

SECTION 56. Section 4 of said chapter 405 is hereby amended by adding the following 3 sentences:- The first sentence shall only apply to that portion of the site that was transferred to the corporation before to July 17, 2003, consisting of that portion of the site transferred by a deed from the division dated January 10, 1986, and recorded in the Worcester county registry of deeds in book 9225, page 159, and any easements acquired by the corporation at any time thereafter. The corporation's existing title to, interests in and use of the site and easements thereon are hereby confirmed. Nothing in this act shall alter, interfere with or otherwise affect the corporation's title to, interest in and use of the site and

easements thereon acquired by the corporation before July 17, 2003.

SECTION 57. Said chapter 405 is hereby further amended by adding the following section:-

Section 6. Said corporation or its affiliate may transfer all or a portion of those parcels designated as parcels B, C, D, G and J, as generally defined and described in sections 2, 3, 4, 7 and 10 of chapter 660 of the acts of 1987 and any appurtenant rights thereto and as may be transferred by the division to the corporation or its affiliate, to the Massachusetts Development Finance Agency, a public instrumentality created under chapter 23G of the General Laws, or to said agency's affiliate, provided that the corporation may retain an easement upon parcel C for the purpose of maintaining a buffer zone by preserving a line of mature trees proximate to the existing boundary of the property owned by the corporation. If any interest in the title to all or any portion of such parcels is transferred by said corporation or its affiliate to the Massachusetts Development Finance Agency or its affiliate, under terms agreed upon by said agency and the commonwealth, not less than 50 per cent of the net proceeds from a subsequent sale or ground lease of any portion of the site by such agency or its affiliate shall be transmitted to the treasurer for deposit into the Stabilization Fund.

SECTION 58. The first sentence of the first paragraph of section 9 of chapter 660 of the acts of 1987 is hereby amended by inserting after the word "programs", in line 8, the following words:- , to an individual or entity for residential or commercial purposes, or for such other purposes as are not inconsistent with chapter 40J of the General Laws.

SECTION 59. Section 10 of said chapter 660 is hereby amended by inserting after the word "purposes", in line 8, the following words:- , to an individual or entity for residential or commercial purposes, or for such other purposes as are not inconsistent with said chapter 40J.

SECTION 60. Section 15 of said chapter 660 is hereby amended by adding the following sentence:- The master plan and any land disposition instrument affecting the parcels described in section 9 and 10 existing as of July 17, 2003, except any land disposition instruments involving the Massachusetts Technology Park Corporation existing as of July 17, 2003, may be amended to carry out the purposes of this act and chapter 405 of the acts of 1984.

SECTION 61. Chapter 150 of the acts of 1996 is hereby repealed.

SECTION 61A. All monies held in the Beautification Fund of the town of Braintree on the effective date of this act shall be transferred to the stabilization fund of said town.

SECTION 62. Item 8700-7997 of section 2 of chapter 289 of the acts of 1998, as amended by section 19 of chapter 245 of the acts of 2002, is hereby further amended by striking out the words "For improvements to the Newburyport Armory" and inserting in place thereof the following words:- For improvements in the city of Newburyport.

SECTION 63. Said item 8700-7997 of said section 2 of said chapter 289, as so amended, is hereby further amended by striking out the words "on the Newburyport Armory

site".

SECTION 64. Item 6033-9917 of section 2B of chapter 235 of the acts of 2000, as most recently amended by section 21 of chapter 246 of the acts of 2002, is hereby further amended by adding the following words:- ; provided further, that \$150,000 shall be expended for improvements, repairs and repaving of the road that extends from Andover street at the intersection of Violet road, to the intersection of Gardner street and Margin street in the city of Peabody; and provided further, that not less than \$20,000 shall be expended for the removal of the pedestrian overpass at the Massachusetts Bay Transportation Authority Oak Grove Station.

SECTION 65. Said item 6033-9917 of said section 2B of said chapter 235 of the acts of 2000, as amended by section 21 of chapter 246 of the acts of 2002, is hereby further amended by inserting after the words "B & M railroad in the town of Montague" the following words:- ; provided further, that funds shall be expended for the construction of sound barriers in the towns of Billerica and Lexington as follows: in the town of Billerica on the northerly side of Route 3 from a point 500 yards south of the Eliot Street bridge and extending 700 yards north of the Eliot Street bridge on the Northerly side of Route 3; provided, further, that said barriers in the town of Lexington shall be from the off-ramp from Route 3 accessing Route 128 south and extending to the Grove Street Bridge; provided, further, that funds shall be expended for the construction of sound barriers at designated Area Number 21, Waterford Place in Chelmsford, designated Area 1, Ledgewood/Lido Land in Bedford, as defined by HMMH Report Number 298280 as prepared for said document.

SECTION 66. Said item 6033-9917 of said section 2B of said chapter 235, as most recently amended by section 19 of said chapter 246, is hereby further amended by striking out the words "\$750,000 shall be expended for the extension of Malburn street" and inserting in place thereof the following:- \$870,000 shall be expended for the extension of Malburn street.

SECTION 67. Item 8000-0010 of section 2 of chapter 184 of the acts of 2002 is hereby amended by striking out the words "of the award to Saugus".

SECTION 68. The last sentence of section 238 of said chapter 184 is hereby amended by striking out the words "December 30, 2002" and inserting in place thereof the following words:- December 31, 2003.

SECTION 69. Item 2000-2017 in section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the word "Bernardston" the following words:- ; provided further, that not less than \$175,000 shall be expended for a grant to the town of Braintree for a lake bottom drawdown on Sunset lake in the town and for a resanding of the C. Murray Smith Beach in the town.

SECTION 70. Item 2200-2015 of said section 2 of said chapter 236 is hereby amended by adding the following words:- ; and provided further, that not less than \$7,400,000 shall be expended to ensure that all needed environmental remediation and related work is performed and that all contamination is eliminated from the property located

in the town of Norfolk as identified in chapter 519 of the acts of 1980 and formerly known as the Department of Public Health Hospital, Pondville Hospital, pursuant to section 679 of chapter 26 of the acts of 2003.

SECTION 71. Item 6033-9015 of section 2 of chapter 246 of the acts of 2002 is hereby amended by inserting after the words "allocated for" the following words:- land acquisition and relocation costs and.

SECTION 72. The third paragraph of section 44 of said chapter 246 is hereby further amended by striking out the words "January 1, 2003" and inserting in place thereof the following words:- December 31, 2003.

SECTION 73. The last paragraph of section 52 of chapter 300 of the acts of 2002 is hereby amended by striking out the words "June 30, 2003" and inserting in place thereof the following words:- April 3, 2004.

SECTION 74. Item 0320-1518 of section 2 of chapter 26 of the acts of 2003 is hereby amended by striking out the words "; provided however, that said revenues credited to this account shall only be those revenues in excess of the amounts for said fees collected in fiscal year 2003 as calculated on a monthly basis".

SECTION 75. Item 0330-3333 of said section 2 of said chapter 26 is hereby amended by inserting after the figure "4C" the following figure:- , 39.

SECTION 76. Item 0330-3334 of said section 2 of said chapter 26 is hereby amended by inserting after the words "district court department" the following words:- and the Boston municipal court department.

SECTION 77. Item 0640-0300 of said section 2 of said chapter 26 is hereby amended by inserting after the words "the organization's endowment" the following words:- ; provided further, that \$300,000 shall be expended for From the Top, INC., a Boston-based multimedia and education project.

SECTION 78. Item 0710-0000 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; and provided further, that not less than \$57,250 shall be expended for the position of executive director of the central artery/third harbor tunnel project oversight coordination commission, as established in section 2B of chapter 205 of the acts of 1996, such that the position may continue to provide administrative and investigative functions to said commission in a manner that is consistent with the provisions of said section 2B.

SECTION 79. Item 1108-5100 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; and provided further, that the commission shall issue, at the request of the beneficiary, a separate identification number for enrollment and benefit purposes instead of the social security number.

SECTION 80. Item 1108-5200 of said section 2 of said chapter 26 is hereby amended by striking out the words "July 1, 2002" and inserting in place thereof the following words:- July 1, 2003.

SECTION 81. Said item 1108-5200 of section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after the words "such premiums and rates;" in line 55, the following words:- provided further, notwithstanding the provisions of this item or any general or special law to the contrary, the authority's share of such premiums for employees of the Massachusetts Bay Transportation Authority, for any bargaining unit working without a contract, shall remain in force and effect until the effective date of any subsequent agreement.

SECTION 82. Item 1410-0010 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; provided further, that \$10,000 shall be obligated for a contract with the Korean War Veterans Committee of Massachusetts for the purpose of maintaining the Massachusetts Korean war memorial located in the shipyard park of the Charlestown navy yard; and provided further, that \$10,000 shall be obligated for the purpose of maintaining the Vietnam Veterans War memorial located in the Green Hill park in the city of Worcester.

SECTION 83. Item 2330-0100 of said section 2 of said chapter 26 is hereby amended by striking out the words "provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that the department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989" and inserting in place thereof the following words:- ; provided further, that not less than \$333,000 shall be expended for the operation of the Newburyport shellfish purification plant and that plant shall generate not less than \$115,000 from purification fees; and provided further, that the department shall increase any existing shellfish rack and digger license fees that have not been modified more recently than fiscal year 1989; and provided further that all funds raised from these fees shall go directly to the Newburyport shellfish purification plant;.

SECTION 84. Said section 2 of said chapter 26 is hereby further amended by striking out item 4000-0100 and inserting in place thereof the following item:-

4000-0100 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common

client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that not less than \$380,000 shall be expended for the Massachusetts Alliance of Boys and Girls Clubs to provide grants to boys and girls clubs of Massachusetts; provided further, that not less than \$40,000 shall be expended for the public partnership program between the town of Saugus and the greater Lynn YMCA and YWCA and the public partnership program between the town of Saugus and the Saugus YMCA and YWCA; provided further, that not less than \$80,000 shall be expended for the young parents programs of the Newton Community Service Centers, Inc.; provided further, that \$75,000 shall be expended for the Five-A program in Springfield; provided further, that \$100,000 shall be undertaken for studies pursuant to section 668 of this act and other studies undertaken for the purposes of successfully implementing the reorganization of health and human services; and provided further, that the executive office of health and human services and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on the islands \$2,483,812

SECTION 85. Item 4000-0600 of said section 2 of said chapter 26 is hereby amended by adding the following words:- and provided further, that notwithstanding any general or special law to the contrary, for any nursing home that provides kosher food to its residents, the division of medical assistance, in consultation with the division of health care finance and policy, is directed to approve a special innovative program, and the division of health care finance and policy, in recognition of the unique special innovative program status granted by the division of medical assistance, shall, for any nursing home that provides kosher food to its residents, establish up to a \$5 per day increase to the standard payment rates to reflect the high dietary costs incurred in providing kosher food.

SECTION 86. Item 4190-0100 of said section 2 of said chapter 26 is hereby amended by striking out the words "only when the veteran has no access to other drug insurance coverage".

SECTION 87. Item 4512-0200 of said section 2 of said chapter 26 is hereby amended by striking out the words "funds shall be expended for Latinos y Ninos" and inserting in place thereof the following words:- not less than \$99,925 shall be expended for Latinos y Ninos to address the needs of Latino women in recovery.

SECTION 88. Said item 4512-0200 of said section 2 of said chapter 26 is hereby further amended by inserting after the words "Casa Dominicana" the following words:- ; provided further, that not less than \$320,000 shall be expended for a contract with the Gavin Foundation to provide a total immersion program in conjunction with the probation department of the South Boston division of the district court department of the trial court and other district courts; provided further, that \$99,000 shall be expended for Self Esteem Boston;

SECTION 89. Item 4800-0038 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; provided further, that not less than \$200,000 shall be provided to support the family center component of the Greater Lowell Family Resource Center; and provided further that, not less than \$300,000 shall be provided to Summerhill House in Norwood.

SECTION 90. Said item 4800-0038 of said section 2 of said chapter 26 is hereby further amended by striking out the words "and provided further, that not more than \$295,000 shall be expended for a contract with Massachusetts Families for Kids" and inserting in place thereof the following words:- and provided further, that \$450,000 shall be expended for a contract with Massachusetts Families for Kids.

SECTION 91. Item 4800-1400 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; provided further, that not less than \$50,000 shall be expended for the On The Rise shelter for homeless women in the city of Cambridge; and provided further, that not less than \$10,000 shall be expended for the Melrose Alliance Against Violence.

SECTION 92. Item 7100-0200 of section 2 of said chapter 26 is hereby amended by striking out the words "and provided further, that no funds appropriated herein may be used for the issuance and/or renewal of identification cards to plan participants or covered individuals which display the participants' or individuals' social security number" and inserting in place thereof the following words:- and provided further, that no funds appropriated in this item shall be used for the issuance or renewal of student or employee identification cards which display a student or employee's social security number.

SECTION 93. Said item 7100-0200 of said section 2 of said chapter 26 is hereby further amended by inserting after the words "at Lowell" the following words:- ; provided further, that funds shall be made available for the purposes of the William Joiner Center and for the Mauricio Gaston Institute of Latino Community Development and Public Policy.

SECTION 94. Said section 2 of said chapter 26 is hereby further amended by striking out item 8200-0222 and inserting in place thereof the following item:-

8200-0222 The criminal justice training council may collect and expend an amount not to exceed \$1,202,500 for the purposes of providing training to new recruits; provided, that the council shall charge \$2,300 per recruit for training; provided further,

that notwithstanding any general or special law to the contrary, the criminal justice training council shall charge a fee of \$2,300 per person for training programs operated by the council for all persons who begin training on or after July 1, 2003; provided further, that the fee shall be retained and expended by the council; provided further, that the trainee or, if the trainee is a recruit, the municipality in which the recruit shall serve, shall provide the fee in full to the council not later than the first day of orientation for the program in which the trainee or recruit has enrolled; provided further, that no recruit or person shall begin training unless the municipality or person has paid the fee in full to the council; provided further, that for recruits of municipalities, upon the completion of the program, the municipality shall deduct the fee from the recruit's wages in 23 equal monthly installments, unless otherwise negotiated between the recruit and the municipality in which the recruit shall serve; provided further, that if a recruit withdraws from the training program before graduation, the council shall refund the municipality in which the recruit was to have served a portion of the fee according to the following schedule: if a recruit withdraws from the program before the start of week 2, 75 per cent of the payment shall be refunded; if a recruit withdraws from the program after the start of week 2 but before the start of week 3, 50 per cent of the fee shall be refunded; if a recruit withdraws from the program after the start of week 3 but before the start of week 4, 25 per cent of the fee shall be refunded; if a recruit withdraws after the start of week 4, the fee shall not be refunded; provided further, that a recruit who withdraws from said program shall pay the municipality in which he was to have served the difference between the fee and the amount forfeited by the municipality according to the schedule; provided further, that the schedule shall also apply to trainees other than recruits who enroll in the program; provided further, that no expenditures shall be charged to this item that are not directly related to new recruit training; provided further, that no expenditures shall be charged to this item that are related to chief, veteran, in-service or reserve training or any training not directly related to new recruits; provided further, that the council shall submit a report on the status of recruit training, including the number of classes, start and end

dates of each class, total number of recruits enrolled and graduating in each class, cost per recruit and cost per class for fiscal years 2001, 2002, 2003 and 2004; provided further, that the report shall be submitted to the house and senate committees on ways and means not later than January 1, 2004; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the council may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$1,202,500

SECTION 95. Item 8900-0001 of said section 2 of said chapter 26 is hereby further amended by inserting after the words "Cedar Junction" the following words:- ; provided further, that \$200,000 shall be provided for the Aid to Incarcerated Mothers organization.

SECTION 96. Item 9110-0100 of section 2 of said chapter 26 is hereby amended by adding the following words:- ; provided further, that the executive office shall expend not less than \$37,000 for the elder advocacy organization known as the silver-haired legislature to have use of office space, office equipment, supplies, copy machines, telephones and postage.

SECTION 97. Item 9700-0000 of said section 2 of said chapter 26 is hereby amended by adding the following words:- ; provided, however, that notwithstanding the provisions of any general or special law to the contrary, the funds appropriated herein for the purposes of expenses related to the provision of joint information technology shall be available for expenditure until June 30, 2005.

SECTION 98. Section 2B of said chapter 26 is hereby amended by striking out item 1750-0101 and inserting in place thereof the following item:-

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the human resources division may collect a \$75 administrative fee from vendors who submit proposals in response to requests for proposals for the commonwealth master service agreement for specialized training and consultation services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed nonresponsive and its proposal shall not be considered for contract award; provided further, that the division shall charge to other items for the cost of participants enrolled in programs sponsored by the division or to state agencies employing such participants; provided further, that

the division may collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs; and provided further, that the division may charge and collect from participating state agencies a fee sufficient to cover administrative costs and expend such fees for goods and services rendered in the administration of information technology services related to the human resources compensation management system program \$1,528,000

SECTION 99. Said section 2B of said chapter 26 is hereby further amended by striking out item 1790-0200 and inserting in place thereof the following item:-

1790-0200 For the cost of computer resources and services provided by the information technology division in accordance with the policies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that the secretary shall charge other items for the cost of the resources and services; provided further, that notwithstanding any general or special law to the contrary, charges for the cost of computer resources and services provided by the bureau of computer services for the design, development and production of reports and information required for the analysis and development of appropriations bills shall not be charged to any item of the house of representatives, the senate or a joint legislative account in fiscal year 2003; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing each agency's charges and payments for the preceding quarter for the preceding quarter for this item; and provided further, that the secretary for administration and finance may establish regulations, procedures and a schedule of fees to further implement this item including, but not limited to, the development and distribution of forms and instructions, including the costs of personnel \$27,317,810

SECTION 100. Section 545 of said chapter 26 is hereby amended by inserting after the words "to cover said" the following words:- all project related costs, all payroll costs and all.

SECTION 101. Section 595 of said chapter 26 is hereby amended by striking out the word "November 1, 2003" and inserting in place thereof the following word:- July 1, 2004.

SECTION 102. The last sentence of section 599 of said chapter 26 is hereby amended by striking out the word "December 15, 2003" and inserting in place thereof the following word:- April 1, 2004.

SECTION 103. Section 607 of said chapter 26 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The working group shall submit preliminary recommendations to the joint committee on education, arts and humanities on or before December 12, 2003.

SECTION 104. The introductory paragraph of subsection (B) of section 614 of said chapter 26, as amended by section 2 of chapter 67 of the acts of 2003, is hereby further amended by striking out the words "but be limited to" and inserting in place thereof the following words:- but not be limited to.

SECTION 105. Section 617 of said chapter 26 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In developing the program, the secretary shall consult with a working group consisting of an association that represents a majority of the hospitals in the state, and representatives of individual hospitals, including the 5 disproportionate share hospitals providing the greatest amount of free care, community health centers, health maintenance organizations, consumer and patient advocates, employer organizations, relevant policy experts, and shall examine: (1) the definitions of critical access services, free care, emergency medical condition and emergency services as defined in this act and use the free care audits produced by an independent auditor to determine which services are currently being covered by the pool and what services should be covered by the pool as part of the new program; and (2) the impact of Medicaid rates paid to disproportionate share hospitals and its relationship to said hospitals' demand for payments from the uncompensated care pool.

SECTION 106. Section 620 of said chapter 26 is hereby amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) \$1,500,000 for nonrecurring payments to a financially distressed visiting nurse association located in Boston and organized as a not-for-profit entity that: (1) in 2001, delivered more than 30 per cent of all MassHealth reimbursed skilled nursing visits in Suffolk county and more than 50 per cent of all MassHealth reimbursed home health aide services in Suffolk county; (2) in the determination of the division of medical assistance, provides services that are essential to ensure access to home health services for MassHealth members; and (3) has experienced an operating deficit during the last 2 fiscal years; provided, however, that in order to receive such payments, a provider shall: (a) submit to the division of medical assistance an updated business plan that details strategic steps to be taken over a 3-year period to enhance the long-term financial viability of the business; (b) qualify specific performance measures and provide the division of medical assistance with quarterly

reports on those measures; (c) submit updated quarterly financial statements to the division of medical assistance; and (d) document and submit to the division of medical assistance fundraising initiatives and strategies to compliment any nonrecurring payment received pursuant to this clause.

SECTION 107. Section 649 of said chapter 26 is hereby amended by striking out the figure "8910-1000" and inserting in place thereof the following figure:- 8910-0000.

SECTION 108. Section 650 of said chapter 26 is hereby amended by adding the following sentence:- Notwithstanding the foregoing, the inspection fee for residential elevators and wheelchair lifts that are determined to be medically necessary pursuant to notice from a licensed physician, and approved by the board of elevator regulations, shall be \$100 per inspection and the overtime elevator inspection fee shall be \$100 per inspection.

SECTION 109. Section 663 of said chapter 26 is hereby amended by striking the figure "\$32,000,000" and inserting in place thereof the following figure:- \$340,200,000.

SECTION 110. Section 703 of said chapter 26 is hereby amended by striking out the words "the effective date of this act" and inserting in place thereof the following words:- July 1, 2004.

SECTION 111. Said chapter 26 is hereby further amended by inserting after section 710 the following section:-

Section 710A. Section 165 shall take effect on July 1, 2004.

SECTION 112. Said chapter 26 is hereby further amended by inserting after section 713 the following section:-

Section 713A. Sections 497 and 502 shall expire on October 1, 2004.

SECTION 113. Subsection (4) of section 1 of chapter 42 of the acts of 2003 is hereby amended by adding the following words:- and to the extent that an annual amount of \$17 million in this subsection is not fully allocated the division shall first fund capital rate adjustments for nursing homes in urban or geographically remote under-bedded areas.

SECTION 114. The second paragraph of paragraph (1) of subsection (a) of section 116 of chapter 46 of the acts of 2003 is hereby amended by striking out the word "and" and inserting in place thereof the following word:- or.

SECTION 115. Said chapter 46 is hereby further amended by striking out section 136 and inserting in place thereof the following section:-

Section 136. The committee on state administration shall study and make recommendations for changes to the procurement thresholds as defined in chapter 30B of the General Laws and any other aspects of existing law and regulations to assist municipalities. The committee shall file recommendations for changes, if any, with the house and senate clerks by March 31, 2004.

SECTION 116. Notwithstanding any general or special law, rule or regulation to the contrary, the executive office of health and human services, in conjunction with the office of elders services, department of public health, division of medical assistance and division

of health care finance and policy shall convene a task force, which shall develop a critical nursing facility capital access plan for the purpose of ensuring necessary physical plant maintenance as an integral part of quality nursing home care. The task force shall also include representatives from the nursing home industry, including from the Massachusetts Extended Care Federation and Massachusetts Aging Services Coalition. In developing its plan, the task force shall identify and compile pertinent information, including, but not limited to the following:

(1) the age of each nursing facility, specifying the date of initial licensure approved by the department of public health;

(2) the adequacy of the current Medicaid nursing facility capital reimbursement method to ensure that necessary physical plant maintenance is executed to ensure that residents receive treatment in facilities that meet the licensure requirements of the department of public health, and examine the capital reimbursement method's effect on nursing facility replacement and renovation projects which have received department of public health determination of need approval;

(3) the number of nursing facility replacement and renovation projects which have received department of public health determination of need approval since 1995;

(4) the total capital expenditure approved by the department for each nursing facility replacement and renovation project in each year and in each city or town;

(5) whether each approved project constitutes total replacement or renovation;

(6) the construction status of each approved project as of December 1, 2003; and

(7) the supply and demand projections of nursing facility utilization by geographic region, with particular attention given to urban areas.

The task force shall submit its plan to the general court by April 1, 2004. The plan shall include recommendations for regulatory and statutory changes needed in order to implement the plan.

SECTION 117. Notwithstanding any special or general law to the contrary, the secretary of health and human services shall develop a plan and take whatever steps may be necessary to adjust payments made to community health centers under the uncompensated care pool in such a manner as to make said payments eligible for federal financial participation, to the extent permitted under Title XIX of the federal Social Security Act; provided that, any federal revenue generated and collected pursuant to this section shall be deposited into the uncompensated care pool and made available for community health center care costs relative to services provided to low-income, uninsured or MassHealth eligible patients.

SECTION 118. Notwithstanding any general or special law to the contrary, the board of higher education shall establish a 2 year pilot program for fiscal years 2005 and 2006 for out-of-state tuition retention at the Massachusetts College of Liberal Arts. The board shall calculate the total tuition collected by the college in fiscal year 2004 from out-of-state students and shall promulgate regulations to permit said college to retain all out-

of-state tuition in excess of 103 per cent of the fiscal year 2004 out-of-state amount; provided, however, that the regulations shall ensure that no resident of the commonwealth is denied admission to the college as a result of the tuition retention. The board shall issue a report on the progress of the initiative not later than December 1, 2005 to the house and senate chairs of the joint committee on education, arts and humanities, and the chairs of the house and senate ways and means committees. The report shall include the number of out-of-state students attending the college, the amount of tuition retained under the program and the programs or initiatives funded with the retained revenue.

SECTION 119. Notwithstanding any general or special law to the contrary, the board of education shall take such action as necessary including, as appropriate, promulgating emergency regulations to modify the process governing the Massachusetts Comprehensive Assessment System, hereinafter referred to as "MCAS", performance appeals established by 603 CMR 30.05 for children with disabilities as defined by chapter 71B of the General Laws and section 504 of the Rehabilitation Act of 1973, 29 USC 794, and regulations promulgated thereunder, including children with disabilities subject to the MCAS graduation requirement in 2003. The performance appeals process shall provide that any child with a disability shall be eligible for an MCAS appeal if the following criteria are met:-(a) the child has taken the grade 10 MCAS at least 3 times in each subject area required by the board of education for the competency determination and did not achieve a passing score or submitted a portfolio assessment through the MCAS Alternative Assessment at least 2 times without being granted a competency determination; (b) the child has maintained an adequate attendance level as established by the department of education or the child's days of absences from school in excess of the number allowed by the department are excused; (c) the child has demonstrated participation in academic support services made available and accessible by or approved by the school district under an individual student success plan or under any other plan designed to strengthen the student's knowledge and skills in the subjects at issue, or the child's lack of participation in available academic support services has been related to the child's disability. As provided in said regulations, the commissioner may, for good cause, waive any of the eligibility criteria upon the written request of the superintendent.

The regulations shall require that, at the request of the child's parent or guardian or the student who has reached the age of majority, the superintendent of schools or his designee for the school district in which the student is enrolled shall file an appeal on behalf of a child with a disability provided that the student meets the eligibility criteria set forth in the first paragraph. The superintendent may initiate an appeal for a child with a disability with the consent of the parent, guardian or student who has reached the age of majority, if the student meets the eligibility criteria set forth in said first paragraph. The superintendent may submit any written comments or evidence relevant to the appeal. Denial of an earlier appeal shall not prevent a new appeal under this section.

The regulations shall require that the superintendent include in the performance ap-

peal evidence of the child's knowledge and skills in the subject at issue, including: (1) documentation that the child has met the local graduation criteria established by the local school committee; (2) a recommendation from at least 1 of the student's teachers in the area of appeal, assessing the level of the student's knowledge and skills in the subject area at issue; (3) where possible, a meaningful comparison of the student with a group of other students who passed the MCAS in the subject area of the student's appeal. In the event of an inability to identify an appropriate set of students to enable a meaningful comparison with other students, this clause shall be waived and the superintendent may submit a portfolio of the student's work in the area of the appeal, as specified by the commissioner, sufficient to demonstrate whether the student's knowledge and skills meet or exceed the performance level established by the board of education for the competency determination if the portfolio has been maintained by the school district; (4) documentation that the child's individual education plan team, if any, with the approval of a parent or guardian of the child, supports the graduation of the student; (5) any additional information that the student's individual education plan team, if any, with the approval of the student's parent or guardian, requests the superintendent to submit indicating that the child's knowledge and skill in the subject area of the appeal meets or exceeds the performance level established by the board of education for the competency determination and that the child's MCAS scores do not accurately measure the student's abilities; and (6) other supporting information relevant to the determination as to whether the student's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the board of education for the competency determination, which may include work samples, scores of the child on other standardized tests in the subject area of the appeal, evidence of acceptance to college courses, or other evidence of academic achievement which demonstrates that the child meets the competency determination standard.

Any documentation of an individual education plan team submitted in connection with an MCAS performance appeal shall not constitute a modification of the child's individual education plan under 34 C.F.R. 300.347 and is therefore not appealable to the Bureau of Special Education Appeals pursuant to 34 C.F.R. 300.507(a) or chapter 71B of the General Laws. Nothing herein shall limit or expand a child's rights available under said chapter 71B, IDEA or Section 504 of the Rehabilitation Act of 1973.

The commissioner of education shall grant the appeal for a child with a disability if there is a preponderance of evidence in the documentation provided in clause (1) to (6), inclusive, the first paragraph and any other evidence submitted by the superintendent that the child's knowledge and skills in the subject area of the appeal meet or exceed the performance level established by the board of education for the competency determination. The commissioner shall provide notice of the results of the appeal and, in the case of a denial, written findings, to the student, parents or guardian and superintendent. The commissioner's decision on this appeal shall be final and shall not be subject to further review or appeal to any other entity; except that the regulations shall permit the superintendent to seek reconsideration from the commissioner.

SECTION 120. Notwithstanding any general or special law, rule or regulation to the contrary, the division of medical assistance may, on a demonstration basis in the area defined and limited under the federally funded DOHHS URSA CAP Grant 11-G92-OA 00005-02, provide benefits described in section 9C of chapter 118E of the General Laws to employees and employers who are described and limited under the terms of the program set forth in the demonstration, and may expend monies from any appropriation for benefits provided under said section 9C of said chapter 118E to also provide benefits specified in the demonstration expanding the income limits set forth in said section 9C of said chapter 118E from 200 per cent to 300 per cent of the federal poverty level if (1) the division seeks to obtain a modification of its demonstration, as defined in subsection (1) of section 9A of said chapter 118E that would allow for federal reimbursement for any of the expenditures for providing the benefits specified in the demonstration; and (2) the demonstration, without expenditure of monies from any appropriation for benefits provided under said section 9C of said chapter 118E, also be permitted to offer health coverage to employees between 300 per cent and 400 per cent of the federal poverty level. Sections 3 to 8, inclusive, of chapter 176J of the General Laws and 211 CMR 66.00 shall not apply to health coverage provided by carriers pursuant to this section.

SECTION 121. Notwithstanding any general or special law to the contrary, the department of environmental protection shall continue to locate and operate regional offices in Lakeville, Worcester and Springfield. The division of capital asset management and maintenance shall take all steps necessary and appropriate to enforce this section.

SECTION 122. Notwithstanding any general or special law to the contrary, the comptroller shall transfer \$251,931 from item 0340-0400 to item 0340-2101 of section 2 of chapter 26 of the acts of 2003 not later than December 1, 2003.

SECTION 123. Notwithstanding any general or special law to the contrary, the comptroller shall transfer from the Stabilization Fund to the General Fund an amount not to exceed \$102,527,797 not later than December 1, 2003.

SECTION 124. Notwithstanding section 37 of chapter 62C of the General Laws or any other general or special law to the contrary, the commissioner of revenue shall accept applications for abatement of tax on behalf of employees and former employees of the Massachusetts Technology Park Corporation for tax years 1988 to 1999, inclusive, as such applications relate to taxes paid on amounts contributed to the simplified employee pension premium plan administered by said employer that were incorrectly included in the gross income of said employees. Such applications shall be considered timely if filed with said commissioner on or before June 1, 2004. Any abatement paid pursuant to these applications shall not include payment of interest or of any costs related to the filing of the applications.

SECTION 125. Notwithstanding any general or special law to the contrary, the administrative office of the trial court shall continue to maintain and operate a juvenile court in the city of Worcester, at the Worcester Memorial Auditorium.

SECTION 125A. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers including, but not limited to, Cape End Manor, Taunton Nursing Home, Hampshire Care, Our Island Home, the Geriatric Authority of Milford and the Geriatric Authority of Holyoke. The division of medical assistance shall make all reasonable efforts to process any application by a public authority, as herein defined for purposes of subsection N, as appearing on page 12 of attachment 4.19-D(4) of the commonwealth's Title XIX state plan, for approval as a qualifying nursing facility under that plan so that the applying public authority may qualify for the Title XIX payments herein provided during the current fiscal year. The division of medical assistance shall report by April 1, 2004 to the house and senate committees on ways and means concerning applications received from said public authorities, actions that the division has taken to process such applications and timetables for when such actions may receive approval. The payments shall be established in accordance with Title XIX of the Social Security Act or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

SECTION 125B. Notwithstanding any general or special law to the contrary, the secretary of health and human services shall make reasonable efforts to enable privately-held long-term skilled nursing facilities that contract with public health authorities to qualify for matching federal revenue under Title XIX of the Social Security Act, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of its agreements with the division of medical assistance.

SECTION 126. Notwithstanding section 57C of chapter 59, or any other general or special law to the contrary, any town with quarterly tax payments that (1) is a member of a regional school district that does not have an approved budget as of November 30, 2003, as provided in section sixteen B of chapter seventy-one, and (2) has not had its fiscal year 2004 tax rate approved, as provided in section twenty-three of chapter fifty-nine, may issue an additional notice of preliminary tax and require payment of a third quarter preliminary tax installment; provided, however, that no such additional notice of preliminary tax may issue unless first approved by the commissioner of revenue; and provided further, that the provisions of section fifty-seven C of chapter fifty-nine regarding procedures for issuing, mailing and collecting any additional notice of preliminary tax requiring a third quarter pre-

liminary tax installment in cities and towns with quarterly tax payments shall be applicable to such notice, including the payment of interest.

SECTION 127. Notwithstanding section 23D of chapter 59 of the General Laws or any other general or special law to the contrary, any town with semi-annual tax payments that (1) is a member of a regional school district that does not have an approved budget as of November 30, 2003, as provided in section 16B of chapter 71, and (2) has not had its fiscal year 2004 tax rate approved, as provided in section 23 of said chapter 59, may issue a notice of preliminary tax and require payment of such a preliminary tax; provided, however, that no such notice of preliminary tax may issue unless first approved by the commissioner of revenue; and provided, further, that the provisions of said section 23D of said chapter 59 regarding procedures for issuing, mailing and collecting any notice of preliminary tax in cities and towns with semi-annual tax payments shall be applicable to such notice, including the payment of interest.

SECTION 128. Notwithstanding any general or special law to the contrary, and taking into account all data available as of January 15, 2004, the commissioner of education shall report to the general court on the fiscal year 2004 implementation of the special education circuit breaker, so-called, established pursuant to section 5A of chapter 71B of the General Laws. The report shall include a comparison of the claims submitted by each district, the claims approved to date for each district, the estimated reimbursement rate for said claims, and the amount awarded each district on the basis of that rate. The report shall be filed with the clerk of the house, the clerk of the senate, the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees not later than January 31, 2004.

SECTION 129. Notwithstanding any general or special law to the contrary, of the total amount raised through the issuance of general obligation debt in fiscal year 2004 the executive office of administration and finance shall expend \$3,793,560 for payments to cities, towns and regional school districts to fund the difference between the amount appropriated in item 7052-0005 of section 2 of chapter 26 of the acts of 2003 and the amount necessary to fully fund the purposes of said item.

SECTION 130. Notwithstanding any general or special law to the contrary, not less than \$1,500,000 shall be made available, in each year for fiscal year 2004 and 2005, from any of the resources available to the department of workforce development for a grant program to be administered by the department for the purpose of awarding a grant to companies that newly locate their corporate headquarters and principal executive offices within the commonwealth by December 31, 2005, to be used by the companies for workforce training and development purposes. Under the program, a company shall be eligible to receive a grant only on the condition that the department receives a written statement from the president or chief executive officer of the company, signed under the pains and penalties of perjury, that the company will locate its corporate headquarters and principal executive offices within the commonwealth by December 31, 2005. The department shall issue further criteria for the award of the grant, including, but not limited to, criteria related to the number of workers to be employed and trained by the company within the commonwealth and the

length of time by which the company will retain its corporate headquarters and principal executive offices within the commonwealth. The director of workforce development shall have sole discretion to award and distribute grants under the program.

SECTION 131. Notwithstanding any general or special law to the contrary, the department of telecommunications and energy shall conduct a study addressing the safety of the public with regard to gas companies subject to chapter 164 of the General Laws. The study shall include, but not be limited to, an evaluation of the safety of pipeline facilities and the transportation of gas, the quality of service provided by gas companies, including the adequacy of response times to customer complaints of suspected leaks and emergencies and the adequacy of staffing levels and the safety of the gas companies' transmission and distribution system. The department shall file its report, along with its recommendations for any regulatory or legislative action, with the house and senate clerks, the house and senate committees on ways and means, government regulations and energy and the attorney general before June 1, 2004. Any costs associated with this study shall be assessed by the department on the gas companies that are subject of the study.

SECTION 132. Notwithstanding any general or special law to the contrary, during hospital fiscal year 2004 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$590,000,000 for a program of MassHealth supplemental payments to certain publicly operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law, and the Medicaid state plan. The funds may be expended only for payment obligations arising during hospital fiscal year 2004. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for said expenditure shall be funded in part through intergovernmental transfers of municipal or other non-federal public funds to the commonwealth. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account an amount not less than 55 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions; provided that, an amount equal to not more than 5 per cent of the gross amounts of supplemental payments made by the division of medical assistance shall be transferred from said medical assistance intergovernmental transfer account to the Essential Community Provider Expendable Trust Fund, established by section 133 of this act.

SECTION 133. There is hereby established the Essential Community Provider Ex-

pendable Trust Fund, which shall be administered by the secretary of health and human services. Expenditures from said fund shall be subject to appropriation. The purpose of said fund shall be to provide financial support to community health centers, community health center-based managed care organizations, and other essential community providers that serve populations in need of community-based care, clinical support, care coordination services, pharmacy management services or other special needs for continuing community care including, but not limited to, those populations that are chronically ill, elderly, or disabled. The secretary of health and human services shall develop regulations governing the necessity and recommended uses of said fund in consultation with the Massachusetts League of Community Health Centers, the Massachusetts Hospital Association and representatives of other community providers. Notwithstanding any general or special law to the contrary, said secretary shall make available from said fund \$3,000,000 in a one-time grant for a community health center located in Suffolk county that participates in the MassHealth program, so-called, and operates a 24 hour urgent care facility and a 340B outpatient pharmacy program, so-called; \$4,000,000 in a one-time grant for a hospital in Hampden county with a significant inpatient mental health and methadone program that participates in the MassHealth program, so-called; \$790,000 in a one-time grant for a sole community hospital under the Medicare program located in Barnstable county; \$790,000 in a one-time grant for a teaching hospital located in central Berkshire county; \$4,000,000 in a one-time grant for a disproportionate share financially distressed community hospital located in Suffolk county with a locked inpatient adolescent psychiatric unit that participates in the MassHealth program, so-called; \$1,000,000 for a disproportionate share teaching hospital located in Hampden county; and \$950,000 in a one-time grant for a disproportionate share acute care hospital located in the Southeastern Massachusetts division of medical assistance psychiatric service area that operates inpatient psychiatric units. Said secretary shall file a report not later than January 1, 2004, to the speaker of the house of representatives, the president of the senate, and to the house and senate committees on ways and means delineating any and all initiatives or proposals recommended to be funded, the amount recommended to be expended on each such initiative; the names of each entity recommended to receive funds pursuant to this section and the extent to which such expenditures are eligible for federal reimbursement; provided further, that any federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into the fund.

SECTION 134. The department of housing and community development, in coordination with the executive office of health and human services, the Citizens Housing and Planning Association, the Massachusetts Coalition for the Homeless and representatives of local and regional housing authorities shall conduct a study of the feasibility of developing a statewide application system and waiting list for all state public housing resources that would permit application in multiple housing authorities through the submission of a single application form, while allowing each authority to continue to make its own eligibility and preference determinations to the extent permitted by law. The report shall include, but not be limited to, the following: (1) a review by the executive office of health and human services of all existing computerized technology systems with the demonstrated capacity to

operate a statewide housing inventory list, a single point of entry application process, automated waitlist linkage and automated data collection for all appropriate subsidized, affordable or special needs housing resources operating within the commonwealth, whether public or privately managed, and whether funded by local, state or federal funds, while supporting each housing provider's unique eligibility and preference determinations to the extent permitted by law; (2) a review of any technology systems that can link the extensive filing, waitlist and application systems already operating within housing provider offices while minimizing or avoiding any systems change; (3) analysis of the possibility of or need for adjusting currently existing computer technology systems that promote a "silo effect", due to their inability to work outside a particular funding area; and (4) information on those computer technology systems that could be in operation by the commencement of fiscal year 2005 or earlier, that cover the most extensive housing inventory; that can provide the greatest range of reasonable accommodations, and that would enhance current compliance with the Americans with Disabilities Act and applicable state and federal fair housing regulations. The department shall file a report of its findings and recommendations with the house and senate committees on ways and means and the joint committee on housing and urban development not later than March 15, 2004.

SECTION 135. (a) On or before December 15, 2003, the secretary of the executive office of health and human services shall report to the house and senate committees on ways and means on projected enrollment and expenditures under section 682 of chapter 26 of the acts of 2003. If the secretary reports that expenditures will be less than \$160,000,000 then, on January 1, 2004, notwithstanding subsection (3) of section 16D of chapter 118E of the General Laws or any other general or special law to the contrary, a person who is not a citizen of the United States but who is either a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or is otherwise permanently residing in the United States under color of law shall be eligible to receive benefits under the MassHealth Essential program if such individual meets the categorical and financial eligibility requirements for the program of preventive and primary care for chronically unemployed persons established pursuant to said section 682 of said chapter 26, provided that the individual is either age 65 or older or age 19 to 64 and disabled; provided, however, that enrollment of said non-citizens may be limited by the division of medical assistance so as not to exceed the amount made available; and provided further, that the division shall have determined that there is adequate funding to enroll 36,000 long term unemployed individuals under said section 682 and to also enroll said non-citizens under this section.

(b) The secretary shall notify those elderly and disabled non-citizens who have been denied or terminated from nonemergency MassHealth that they are eligible to apply for Prescription Advantage during the next given enrollment period.

(c) On January 1, 2004, the secretary shall report to the house and senate committees on ways and means on additional costs to the Uncompensated Care Pool and to emergency MassHealth due to the elimination of non-emergency MassHealth coverage to certain non-citizens pursuant to section 322 of said chapter 26.

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SECTION 136. Sections 2, 2A, 2B, 3, 4, 15, 16, 27, 28, 29, 30, 31, 32, 33, 35, 36, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 67, 74 to 100, inclusive, 106, 107, 109, 110 to 113, inclusive, 117, 119, 120, 122, and 125A to 129, inclusive shall take effect on July 1, 2003.

SECTION 137. Section 19 shall take effect as of July 31, 2003.

SECTION 138. Section 20 shall take effect on March 1, 2004.

SECTION 139. Section 105 shall take effect on September 5, 2003.

SECTION 140. Section 118 shall take effect on July 1, 2004.

This bill was returned on November 26, 2003, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein: Items Disapproved:

SECTION 2: 0640-0300 0710-0000 1599-3000 1599-4500 1599-6300
4000-0100 4000-0600 4800-0038 4800-1400 7002-0800 7100-0200
SECTIONS: 16, 30, 31, 49, 62, 63, 64, 65, 66, 67, 69, 70, 71, 77, 78, 80, 81, 84, 85, 87, 88, 89, 90, 91, 93, 95, 96, 100, 110, 112, 113, 116, 120, 121, 125, 125b, 129, 131, 134, and 135.

SECTION 2 *Items reduced in amount:*

Item	Reduce by	Reduce to
0330-0300	5,903,269	4,700,000
4513-1000	500,000	1,500,000
7007-1300	600,000	500,000
9700-0000	6,886,000	1,800,000

Pursuant to Article 56 as amended by Article 90, Section 3, of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments to Sections 76 and 86.

The remainder of the bill was approved by the Governor on November 26, 2003 at two o'clock and fifty minutes, P.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 14, 2004 the House of Representatives and on January 15, 2004 the Senate passed the following Items:

SECTION 2. Items: 0330-0300, 4513-1000, 7100-0200, 7007-1300. **SECTION 135.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 21, 2004 the House of Representatives and on January 22, 2004 the Senate passed the following Items:

SECTION 2. Item: 9700-0000. **SECTIONS 80 and 81.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 29, 2004 the House of Representatives and on February 5, 2004 the Senate passed the following Items:

SECTION 2. Item: 4000-0600. **SECTION 2A.** Item: 1599-4500. **SECTIONS 65, 69, 70, 85, and 121.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on February 10, 2004 the House of Representatives and on March 4, 2004 the Senate passed the following Items:

SECTION 2. Items: 4800-0038, 7002-0800. **SECTIONS 88 and 89.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on February 25, 2004 the House of Representatives and on March 4, 2004 the Senate passed the following Items:

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SECTION 2. Item: 0640-0300. **SECTIONS 66, 77, and 87.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on March 24, 2004 the House of Representatives and on March 25, 2004 the Senate passed the following Items:

SECTION 2. Item: 0710-0000. **SECTIONS 78, and 110.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on March 24, 2004 the House of Representatives and on April 29, 2004 the Senate passed the following Items:

SECTION 2A. Item: 1599-3000.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on May 18, 2004 the House of Representatives and on June 9, 2004 the Senate passed the following Sections:

SECTIONS 16, 49, and 120.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2004 the House of Representatives and on July 21, 2004 the Senate passed the following Sections:

SECTIONS 62, and 63.

Chapter 141. AN ACT RELATIVE TO INVESTMENTS IN EMERGING TECHNOLOGIES TO PROMOTE JOB CREATION, ECONOMIC STABILITY AND COMPETITIVENESS IN THE MASSACHUSETTS ECONOMY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith supplemental appropriations for one-time costs for certain capital spending, public investment, and bonded debt 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. Subparagraph (a) of paragraph (3) of subsection (j) of section 3A of said chapter 21E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) the proposed redevelopment or reuse of the property will contribute to the economic or physical revitalization of the community in which it is located, and thereby provides the following public benefits, including, but not limited to redevelopment that: (a) provides new, permanent jobs, or (b) results in affordable housing benefits, or (c) provides historic preservation, or (d) creates or revitalizes open space, or (e) will provide some other public benefit to the community as determined by the attorney general; and.

SECTION 2. Subsection (b) of the third paragraph of section 6 of said chapter 21E, as so appearing, is hereby amended by striking out clauses (i), (ii) and (iii) and inserting in place thereof the following clause:-

(i) said owner or operator is not subject to an outstanding administrative or judicial enforcement action under this chapter for a release of oil or hazardous materials at the time of the transfer of the subject property, and (ii) said owner or operator records notice of the restrictions of the use of said property pursuant to section 6 of this chapter, and any regulations promulgated hereunder.

SECTION 3. Chapter 23A of the General Laws is hereby amended by striking out section 3H, as so appearing, and inserting in place thereof the following section:-

Section 3H. The secretary of economic development shall appoint the director of the Massachusetts permit regulatory office, who shall have experience with permitting and business development and who shall serve as the ombudsman to new and expanding businesses to provide one-stop licensing for businesses, and development in order to streamline and expedite the process of obtaining state licenses, permits, state certificates, state approvals, state registrations, state charters and other requirements of law. The ombudsman shall communicate with municipal officials responsible for local review procedures to determine the municipal perspective on the proposed project, and to facilitate communication between the municipality and state agencies. The Massachusetts permit regulatory office shall consult with each regional office of the Massachusetts Office of Business Development, in order to better serve local businesses. Each executive office and each of the departments of environmental protection, business and technology, housing and community development, labor, workforce development and consumer affairs and business regulation shall appoint a senior staff member who shall be responsible for coordinating the efforts of the commonwealth to provide one-stop licensing at the state level for businesses and developments in order to streamline and expedite the process of obtaining state licenses, state permits, state certificates, state approvals, state registrations, state charters and other requirements of law. The senior staff members shall meet at least once a month with the ombudsman and shall meet with each other on a regular basis. The secretary of administration and finance shall work with the secretary of economic development, the ombudsman and senior staff members to develop a recommended format for an application form and procedure which shall be used by all executive offices when possible. The ombudsman shall file an annual report with the house and senate committees on ways and means by January 1 of each year on the activities of the Massachusetts permit regulatory office, including legislative recommendations on business development and expansion efforts.

SECTION 4. Section 60 of said chapter 23A, as so appearing, is hereby amended by inserting after the word "Fund", in line 110, the following words:- which shall be considered an expendable trust fund on the books of the commonwealth and,- and by striking out the second sentence and inserting in place thereof the following 4 sentences:- All monies credited under this subsection shall remain in said Redevelopment Access to Capital Fund, not subject to appropriation, to meet the obligations of the program set forth in this section. The agency shall not utilize said monies for any purpose other than the redevelopment access to capital fund as established herein. Deposits to the fund shall be made in accordance with section 34 of chapter 29 in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be

available for immediate withdrawal at any time. The fund shall be expended only for the purposes of this section at the direction of the agency and any unexpended balances shall be redeposited, as herein provided, for future use consistent with this section.

SECTION 4A. Section 9 of chapter 23D of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out paragraphs (a) to (g), inclusive, and inserting in place thereof the following paragraph:-

(a) The trust shall be governed by the board of directors of the Massachusetts Development Finance Agency, established under chapter 23G, and such board may promulgate, modify, supersede or rescind orders, rules and regulations, by-laws or guidelines governing the operation of the trust.

SECTION 4B. Said section 9 of said chapter 23D, as so appearing, is hereby further amended by striking out the letter (h), in line 58, and inserting in place thereof the letter (b),- and by striking out, in line 64, the letter (i) and inserting in place thereof the letter (c).

SECTION 4C. Said chapter 23D is hereby amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. The offices of the trust shall be located in the offices of the Massachusetts development finance agency. The executive director of said agency shall be the chief executive, operational and administrative officer of the trust and shall direct the resources and staff of the trust to achieve the purposes of the trust.

SECTION 4D. Section 3 of chapter 23G of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(34) to execute the powers of the economic stabilization trust and other powers conferred pursuant to sections 8 to 16, inclusive of chapter 23D.

SECTION 5. Said chapter 23G of the General Laws is hereby amended by striking out sections 27 and 28, as so appearing, and inserting in place thereof the following 2 sections:-

Section 27. (a) There is hereby established and placed within the agency the Emerging Technology Fund, referred to in this section as the fund, to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the agency, any pension funds, federal grants or loans or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments, as the same shall be defined by the advisory committee created pursuant to section 28 and pursuant to rules approved by the agency for the fund, secured or held by the fund, and any other monies which may be available to the agency for the purposes of the fund from any other source or sources. The agency shall hold the fund in an account or accounts separate from other funds or accounts.

(b) The agency shall invest and reinvest the fund and the income thereof, except as hereinafter provided, only as follows: (1) in the making of qualified investments, pursuant to rules approved by the agency; (2) in defraying the ordinary and necessary expenses of administration and operation associated with the fund; (3) in the investment of any funds not

required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (4) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the same become payable; and (5) for the payment of principal or interest on qualified investments secured by the fund or the payment of any redemption premium required to be paid when such qualified investments are redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement thereof established by the agency, except for the purpose of paying binding obligations associated with qualified investments which are secured by the fund as the same become payable.

(c) The fund shall be held and applied by the agency to make qualified investments designed to advance the following public purposes: (1) to stimulate increased financing for new manufacturing, research and development and related facilities in the commonwealth by leveraging private financing for highly, productive state-of-the-art facilities, which will lead to increased and more rewarding employment opportunities for the citizens hereof by providing financing related thereto including, without limitation, financing of the construction or expansion of such new facilities, including specialized real estate improvements and specialized equipment therefor; and (2) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant-funding sources to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, and to thereby serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related thereto; (3) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (2) awarded or to be awarded by the federal government, industry or other sources.

The agency shall make no such qualified investment pursuant to clause (1) of subsection (b) unless the agency finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected therefrom. In addition, the agency shall make no such qualified investment pursuant to said clause (1) of said subsection (b) unless such qualified investment is in conformity with rules approved by the agency.

Said rules shall define which industries within the commonwealth shall be considered "emerging technology industries" for purposes hereof, provided that such term shall include industries employing new or state-of-the-art technology in biotechnology, pharmaceuticals, defense and homeland security-related technologies, advanced materials, electronics, nanotechnology, environmental, medical device, information technology, plastics and polymers, telecommunications industries involved in the research and development of state-of-the-art medication delivery devices or any other technological field or industry which the advisory committee and the agency has classified or shall classify as an emerging technology. Said rules shall also set the terms and conditions for investments which are to

constitute qualified investments, which may include, without limitation, loans, guarantees, loan insurance or reinsurance, equity investments, grants made only pursuant to clause (2) of subsection (c), or other financing or credit enhancing devices, as made by the agency directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions, or the federal government, provided further, that said rules and regulations shall provide that each such qualified investment made pursuant to clause (1) of said subsection (c) shall involve a transaction with the participation of at least two at-risk private parties and that the qualified investment provided in any particular instance provides no more than 25 per cent of the overall financing of the new manufacturing, research and development or related facility referred to therein.

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

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

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

(f) Qualified investment transactions undertaken by the agency pursuant to the provisions of this section shall not, except as specified in this act, be subject to the provisions

of chapter 175, or any successor thereto, and shall be payable solely from the Emerging Technology Fund, established by this section and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency or any subdivision of the commonwealth.

(g) The agency shall not at any time make expenditure from or commitment of the assets of the fund, including, without limitation, the making of qualified investments secured by the fund, if following the making of said qualified investment, the amount of the fund shall be less than the minimum requirement established by law, unless the agency, at the time of making of such qualified investment, deposits in the fund from the proceeds thereof or from any fees and charges imposed relative to the making of qualified investments, or otherwise, an amount which, together with the amount in the fund, shall not be less than the minimum requirement; provided, however, that at no time shall the minimum requirement of the fund be less than the maximum amount of principal and interest becoming due in the current and succeeding fiscal year of the agency on all outstanding bonds and other obligations which are secured by the fund or such greater amount as may be set forth in the rules governing the fund.

(h) In making the initial disbursements from the fund, not less than \$2,500,000 shall be disbursed over a 5 year period to each of the 5 geographic regions of the state, the central area, the greater Boston area, the north east area, the south east area and the western area, as those areas are defined generally as follows:

"Central area", the Northern Worcester Service Delivery Area and the Southern Worcester Service Delivery Area as specified in 20 CFR 661.280;

"Greater Boston Area", the Boston Service Delivery Area, the Metropolitan North Service Delivery Area and the Metropolitan South/West Service Delivery Area as specified in 20 CFR section 661.280;

"North East Area", the Lower Merrimack Valley Service Delivery Area, the Northern Middlesex Service Delivery Area and the Southern Essex Service Delivery Area as specified in 20 CFR 661.280;

"South East Area", the Bristol Service Delivery Area, the Brockton Service Delivery Area, the Cape and Islands Service Delivery Area, the New Bedford Service Delivery Area and the South Coastal Service Delivery Area as specified in 20 CFR 661.280; and

"Western Area", the Berkshire Service Delivery Area, Franklin/Hampshire Service Delivery Area and Hampden Service Delivery Area as specified in 20 CFR 661.280.

Section 28. (a) There is hereby established an advisory committee relative to the fund consisting of the director of business and technology, and 6 other persons, 3 to be appointed by the governor and 3 to be appointed by the board of the agency; provided, however, that said director of business and technology may designate another person from time to time to act in his or her place for a particular purpose, including the right to attend and vote at a meeting of the advisory committee; provided, further, that at least two members of the advisory committee appointed by the governor shall be representatives of an emerging technology industry and at least one member of the advisory committee appointed by the governor

shall have knowledge of financing of emerging technology companies, and provided, further, that at least one member of the advisory committee appointed by the board of the agency shall be a representative of an emerging technology industry, and at least one member of the advisory committee appointed by the board of the agency shall have knowledge of financing of emerging technology companies and one member of the advisory committee appointed by the board of the agency shall be a member of the agency's board of directors. The executive director of the Massachusetts Technology Park Corporation shall serve as an ex-officio member of said advisory committee.

Each appointed member of the advisory committee shall serve for a term of 3 years and thereafter until such member's successor is appointed; provided, however, that of those initially appointed, 1 of each the governor's appointees and the board of the agency's appointees shall serve for a term of 1 year, 1 of each of the governor's appointees and the board of the agency's appointees shall serve for a term of 2 years, and 1 of each the governor's appointees and the board of the agency's appointees shall serve for a term of 3 years. Any person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. Any member of the advisory committee appointed by the governor may be removed by the governor for cause. Any member of the advisory committee appointed by the board of the agency may be removed by the board of the agency for cause. The advisory committee and the agency are encouraged to award 1 or more contracts with regard to the management of the fund, which may provide performance-based incentives, with regard to such management.

(b) The members shall elect annually a chairman and vice chairman and shall adopt by-laws governing the affairs of the advisory committee. Four members of the advisory committee shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the advisory committee; and, provided, that except as set forth in the preceding clause, no vacancy in the membership of the advisory committee shall impair the right of a quorum to exercise the powers of the advisory committee.

The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee may meet as often as the members shall decide provided, that it shall meet at least once in each calendar quarter and its approval shall be necessary for any expenditure from or commitment of the assets of the fund or entry into contracts of the type specified in the last sentence of subsection (a), provided, that the advisory committee may, by majority vote, elect, in its discretion, to delegate some or all of said approval rights to the board or the staff of the agency provided that any such delegation may be revoked at any time by majority vote of the advisory committee. The agency shall manage the qualified investments made from the fund including, without limitation, the closing, servicing, monitoring, underwriting, and where appropriate, the enforcement of rights with respect thereto and shall provide such staff and supporting assistance as deemed appropriate by the board of directors of the Agency to enable the advisory committee to discharge its duties in

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a manner consistent with its public purpose. The provisions of subsection (d), and subsections (f) to (i), inclusive, and subsection (l) of section 2 shall apply as well to the members and affairs of the advisory committee created pursuant to this section.

SECTION 6. Chapter 23H of the General Laws is hereby amended by adding the following 3 sections:-

Section 8. As used in sections 8 to 10, inclusive, the following words shall have the following meanings:

"Eligible service provider", a community-based nonprofit organization that provides workforce development services, such as job skills training, education, placement services, and supportive services.

"Potential employee target groups", persons receiving TAFDC, older adults, immigrants, persons residing in economic opportunity areas, and other persons who are underemployed or unemployed.

"Qualifying consortium", a collaborative program of service that includes a community-based nonprofit organization or union/labor-management program or institution of higher education and an employer.

Section 9. A health professions worker training grant program is established for the purpose of responding to the need for workers in various health care professions, subject to the requirements of section 2RR of chapter 29.

A qualifying consortium shall apply for grant funding from the fund in the manner specified by the director.

Applications for grants must describe targeted participants of the proposed grant application and must describe the specific critical work force shortage the program is designed to alleviate. The application must include verification that in the process of determining that a critical work force shortage exists in the target area, the applicant has (1) consulted available data on worker shortages and (2) conferred with employers in the target area.

Within the limits of available appropriations, the director shall make grants not to exceed \$200,000 each to qualifying consortia to provide workforce development services which may lead to employment in the health professions. Grant awards must establish specific, measurable outcomes and timelines for achieving those outcomes.

A qualifying consortium shall implement a marketing and outreach strategy to recruit into the health care professions persons from one or more of the potential employee target groups. Recruitment strategies must include: a screening process to evaluate whether potential employees may be disqualified as the result of a required background check or are otherwise unlikely to succeed in the position for which they are being recruited; and a process for modifying course work to meet the training needs of non-English-speaking persons, when appropriate.

High school students participating in a training program shall not be permitted to work more than 20 hours per week when school is in session.

Section 10. By April 1, 2004, the state workforce investment board shall develop performance standards for workforce development and job training programs receiving state

funding. The standards may vary across program types. The state workforce investment board may contract with a consultant to develop the performance standards. The state workforce investment board shall consult with stakeholder advocacy groups, community-based nonprofit service providers, and local workforce investment boards in the development of both performance standards and reporting requirements. The standards must at a minimum measure: the employability levels of individuals as defined by basic skill level, the amount of work experience, and barriers to employment prior to program entry; the individual's annual income and employability level for the 12 months prior to entering the program, the starting annual income upon placement after completing the program, employability level and annual income one year after completion of the program, and the individual's reported satisfaction; the program completion rate, placement rate, employability level upon placement, and one-year retention rate; and the cost per placement and per job retained at one year and the percentage of program funding coming from the state and other levels of government.

Commencing April 1, 2005, all workforce development services and job skills training programs receiving state funds must submit an annual performance report to the state workforce investment board. The state workforce investment board may develop a uniform format for the report and prescribe the manner in which the report is required to be submitted.

By December 31 of each odd-numbered year and commencing December 31, 2005, the director of the department of workforce development, in consultation with the state workforce investment board, shall submit recommendations to the house and senate clerks regarding modifications to, including the elimination of, existing statutory requirements with respect to workforce development and job training programs. The recommendations shall include recommendations regarding funding levels required to meet worker and employer skill development needs, with a particular focus on low income and low wage workers.

SECTION 7. Chapter 26 of the General Laws is hereby amended by inserting after section 8J the following section:-

Section 8K. (a) There shall be an independent council to be known as the Health Insurance Cost Containment Council.

(b) The council shall consist of 16 voting members, composed of and appointed in accordance with the following:

- (1) the secretary of the executive office of health and human services;
- (2) the commissioner of the division of insurance;
- (3) the commissioner of the division of medical assistance;
- (4) two representatives of the business community, at least 1 of whom represents small business, who are purchasers of health care, none of which is primarily involved in the provision of health care or health insurance, 1 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the speaker of the house of representatives from a list of 7 qualified persons recommended by the Associated Industries of Massachusetts of which 3 nominees shall be representatives of small business;

(5) two representatives of organized labor, 1 of whom shall be appointed by the president of the senate and one of whom shall be appointed by the speaker of the house of representatives from a list of 5 qualified persons recommended by the Massachusetts AFL-CIO;

(6) one representative to represent consumers, appointed by the governor from a list of 3 qualified persons recommended by the executive director of Health Care for All;

(7) one representative of hospitals, appointed by the governor from a list of 3 qualified hospital representatives recommended by the Massachusetts Hospital Association; but the representative under this paragraph may appoint a delegate to act for the representative only at meetings of committees as provided for in subsection (g);

(8) one representative of physicians, appointed by the governor from a list of 3 qualified physician representatives recommended by the Massachusetts Medical Society; but the representative under this paragraph may appoint a delegate to act for the representative only at meetings of committees as provided for in subsection (g);

(9) one representative of nurses, appointed by the governor from a list of 3 qualified persons recommended by the Massachusetts Nurses Association and the Massachusetts Organization of Nurses Executives;

(10) one representative from a health maintenance organization, appointed by the governor from a list of 3 qualified persons recommended by the Massachusetts Association of Health Plans;

(11) one representative of chiropractors, appointed by the governor from a list of three qualified chiropractor representatives recommended by the Massachusetts Chiropractic Society;

(12) one representative of a health insurer, other than a health maintenance organization, appointed by the governor from a list of 3 qualified persons recommended by the commissioner of insurance; and

(13) in the case of each appointment to be made from a list supplied by a specified organization, it is incumbent upon that organization to consult with and provide a list that reflects the input of other equivalent organizations representing similar interests. Each appointing authority shall have the discretion to request additions to the list originally submitted. Additional names will be provided not later than 15 days after the request. Appointments shall be made by the appointing authority no later than 90 days after receipt of the original list. If, for any reason, any specified organization supplying a list should cease to exist, then the respective appointing authority shall specify a new equivalent organization to fulfill the responsibilities of this section.

(c) The members of the council shall annually elect, by a majority vote of the members, a chairperson and a vice chairperson of the council.

(d) The division of insurance, the division health care finance and policy, and the division of medical assistance shall assist the council in the furtherance of its mission. The council may accept and expend grants, in-kind services, and other assistance from the federal government, private non-profit foundations, or other sources to support its work.

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(e) Seven members shall constitute a quorum for the transaction of any business, and the act by the majority of the members present at any meeting in which there is a quorum shall be considered to be the act of the council.

(f) All meetings of the council shall be advertised and conducted pursuant to chapter 30A unless otherwise provided in this section.

(1) The council shall meet at least once every 2 months, and may provide for special meetings as it considers necessary. Meeting dates shall be set by a majority vote of the members of the council or by the call of the chairperson upon seven days' notice to all council members.

(2) All meetings of the council shall be publicly advertised, as provided for in this section, and shall be open to the public, except that the council, through its bylaws, may provide for executive sessions of the council. No act of the council shall be taken in an executive session as defined in section 11A of chapter 30A.

(3) The council shall file a schedule of its meetings with the state secretary and shall publish a schedule of its meetings in at least 2 newspapers, one newspaper in general circulation in the commonwealth. The notice shall be published and filed at least once in each calendar quarter and shall list the schedule of meetings of the council to be held in the subsequent calendar quarter. The notice shall specify the date, time and place of the meeting and shall state that the council's meetings are open to the general public, except that a notice shall not be required for executive sessions of the council.

(4) All action taken by the council shall be taken in open public session, and action of the council shall not be taken except upon the affirmative vote of a majority of the members of the council present during meetings at which a quorum is present.

(g) The council shall adopt bylaws, not inconsistent with this act, and may appoint such committees or elect such officers subordinate to those provided for in subsection (c) as it considers advisable. The council shall provide for the approval and participation of additional delegates appointed under paragraphs (7) and (8) of subsection (b) so that each organization represented by delegates under those paragraphs shall not have more than 1 vote on any committee to which they are appointed. The council shall also appoint a technical advisory group which shall, on an ad hoc basis, respond to issues presented to it by the council or committees of the council and shall make recommendations to the council. The technical advisory group shall include actuaries, researchers and biostatisticians.

The members of the council shall not receive a salary or per diem allowance for serving as members of the council but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. The expenses may include reimbursement of travel and living expenses while engaged in council business.

(i) The terms of the secretary of the executive office of health and human services, the commissioner of the division of medical assistance and the commissioner of the division of insurance shall be concurrent with their holding of public office. The 9 appointed council members shall each serve for a term of 3 years and shall continue to serve thereafter until their successor is appointed, except that, of the members first appointed:

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(1) One of the representatives of business and the representative of consumers shall serve for a term to expire on June 30 of the year following his initial appointment.

(2) One of the representatives of organized labor and the representative of a carrier shall serve for a term to expire on June 30 of the second year following his initial appointment.

(3) The other representatives of business and organized labor and the representatives of hospitals, physicians and health maintenance organizations shall serve for a term to expire on June 30 of the third year following their initial appointments.

(4) Vacancies on the council shall be filled in the same manner in which they were originally designated under subsection (b), within 60 days of the vacancy, except that when vacancies occur among the representatives of business or organized labor, 2 nominations shall be submitted by the organization specified in subsection (b) for each vacancy on the council. If the officer required subsection (b) to make appointments to the council fails to act within 60 days of the vacancy, the council chairperson may appoint 1 of the persons recommended for the vacancy, until the appointing authority makes the appointment.

(j) A member may be removed for just cause by the appointment authority after recommendation by a vote of at least 8 members of the council.

(k) (1) Within 60 days after the effective date of this section, each organization or individual required to submit a list of recommended persons to the governor, the president of the senate or the speaker of the house of representatives under subsection (b) shall submit the list.

(2) Within 90 days of the effective date of this act, the governor, the president of the senate and the speaker of the house of representatives shall make all of the appointments called for in subsection (b), and the council shall begin operations immediately following these appointments.

(l) Submission of lists of recommended persons and appointments of council members for the second and succeeding terms shall be made in the same manner as prescribed in subsection (b), except that:-

(1) Organizations required under subsection (b) to submit lists of recommended persons shall do so at least 60 days prior to expiration of the council members' terms.

(2) The officer required under subsection (b) to make appointments to the council shall make said appointments at least 30 days before expiration of the council members' terms. If the appointments are not made within the specified time, the council chairperson may make interim appointments from the lists of recommended individuals. An interim appointment shall be valid only until the appropriate officer under subsection (b) makes the required appointment. Whether the appointment is by the required officer or by the chairperson of the council, the appointment shall become effective immediately upon expiration of the incumbent member's term.

(m) Should any organization or individual fail to submit a list of recommended persons as required under subsection (b) within the time limits in subsection (k) or (m), the officer designated to make the appointment under subsection (b) shall appoint as many acting

councilors as required under subsection (b) until such time as the list of recommended persons is submitted by the original organization as required in subsection (b).

(n) The council shall make recommendations for administrative and legislative reforms that encourage the use of quality and safety initiatives to promote more cost effective delivery of health care in the commonwealth. The council shall make recommendations relative to initiatives that will lead to more affordable health insurance for employers and employees, including an examination of methods of providing health care to the working uninsured of the commonwealth. The council shall examine the feasibility and desirability of establishing a permanent health care cost containment system to control health costs through quality improvements that ensure successful patient outcomes. The council shall examine cost containment systems of other lines of insurance and the impact of such systems on health insurance premiums including but not limited to the workers' compensation system and the unemployment insurance system and the council shall examine the impact of the current medical liability system on health care costs.

(o) The council shall report annually to the committees on ways and means of the house of representatives and the senate and the joint committees on health care; insurance; and commerce and labor, and may recommend legislation to implement its findings.

SECTION 8. Paragraph (1) of subsection (b) of section 2RR of chapter 29 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following clause:-

(ix) whether the employer has recently or plans to locate its business in the commonwealth and employ residents of the commonwealth who will benefit from training, provided that said employer shall not receive funds until said employer has located its business in the commonwealth.

SECTION 9. Said section 2RR of said chapter 29, as so appearing, is hereby further amended by adding the following 6 subsections:-

(f) The director, in consultation with the secretary of economic development, shall adopt regulations to carry out the purposes of this section, including the criteria set forth in paragraph (1) of subsection (b). The regulations shall provide for a rolling applications process and shall allow employers with plans to locate in the commonwealth and employ commonwealth residents to apply for grants. The director may contract with a private organization to carry out some or all of the director's duties provided in this section.

The board may require a match or co-investment from participating organizations; provided, however, that in determining the amount of any match, the board shall establish different requirements for organizations based on the size of the organization, its profit or not-for-profit status and financial capacity.

(g) Documentary materials or data made or received by an employee of the department of workforce development, or previously by the division of employment and training, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established by this section, shall not be public records and shall not be

subject to section 10 of chapter 66.

(h) The director shall, in accordance with section 328 of chapter 127 of the acts of 1999, prepare a performance evaluation of the workforce training grants awarded under this section. The evaluation shall assess the effectiveness of each grant awarded in terms of the (1) development of employee skills; (2) increase in employee wages; (3) improvement in employee retention rates; (4) improvement of employee productivity; (5) impact on employer's business and (6) impact on regional economy, including reduction of regional unemployment levels. The director shall require, as a condition of receiving a grant under this section, employers to provide, within a time frame following the end of the grant period as established by the director, such information and data determined by the director to be necessary to complete the performance evaluation.

(i) The director shall make no grant under this section to any person or entity from the Fund, nor shall any technical assistance be provided by the department out of the proceeds of the Fund, to any person or entity unless the person or entity applies for and receives a certificate of tax in good standing with the department of revenue with respect to all tax types for which it should be registered and for which it is obligated to file reports or returns. A certified copy of the certificate shall be presented to the director before the issuance of any grant under this section before the department's providing any technical assistance to the person or entity.

(j) There is hereby established a board to be known as the Workforce Training Fund Advisory Board, consisting of 9 members, who are citizens of the commonwealth, to be appointed by the governor. Three members shall be persons representing businesses or employers; 3 shall be persons representing employees or employees of labor organizations, 2 of whom shall be selected from a list of 5 recommended by the President of the Massachusetts AFL-CIO; and 3 shall be persons representative of the public, 2 of whom shall have expertise or experience in workforce training and 1 of whom shall represent a non-profit workforce training provider. The governor shall designate as chairman of the advisory board 1 of the members appointed as representative of the public. Members shall serve for a term of 6 years. Of the members originally appointed, 1 employer representative and 1 employee representative shall serve for a term of 4 years, and 1 employer representative and 1 employee representative shall serve for a term of 6 years; and thereafter, as their terms expire, the governor shall appoint members for terms of 6 years. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. All members shall serve until the qualification of their respective successors. Members shall serve without compensation. The advisory board shall advise the director of the department of workforce development on the administration of the workforce training fund grant program, including but not limited to reviewing and making recommendations on grant requirements and selection criteria and reviewing grant applications and making recommendations about grant awards. The advisory board shall, from time to time, submit recommendations to the legislature on any legislative changes it deems necessary for the successful operation of the program.

(k) To provide technical assistance to increase training opportunities available to employees. The director may provide this direct technical assistance by using existing institutions such as local workforce investment boards, community colleges, labor organizations, administrative entities for service delivery areas under the federal Workforce Investment Act, or its successor statute, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the departments of labor and workforce development or of the commonwealth corporation. Such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training. Of the \$3,000,000, not less than \$75,000 shall be provided annually to the Workforce Investment Board Association to support the activities of business, labor, education, youth councils and community members in leading regional workforce development systems; each of the 16 workforce investment boards shall receive \$75,000 annually; and each of the 16 workforce investment boards shall receive \$20,000 annually for youth councils.

SECTION 10. Said section 2RR of said chapter 29, as so appearing, is hereby further amended by striking out, in line 33, the figure "\$250,000" and inserting in place thereof the following figure:- \$1,000,000.

SECTION 11. Said section 2RR of said chapter 29 is hereby further amended by striking out the figure "\$1,000,000", inserted by section 10 of this act, and inserting in place thereof the following figure:- \$250,000.

SECTION 12. Notwithstanding any general or special law to the contrary, the workforce training fund advisory board shall report every 6 months on the grantees, the amount of each grant, the geographic distribution of the grants, and the number of workers served by each grant. The report shall be submitted to the joint committee on commerce and labor and the house and senate ways and means committees.

SECTION 13. Said chapter 29 is hereby further amended by inserting after section 2LLL, inserted by section 162 of chapter 26 of the acts of 2003, the following section:-

2MMM. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, hereinafter referred to as the pipeline fund, to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, and additional funds designated by the corporation for deposit to the pipeline fund, including any pension funds, federal grants or loans, or private donations made available to the chancellor of higher education for the purpose. The board of higher education shall hold the pipeline fund in an account or accounts separate from other funds or accounts. Amounts credited to the pipeline fund shall be used by the chancellor of higher education, in consultation with the Massachusetts Development Finance Agency and the Massachusetts Technology Park Corporation to carry out the purposes of subsection (b).

(b) The public purpose of the pipeline fund shall be to increase the number of Massachusetts students who participate in programs that support careers in fields related to

mathematics, science, technology, and engineering. In furtherance of this public purpose, and in a manner consistent with the recommendations of the subcommittee on science, mathematics, technology and engineering education of the Massachusetts council of economic advisors, the chancellor of higher education, in consultation with the commissioner of the department of education and the president of the University of Massachusetts, shall employ the pipeline fund through grants and other disbursements and activities that are calculated to increase the number of qualified mathematics, technology, engineering and science teachers in the commonwealth and to improve the mathematics, technology, engineering and science educational offerings available in public and private schools. The grants and other disbursements and activities may involve, without limitation, the University of Massachusetts, state and community colleges, business and industry partnerships, workforce investment boards, private colleges and universities, and public and private schools, and school districts to work together to further the purposes of the pipeline fund. The grants and other disbursements and activities may support, without limitation: (i) the development and use of innovative curricula, courses and programs in mathematics, technology, engineering and science for new teachers and in-service teachers that provide appropriate mathematics, technology, engineering and science content, and instruction in innovative ways to teach mathematics, technology, engineering and science, including but not limited to the use of hands on, experimental learning, and that are consistent with the Massachusetts standards and curriculum frameworks established pursuant to sections 1D and 1E of chapter 69 but, not less than \$360,000 dollars shall be allocated to support a collaborative planning effort among six Workforce Investment Boards to develop a pilot high school Science, Technology, Engineering and Mathematics Internship program (S.T.E.M.) designed to increase the number of high school students pursuing post-secondary education in S.T.E.M. careers.; (ii) the development of a mathematics, science, technology and engineering network to create, implement, share and make broadly and publicly available best practices and innovative programs relative to mathematics, technology, engineering and science instruction and expanding and maintaining student interest in mathematics, science, technology and engineering studies and careers; (iii) effective ways to teach mathematics, technology, engineering and science; and (iv) give priority to grants that provide effective course and curricula for in-service teachers in low income schools or school districts. Not more than 20 per cent of the fund may be warded to any single institution.

(c) The board of higher education shall promulgate policies, rules and regulations consistent with this chapter to implement subsections (a) and (b). The chancellor of higher education shall file any such policies, rules, and regulations with the joint committee on education, arts, and humanities for review and comment at least 30 days before the effective date of the policies, rules, and regulations.

SECTION 14. Section 1 of chapter 30A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after paragraph (5) the following paragraph:-

(5A) "Regulatory impact statement" a statement by the promulgating agency which shall, to a reasonable degree of completeness: (i) identify the statutory change, problem, issue or deficiency addressed by the proposed regulation; (ii) identify the methodology or approach, including identification of expert information and analysis, used to address the statutory change, problem, issue or deficiency; (iii) identify specifically who is affected and to what extent by the proposed regulation; (iv) identify when such regulation becomes effective, when such regulation will be changed, if known, and how and when the regulation will be reviewed in the future, if at all; (v) identify the fiscal effect on the public and private sectors for the first and second year of the regulation's existence, and provide a projection of fiscal impact over the first 5 years; and (vi) identify and describe specifically the benefits of the regulation. Any data, including written information or material, statistics, measurements, calculations or other information used as the basis for reasoning, recommendation or conclusions, including any such information provided to the agency by a consultant, vendor or other third party, shall be part of the record and available to the public upon request.

SECTION 15. Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

Every agency issuing rules and regulations shall maintain a notification list of persons and groups who are interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request renewed annually by persons or groups in December. No later than 30 days before the notice of hearing described above, the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, and to the ways and means committees of the house of representatives and the senate. The preliminary notification of rulemaking shall: (i) identify the rule to be noticed for hearing and the scope of the proposed rule; (ii) provide the statutory authority for such proposed rulemaking; and (iii) identify the person within the agency responsible for the rulemaking and who can be contacted for more information.

SECTION 16. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

Every agency issuing rules and regulations shall maintain a notification list of persons and groups interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, such request renewed annually by persons and groups in December. No later than 30 days prior to the notice described above the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of agency rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency and to the ways and means committees of the house of representatives and the senate. The preliminary notification shall: (i) identify the rule to be noticed and the scope of the proposed rule; (ii) provide the statutory authority for such proposed rulemaking; and (iii) identify the person within the agency responsible for the rulemaking and who can be contacted for further information.

SECTION 17. The second paragraph of section 5 of said chapter 30A of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:-

No rule or regulation so filed with the state secretary, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described above and is filed with the state secretary. The secretary of economic development shall review all regulatory impact statements prior to their filing with the state secretary to ensure and certify that a proper methodology and approach was used by the agency submitting said impact statement and to certify that the impact statement as submitted complies with the definition of "regulatory impact statement" as set forth in section 1 of chapter 30A.

SECTION 18. Chapter 40J of the General Laws is hereby amended by inserting after section 6 thereof the following section:-

Section 6A. (a) The corporation shall establish an institute for regional innovation, technology and competitiveness, to be known as the John Adams Innovation Institute, and a fund to be known as the Innovation Institute Fund, to be held by the corporation separate and apart from its other funds, to finance the activities of said institute. The executive director of the corporation shall appoint a qualified individual as director to manage the affairs of said institute. The corporation, on recommendation of the executive director, shall appoint 7 qualified individuals to a governing board to assist the corporation in matters related to said institute and said fund and in matters related to the research center matching fund established in section 4F, including a president of a state or community college, head of an emerging technology company, a representative of a regional planning agency, and a technology transfer officer or individual qualified in technology commercialization from a university in the commonwealth. The executive director, the director of the office of business and technology, and the president of the Massachusetts development finance agency shall serve as ex-officio members of said governing board. Said board shall consult with the house and senate committees on science and technology and ways and means during the preparation of a detailed plan for the operation of said institute and the matching fund. Upon approval of such detailed plan by the board of directors of the corporation, said board shall delegate such authority to the governing board of the institute as it deems appropriate to implement such plan. The members of said governing board shall be deemed to be directors for purposes of the fourth paragraph of section 3. The purpose of the institute shall be to serve as an agent of the commonwealth to create and maintain a more favorable and responsive environment in the commonwealth for the development, growth, attraction and retention of technology-intensive and innovation-driven clusters of organizations, with a particular attention paid to promoting economic growth in discrete and underserved regions of the commonwealth by harnessing local support and involvement in such economic development activities and by improving the economic infrastructure for such clusters. In

furtherance of these public purposes, the institute shall endeavor to identify regions of the commonwealth in which compelling opportunities to make strategic investments appear to be present and develop strategies therefor. The institute may also provide development support more generally to organizations in regions across the commonwealth to assist the formation and growth of emerging technology sectors in those regions and may provide support to departments, agencies, and quasi-public entities of the commonwealth for activities that are consistent with the purposes of the institute. The institute may work in collaboration with the Massachusetts technology collaborative, other quasi-public and not-for-profit agencies. Successful grants should incorporate regional involvement through alliances among municipalities, colleges, business and industry, community based organizations, non-profits and labor unions. Insofar as apt, in the determination of the board, the provisions of this chapter that apply to centers and to the center fund shall apply to said institute and to the innovation institute fund, respectively. Without limiting the generality of the foregoing, the corporation may apply moneys in said fund to start-up expenses and project costs of said institute and related activities, grants to nonprofit or other organizations to develop proposals for regional economic growth in key technology sectors, business incubator development, entrepreneurial training investment in one or more privately managed emerging technology sector investment funds, development of industry-university cooperative research centers, industry networking support, business plan preparation, market research, infrastructure repair and construction, workforce development including, but not limited to, providing funds for programs that provide education and training to enhance the skills of low skilled workers, brokered business assistance services and marketing expenses, provided that written notice shall be given to the house and senate committees on ways and means at least 10 business days before any disbursement of funds amounting to \$250,000 or more. The institute shall also file an annual report of its activities with the house and senate committees on science and technology and ways and means.

(b) No grant shall be awarded from the innovation institute fund without the corporation first having consulted with the appropriate regional competitiveness council or sub-regional competitiveness council established by the department of business and technology. The request for consultation shall be submitted not less than 15 business days prior to the execution of any grant award contract. All successful grant applications shall define specific goals and expected outcomes and contain corresponding accountability measures. Applicants that fail to meet these accountability measures shall be barred from pursuing any additional grants under this section for 5 years from the effective date of the grant. Notwithstanding any general or special law or rule or regulation to the contrary, in order to support regional economic development throughout the commonwealth, any organization found to be eligible to receive financial assistance from the innovation institute fund in support of certain specified purposes and activities shall be deemed to be eligible as well to receive financial assistance for such specified purposes and activities as qualified investments of the emerging technology fund established pursuant to section 27 of chapter 23G of the General Laws and a portion of the emerging technology fund shall be allocated and reserved for such application.

(c) In making the initial round of grants from the innovation institute fund, no less than \$500,000 shall be distributed over a 3 year period to each of the 5 geographic regions of the state, the central area, the greater Boston area, the north east area, the south east area and the western area, as those areas are defined generally as follows:

"Central Area", the Northern Worcester Service Delivery Area and the Southern Worcester Service Delivery Area as specified in 20 CFR 661.280;

"Greater Boston Area", the Boston Service Delivery Area, the Metropolitan North Service Delivery Area and the Metropolitan South/West Service Delivery Area as specified in 20 CFR section 661.280;

"North East Area", the Lower Merrimack Valley Service Delivery Area, the Northern Middlesex Service Delivery Area and the Southern Essex Service Delivery Area as specified in 20 CFR 661.280;

"South East Area", the Bristol Service Delivery Area, the Brockton Service Delivery Area, the Cape and Islands Service Delivery Area, the New Bedford Service Delivery Area and the South Coastal Service Delivery Area as specified in 20 CFR 661.280; and

"Western Area", the Berkshire Service Delivery Area, Franklin/Hampshire Service Delivery Area and Hampden Service Delivery Area as specified in 20 CFR 661.280.

SECTION 19. Said chapter 40J is hereby further amended by inserting after section 4E the following 2 sections:-

Section 4F. (a) There is hereby established and set up on the books of the corporation the Massachusetts Research Center Matching Fund, hereinafter referred to as the "matching fund," to which shall be credited the proceeds of any bonds or notes of the commonwealth issued for the purpose, and any appropriations designated by the general court to be credited thereto. The matching fund shall be administered by the John Adams Innovation Institute established by section 6A. The corporation shall hold the matching fund in an account or accounts separate from other funds of the corporation. The purpose of the matching fund is to provide matching funds to be available to institutions of higher education and other nonprofit research institutions located in the commonwealth in connection with applications by such institutions for scientific or engineering research funding from the federal government or other sources or in connection with collaborative academic research centers and for projects to support technology platforms and industry cluster development supported by the corporation, provided, however, that any such grant awarded in accordance with this section shall leverage at least \$1 for each dollar granted.

This fund shall also support Centers of Excellence, hereinafter referred to as Centers, for research and innovations in targeted emerging technologies. Centers shall (i) perform basic research relevant to its targeted sector, (ii) enhance the development of technology in the targeted sector, (iii) provide technical assistance to current or prospective companies involved in the targeted sector for product development, (iv) involve or employ higher education and secondary education students and faculty in research and in the center's operations, (v) facilitate faculty externships and student internships in targeted sector industries, and (vi) provide incumbent employee training for high level sector related skills.

To be designated a Center, the following must be demonstrated: (1) an expertise in the targeted technology sector; (2) a collaboration with other institutions of higher education; (3) a collaboration with 1 or more industries and nonprofit partners; and (4) a creation of an advisory board that represents its targeted sector related stakeholders. In the first year, 3 such Centers shall target the research and development of medical devices, nanotechnology and biotechnology. One of the first 2 Centers shall be located in southwestern Massachusetts, and the other shall be located in northeastern Massachusetts. Any funds allocated for Centers shall be matched in the first year with at least \$1 from federal or private funding sources for each dollar granted. The match requirements shall increase in subsequent years to at least \$2 from federal or private sources for each \$1 granted. Two-thirds of the matched funds may be in-kind. The corporation shall adopt rules and regulations for the administration of the matching fund, which rules and regulations shall be transmitted 60 days in advance to the executive office for administration and finance, the department of economic development, the house and senate committees on ways and means and the house and senate committees on science and technology.

(b) There shall be a broadband access oversight council within the Massachusetts Technology Park Corporation for the purpose of increasing broadband internet services in underserved communities. The council shall be comprised of 12 members, 1 of whom shall be designated by the Franklin-Hampshire Connect; 1 of whom shall be designated by the Berkshire Connect; 1 of whom shall be designated by the Massachusetts Association of Regional Planning Agencies; 1 of whom shall be designated by the Massachusetts Municipal Association; 1 of whom shall be the secretary of economic affairs; 1 of whom shall be the chairman of the commonwealth development council; 1 of whom shall be the chairman of the department of telecommunications and energy; and 5 of whom shall be appointed by the governor, one of whom shall be a representative from the telecommunications industry. The council shall develop and recommend strategies to achieve broadband internet expansion to every community in the commonwealth. Specifically the council shall: (1) identify communities that lack broadband internet service and leverage the telecommunications purchasing power of the commonwealth and the private sector to bring broadband internet service to every community in the commonwealth; (2) identify appropriate technologies and strategies to bring broadband internet service into underserved communities; (3) identify specific state properties that, if made available, would facilitate the deployment of these technologies to achieve service in under-served areas; and (4) take other action considered necessary to fulfill the goal of broadband marketplace choice in underserved communities. The council shall annually submit any recommendations and make periodic reports on progress being made towards achieving these goals to the department of business and technology, the house and senate committees on science and technology, the joint committee on commerce and labor, and the house and senate committees on ways and means.

SECTION 20. Section 6 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition is hereby amended by striking out, in lines 213 and 214, the words "within

five years from the effective date of this section" and inserting in place thereof the following words:- on or before August 5, 2005.

SECTION 21. Said section 6 of said chapter 62, as so appearing, is hereby amended by adding the following subsection:-

(1) (1) For the purposes of this subsection the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Medical device", an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part or accessory which is recognized in the official National Formulary or the United States Pharmacopoeia, or any supplement to them, intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in humans or other animals, or intended to affect the structure or any functions of the body of humans or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of a human or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

"Medical device company", a sole proprietorship, partnership, limited liability company, corporate trust, corporation or other business, in each case (i) the income of which is taxed directly to the business or its owners under this chapter and (ii) having a facility located in the commonwealth which develops or manufactures medical devices.

"User fees", the monetary amount actually paid by a medical device company to the United States Food and Drug Administration during the taxable year for a pre-market approval to market new technologies developed or manufactured in the commonwealth, or for a 510(k) clearance to market upgrades, changes or enhancements to existing technologies that are developed or manufactured in the commonwealth as stipulated in United States Public Law 107-250, the Medical Device User Fee and Modernization Act.

(2) There shall be allowed to any medical device company as a credit against the tax liability imposed under this chapter, an amount equal to 50 per cent of the cost of user fees paid by such medical device company during the taxable year for which the tax is due.

(3) The commissioner shall promulgate rules and regulations to implement this section.

(4) The commissioner shall establish a business tax benefit transfer program to allow medical device companies doing business in the commonwealth with unused tax benefits to surrender such benefits for use by a purchasing company in exchange for private financial assistance to be provided by such company to assist in the funding of costs incurred by the medical device company.

The private financial assistance shall be used to fund expenses incurred in connection with the operation of the medical device company in the commonwealth including costs associated with fixed assets such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development

expenditures and any other expenses determined by the commissioner to be necessary to carry out the purposes of the program.

A medical device company which participates in the program shall file an application with the department of revenue, on a form prescribed by the commissioner setting forth the tax benefit amounts eligible for transfer, the use to which the medical device company intends to put the private financial assistance to be provided, the identity of the purchasing company, the amount of the financial assistance to be provided, and such other information as the commissioner may require.

No such tax benefits may be surrendered unless the purchasing company provides financial assistance in an amount at least equal to 75 per cent of the tax benefit amounts eligible for transfer.

The commissioner shall review such application and, if the proposed transfer meets the requirements set forth in this section, it shall, upon receipt of a notarized statement signed under the pains and penalties of perjury by an authorized representative of the medical device company that the purchasing company reflecting the tax benefit amounts transferred, a copy of which shall be attached to each tax return filed by a purchasing company in which such tax benefits are used.

The purchasing company shall treat benefit amounts purchased under the program as a credit against its tax liability. The purchasing company must use the tax benefit amounts so treated in tax returns filed within 5 years of the issuance of the certificate, after which the benefits will be considered to have expired. The purchasing company may not use the tax benefit amounts to reduce the income tax to less than the amount due under section 4.

A medical device company surrendering tax benefits under the program shall not use the benefits to reduce its tax liability under this chapter.

SECTION 22. Chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after section 6I the following section:-

Section 6J. (a) For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Certified rehabilitation", the rehabilitation of a qualified historic structure that has been approved and certified by the chairman of the Massachusetts historical commission as being consistent with the standards established by the Secretary of the United States Department of the Interior for rehabilitation of historic properties.

"Qualified historic structure", any building or structure, located within the commonwealth that is individually listed on the National Register of Historic Places or is a contributing building within a district that is listed on the National Register of Historic Places or which has been determined by the Massachusetts historical commission to be eligible for listing on the National Register of Historic Places, and which all or any portion of which is owned, in whole or in part, by the taxpayer.

"Qualified rehabilitation expenditure", any amount properly chargeable to a capital account and is of a character subject to federal depreciation allowance under section 47 of

the Internal Revenue Code, as amended and in effect for the taxable year, incurred in connection with the certified rehabilitation of a qualified historic structure, provided that such term shall not include any personal property or the cost of acquiring any building or interest thereon.

"Substantial rehabilitation" and "substantially rehabilitated", the qualified rehabilitation expenditures of the building during the 24-month period selected by the taxpayer ending with or within the taxable year exceed 25 per cent of the taxpayer's adjusted basis in such building and its structural components as of the beginning of such period. In the case of any rehabilitation that may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, the applicable period referred to in this paragraph shall be 60 months.

"Taxpayer", a person, firm, partnership, trust, estate, limited liability company or other entity subject to the income tax imposed by the provisions of this chapter.

(b) (1) There is hereby established a Massachusetts historic rehabilitation tax credit. The department of revenue, in consultation with the Massachusetts historical commission may authorize annually, for the 5-year period beginning January 1, 2005, and ending December 31, 2009, under this section together with section 38R of chapter 63, an amount not to exceed \$10,000,000; provided, further, that the department of revenue in consultation with the Massachusetts historical commission, shall, whenever possible, authorize no less than 25 per cent of the tax credits to projects that contain affordable housing. The Massachusetts historical commission, in consultation with the department of revenue, shall administer and determine eligibility for the Massachusetts historic rehabilitation tax credit and allocate the credit in accordance with the provisions of this section.

Any taxpayer subject to taxation under this chapter that incurs qualified rehabilitation expenditures shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The amount of the credit shall be equal to 20 per cent of the qualified rehabilitation expenditures made by such taxpayer with respect to a qualified historic structure, and may only be taken by the taxpayer upon completion of the rehabilitation work and approval of such work as provided for in this section.

(2) The credit allowable under this section shall be allowed for the taxable year in which the substantially rehabilitated property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted.

If the Massachusetts historic rehabilitation tax credit allowable for any taxable year exceeds the taxpayer's tax liability for the year in which the substantially rehabilitated property is placed in service, the amount that exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for the succeeding 5 years, or until the full credit is used, whichever occurs first. Historic rehabilitation tax credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among such persons designated

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as partners, member or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of such entity.

Taxpayers eligible for the Massachusetts historic rehabilitation tax credit may assign, transfer or convey the credits, in whole or in part, by sale or otherwise to any individual or entity, and such transferee shall be entitled to offset income imposed by this chapter with the same effect as if such transferee had incurred the qualified rehabilitation expenditures. The assignor shall perfect such transfer by notifying the department of revenue in writing within 90 days following the effective date of said transfer, and shall provide any information as may be required by the department of revenue to administer and carry out the provisions of this section.

(c) (1) A certified rehabilitation shall require:

(i) an initial certification by the Massachusetts historical commission that the structure meets the definition of qualified historic structure;

(ii) a second certification by the Massachusetts historical commission, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work will meet the standards required for a certified rehabilitation; and

(iii) a final certification by the Massachusetts historical commission, issued when construction is completed, certifying that the work was completed as proposed and that the costs are consistent with the work completed. Such final certification shall be acceptable as proof that the expenditures related to such construction qualify as qualified rehabilitation expenditures for purposes of the credit allowed under this section.

(2) A rehabilitation shall not be treated as complete before the date of the certification referred to in clause (iii) of paragraph (1).

(d) A taxpayer who leases his property shall be treated as the owner thereof if the remaining term of the lease as of the date determined under regulations prescribed by the department of revenue is not less than such minimum period as the regulations require.

(e) The percentage of the total expenditures made in the rehabilitation of the exterior of a building containing condominium dwelling units shall be attributed to each such unit within the building, based upon the percentage of space each unit occupies within the building, and in the case of a building where less than the entire building is used as a residence of the taxpayer, only the portion of the total expenditures made in the rehabilitation of the building that is attributable to the residence of the taxpayer shall be treated as qualified rehabilitation expenditures.

(f) For any qualified historic structure, qualified rehabilitation expenditures applicable to the historical rehabilitation tax credit shall be treated for purposes of this section as made:

(i) on the date substantial rehabilitation is completed, or

(ii) to the extent provided by the commissioner of revenue by regulation, when such expenditures are properly chargeable to a capital account. Regulations under this paragraph shall include a rule similar to the rule under section 50(a)(2) of the Internal Revenue Code, as amended and in effect for the taxable year, relating to recapture if property ceases to qualify

for progress expenditures.

(g)(1) If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed the taxpayer disposes of such taxpayer's interest in such building, then the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs, shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

(2) For purposes of paragraph (1), the recapture percentage shall be the product of the amount of credit claimed by the taxpayer multiplied by a ratio, the numerator of which is the number of months the building is owned by the taxpayer or, in the case of a homeowner, used as the taxpayer's residence and the denominator of which is 60.

(h) For purposes of this section, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would, but for this paragraph, result from such expenditure shall be reduced by the amount of the credit so allowed.

(i) The department of revenue in consultation with the Massachusetts historical commission, shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including the imposition of a fee for the processing of applications for the certification of any rehabilitation under this section; provided, however, that the amount of such fee is used only to defray expenses associated with the processing of such applications.

(j) Except for unused credits carried forward pursuant to paragraph (2) of subsection (b) of section 38R of chapter 63 and paragraph (2) of subsection (b) of this section, a taxpayer shall not be eligible for any historic rehabilitation tax credits for more than 5 taxable years.

SECTION 23. Chapter 62C of the General Laws is hereby amended by inserting after section 67C the following section:-

Section 67D. (a) When used in this section, the following words shall have the following meaning:

"Application year", the calendar year for which a biotechnology or medical device manufacturing company submits the information required for a determination as to a jobs incentive payment.

"Biotechnology company", a business primarily engaged in the research, development, production or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes including, but not limited to, medical, pharmaceutical, nutritional and other health-related purposes or a person engaged in providing services or products necessary for such research, development, production or provision. This term shall include contract manufacturers engaged in the production of biotechnology products for a biotechnology company or a medical device manufacturing company.

"Business", a corporation, sole proprietorship, partnership, limited liability company or any other form of business organization.

"Commissioner", the commissioner of revenue.

"Eligible Jobs", a number determined by first multiplying each of the local jobs created by a biotechnology or medical device manufacturing company during a single calendar year by the job qualifier for that job, and then totaling the number for all of the local jobs created.

"Full time employee", a person who is employed for consideration for at least 35 hours per week and whose salary is subject to withholding as provided in chapter 62B.

"Job qualifier fraction", in the case of either a full-time employee or a part-time employee of a biotechnology or medical device manufacturing company, the figure that determines the extent to which that employee is employed in the commonwealth during a single calendar year. The job qualifier fraction for each employer shall be determined by multiplying the following percentages together: (i) the percentage of time that an employee worked while employed by the company expressed as average hours worked per week out of 35 hours, not to exceed 100 per cent; (ii) that employee's time attributable to work in the commonwealth, as a portion of that employee's total work for the company; and (iii) the portion of the year the employee worked for the company.

"Jobs incentive payment", a business employment incentive payment for biotechnology or medical device manufacturing companies as provided for in this section.

"Local jobs created", the total number of jobs created by a biotechnology or medical device manufacturing company during a single calendar year in which the new employees perform qualified services at least 1 in-state location, including jobs performed by persons that are transferred within the company to work at an in-state location from a location based outside the state.

"Medical device manufacturing company", a business primarily engaged in manufacturing medical or surgical instruments, surgical appliances or supplies or electromedical, electrotherapeutic or irradiation apparatus. This term shall include contract manufacturers engaged in the production of such products for a medical device manufacturing company or a biotechnology company.

"Part-time employee", a person who is employed for consideration for less than 35 hours a week and whose salary is subject to withholding as provided in chapter 62B.

"Payment years", in the case of a biotechnology or medical device manufacturing company that is determined to be eligible for a jobs incentive payment, the 3 calendar years following the application year.

"Qualified services", direct production manufacturing services performed by an employee of a biotechnology or medical device manufacturing company during a calendar year that consist primarily of at least 1 of the following services: medicinal and botanical manufacturing, pharmaceutical and preparation manufacturing, in vitro diagnostic substance manufacturing, biological product, except diagnostic, manufacturing, surgical and medical instrument manufacturing, electromedical and electrotherapeutic apparatus manufacturing, surgical appliance and supplies manufacturings and irradiation apparatus manufacturing. These services are as referenced in the federal NAICS Codes for biotechnology manufacturing, numbers 325411-325414, 339112, 314510, 339113 and 334517, respectively.

"Weighted, average employment", for a calendar year, the total number of jobs maintained by a biotechnology or medical device manufacturing company in which the employees performed employment services at at least 1 in-state location. The number is to be determined by first multiplying each of the individual jobs maintained by the company for that year by the job qualifier fraction for that job and then totaling the number for all of these jobs.

(b) A biotechnology or medical device manufacturing company that creates 10 or more eligible jobs in the commonwealth during a single calendar year shall be entitled to a jobs incentive payment if its weighted average employment for such year reflects a net increase of at least 10 jobs over the company's weighted average employment for the prior calendar year. The jobs incentive payment shall be equal to 50 per cent multiplied by the applicable Massachusetts income tax rate for the salary paid to the persons who perform the newly created eligible jobs for the calendar year in question; provided, however, that such salary shall be subject to Massachusetts withholding pursuant to chapter 62B for such year. For the purposes of this provision, an eligible job shall be deemed created in the commonwealth on the first day for which Massachusetts withholding is required in connection with the compensation paid to the employee.

(c) The jobs incentive payment shall be paid to a biotechnology or medical device manufacturing company in 3 equal installments in each of the 3 calendar years commencing with the calendar year subsequent to the application year. If, for the first or second payment year, the company's weighted average employment falls below its weighted average for the application year, the company shall be disqualified from receiving its second installment payment, it may still receive its third installment payment if its weighted average employment for its second payment year is above its weighted average employment for the application year.

(d) A biotechnology or medical device manufacturing company that seeks a jobs incentive payment shall apply to the commissioner to receive such payment on a form to be prescribed by the commissioner. This form shall reference the necessary information concerning the eligible jobs created by the company in the Commonwealth during the application year and also the company's weighted average employment for such year and the prior calendar year. The commissioner shall advise the company of his determination in writing.

(e) Not later than March 1 of each calendar year for which a biotechnology or medical device manufacturing company has been approved to receive a jobs incentive payment, the company shall submit to the commissioner, in a form prescribed by the commissioner, the information necessary to evaluate the company's prior year weighted employment average.

(f) A biotechnology or medical device manufacturing company that has previously been approved to receive a jobs incentive payment is entitled to re-apply for an additional payment for a second or third application year. In such cases, the company may be entitled to receive a jobs incentive payment that relates to different application years in the same calendar year. When a company has previously been granted a jobs incentive payment for

3 application years, it shall not request an additional jobs incentive payment.

(g) The commissioner shall issue payments, as authorized in subsection (b), without further appropriation. The commissioner may issue rules and regulations as necessary or helpful to implement this section, including rules and regulations to ensure compliance with this section.

SECTION 24. Chapter 63 of the General Laws is hereby amended by inserting after section 38Q the following section:-

Section 38R. (a) For purposes of this section, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Certified rehabilitation", the rehabilitation of a qualified historic structure that has been approved and certified by the chairman of the Massachusetts historical commission as being consistent with the standards established by the Secretary of the United States Department of the Interior for rehabilitation of historic properties.

"Qualified historic structure", any building or structure, located within the commonwealth that is individually listed on the National Register of Historic Places or is a contributing building within a district that is listed on the National Register of Historic Places or which has been determined by the Massachusetts historical commission to be eligible for listing on the National Register of Historic Places, and which all or any portion of which is owned, in whole or in part, by the taxpayer.

"Qualified rehabilitation expenditure", any amount properly chargeable to a capital account and, in the case of a taxpayer claiming an income-producing credit, is of a character subject to federal depreciation allowance under section 47 of the Internal Revenue Code, as amended and in effect for the taxable year, incurred in connection with the certified rehabilitation of a qualified historic structure, provided that such term shall not include any personal property or the cost of acquiring any building or interest thereon.

"Substantial rehabilitation" and "substantially rehabilitated", the qualified rehabilitation expenditures of the building during the 24-month period selected by the taxpayer ending with or within the taxable year exceed 25 per cent of the taxpayer's adjusted basis in such building and its structural components as of the beginning of such period. In the case of any rehabilitation that may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, the applicable period referred to in this paragraph shall be 60 months.

"Taxpayer", a corporation subject to an excise imposed by this chapter.

(b)(1) There is hereby established a Massachusetts historic rehabilitation tax credit. The department of revenue in consultation with the Massachusetts historical commission, may authorize annually, for the 5 year period beginning January 1, 2005, and ending December 31, 2009, under this section together with section 6J of chapter 62, an amount not to exceed \$10,000,000 provided, further, that the department of revenue in consultation with the Massachusetts historical commission, shall, whenever possible, authorize no less than 25 per cent of the tax credits to projects that contain affordable housing. The Massachusetts historical commission, in consultation with the department of revenue, shall administer and

determine eligibility for the Massachusetts historic rehabilitation tax credit and allocate the credit in accordance with the provisions of this section.

A taxpayer that incurs qualified rehabilitation expenditures shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by this chapter. The amount of the credit shall be equal to 20 per cent of the qualified rehabilitation expenditures made by such taxpayer with respect to a qualified historic structure, and may only be taken by the taxpayer upon completion of the rehabilitation work and approval of such work as provided for in this section.

(2) The credit allowable under this section shall be allowed for the taxable year in which the substantially rehabilitated property is placed in service, that is, when occupancy of the entire structure or some identifiable portion of the structure is permitted.

If the credit allowed under this section for any taxable year exceeds the taxpayer's tax liability for the year in which the substantially rehabilitated property is placed in service, the amount that exceeds the taxpayer's tax liability may be carried forward for credit against the taxes imposed for the succeeding 5 years, or until the full credit is used, whichever occurs first. Any credits allowed under this section which are provided to multiple owners of property shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among such persons designated as partners, member or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of such entity.

Any taxpayer entitled to a credit under this section may assign, transfer or convey the credits, in whole or in part, by sale or otherwise to any individual or entity, and such transferee shall be entitled to offset income imposed by this chapter with the same effect as if such transferee had incurred the qualified rehabilitation expenditures. The assignor shall perfect such transfer by notifying the department of revenue in writing within 90 days following the effective date of said transfer and shall provide any information as may be required by the department of revenue to administer and carry out this section.

(c) (1) A certified rehabilitation shall require:

(i) an initial certification by the Massachusetts historical commission that the structure meets the definition of qualified historic structure;

(ii) a second certification by the Massachusetts historical commission, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work will meet the standards required for a certified rehabilitation; and

(iii) a final certification by the Massachusetts historical commission, issued when construction is completed, certifying that the work was completed as proposed and that the costs are consistent with the work completed. Such final certification shall be acceptable as proof that the expenditures related to such construction qualify as qualified rehabilitation expenditures for purposes of the credit allowed under this section.

(2) A rehabilitation shall not be treated as complete before the date of the certification referred to in clause (iii) of paragraph (1).

(d) A taxpayer who leases its property shall be treated as the owner thereof if the remaining term of the lease as of the date determined under regulations prescribed by the commissioner of revenue is not less than such minimum period as the regulations require.

(e) The percentage of the total expenditures made in the rehabilitation of the exterior of a building containing condominium dwelling units shall be attributed to each such unit within the building, based upon the percentage of space each unit occupies within the building, and in the case of a building where less than the entire building is used as a residence of the taxpayer, only the portion of the total expenditures made in the rehabilitation of the building that is attributable to the residence of the taxpayer shall be treated as qualified rehabilitation expenditures.

(f) For any qualified historic structure, qualified rehabilitation expenditures shall be treated for purposes of this section as made:

(i) on the date substantial rehabilitation is completed, or

(ii) to the extent provided by the commissioner of revenue by regulation, when such expenditures are properly chargeable to a capital account. Regulations under this paragraph shall include a rule similar to the rule under section 50(a)(2) of the Internal Revenue Code, as amended and in effect for the taxable year, relating to recapture if property ceases to qualify for progress expenditures.

(g)(1) If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed the corporation disposes of such corporation's interest in such building, then the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs, shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

(2) For purposes of paragraph (1), the recapture percentage shall be the product of the amount of credit claimed by the corporation multiplied by a ratio, the numerator of which is the number of months the building is owned by the taxpayer and the denominator of which is 60.

(h) For purposes of this section, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would, but for this paragraph, result from such expenditure shall be reduced by the amount of the credit so allowed.

(i) The department of revenue in consultation with the Massachusetts historical commission, shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including the imposition of a fee for the processing of applications for the certification of any rehabilitation under this section; provided, however, that the amount of such fee is used only to defray expenses associated with the processing of such applications.

(j) Except for unused credits carried forward pursuant to paragraph (2) of subsection (b) of section 6J of chapter 62 and paragraph (2) of subsection (b) of this section, a taxpayer shall not be eligible for any historic rehabilitation tax credits for more than 5 taxable years.

SECTION 25. Section 31A of said chapter 63, as most recently amended by section 206 of chapter 26 of the acts of 2003, is hereby further amended by striking out paragraphs

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(k) and (l) and inserting in place thereof the following 2 paragraphs:-

(k) Paragraphs (a) and (f) shall not be available for the taxable years ending on or after December 31, 1993.

(l) Paragraphs (i) and (j) shall be available only for the taxable years ending on or after December 31, 1993.

SECTION 26. Said chapter 63 is hereby further amended by inserting after section 31H the following section:-

Section 31I. (a) For the purposes of this section the following words shall have the following meanings, unless the context clearly requires otherwise:

"Medical device", an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part, or accessory which is recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them, intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in humans or other animals, or intended to affect the structure or any function of the body of humans or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of a human or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

"Medical device company", (1) a domestic corporation organized under or subject to chapter 156B, (2) a limited liability company organized under chapter 156C and otherwise subject to this chapter, or (3) a corporation, organization or association established, organized or chartered under laws other than those of the commonwealth and otherwise subject to this chapter, and in each case which has a usual place of business within the commonwealth wherein medical devices are developed or manufactured.

"User fees", the monetary amount actually paid by medical device companies to the United States Food and Drug Administration during the taxable year for a pre-market approval to market new technologies developed or manufactured in the commonwealth, or for a 510(k) clearance to market upgrades, changes or enhancements to existing technologies that are developed or manufactured in the commonwealth as stipulated in United States Public Laws 107-250, the Medical Device User Fee and Modernization Act.

(b) There shall be allowed to any medical device company as a credit against the tax liability imposed under this chapter, an amount equal to 50 per cent of the cost of user fees paid by the medical device company during the taxable year for which the tax is due.

(c) The commissioner shall promulgate rules and regulations to implement this section.

(d) The commissioner shall establish a business tax benefit transfer program to allow medical device companies doing business in the commonwealth with unused tax benefits to surrender such benefits for use by a purchasing company in exchange for private financial assistance to be provided by such company to assist in the funding of costs incurred by the medical device company.

The private financial assistance shall be used to fund expenses incurred in connection with the operation of the medical device company in the commonwealth including costs associated with fixed assets such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the commissioner to be necessary to carry out the purposes of the program.

A medical device company which participates in the program shall file an application with the department of revenue, on a form prescribed by the commissioner setting forth the tax benefit amounts eligible for transfer, the use to which the medical device company intends to put the private financial assistance to be provided, the identity of the purchasing company, the amount of the financial assistance to be provided, and such other information as the commissioner may require.

No such tax benefits may be surrendered unless the purchasing company provides financial assistance in an amount at least equal to 75 per cent of the tax benefit amounts eligible for transfer.

The commissioner shall review such application and, if the proposed transfer meets the requirements set forth in this section, it shall, upon receipt of a notarized statement signed under the pains and penalties of perjury by an authorized representative of the medical device company that the purchasing company reflecting the tax benefit amounts transferred, a copy of which shall be attached to each tax return filed by a purchasing company in which such tax benefits are used.

The purchasing company shall treat benefit amounts purchased under the program as a credit against its excise under this chapter. The purchasing company shall use the tax benefit amounts so treated in tax returns filed within 5 years of the issuance of the certificate, after which the benefits will be considered to have expired. The purchasing company may not use the tax benefit amounts to reduce the excise to less than the amount due under subsection (b) of section 32, or subsection (b) of section 39.

No medical device company surrendering tax benefits under the program may use such benefits to reduce its tax liability under this chapter.

SECTION 27. Said chapter 63 is hereby further amended by striking out section 38C, as amended by section 24 of chapter 4 of the acts of 2003, and inserting in place thereof the following section:-

Section 38C. Every corporation organized under or subject to chapter 156B and every limited liability company organized under chapter 156C which is not classified as a partnership and has elected to be taxed as a corporation separate from its members for federal income tax purposes which is engaged in manufacturing herein, or in research herein and development shall for the purposes of this chapter be deemed to be a domestic manufacturing corporation, or a domestic research and development corporation. Corporations that are engaged in research and development and that conduct manufacturing activities shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing

whether $\frac{2}{3}$ of expenditures are allocable to research and development, whether or not the manufacturing activities of the corporation are substantial.

A domestic research and development corporation for the purposes of this section is one whose principal activity herein is research and development and which, during the taxable year, derives more than $\frac{2}{3}$ of its receipts attributable to the commonwealth from the activity or incurs more than $\frac{2}{3}$ of its expenditures attributable to the commonwealth, allocable to such activity; provided however, that a corporation that qualifies as a domestic research and development corporation only by reason of its expenditures shall not be entitled to the credit provided in section 31A by virtue of its qualification as a domestic research and development corporation. Corporations engaged in both research and development and in manufacturing shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing whether $\frac{2}{3}$ of expenditures are allocable to research and development. Receipts from research and development shall include receipts from the provision of research and development services and from royalties or fees derived from the licensing of patents, know-how or other technology developed from research and development. For purposes of this section, research and development is experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, the development or improvement of methods for producing products, and does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literacy, historical or similar projects.

Nothing in this section shall be construed to provide for an exemption from local taxation of the machinery of a corporation deemed to be a domestic research and development corporation which is not deemed to be a domestic manufacturing corporation.

SECTION 28. Section 38Q of chapter 63, of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out, in line 3, the words "within 5 years from the effective date of this section" and inserting in place thereof the following words:- on or before August 5, 2005.

SECTION 29. Said chapter 63 of the General Laws is hereby amended by striking out section 42B, as amended by section 29 of chapter 4 of the acts of 2003, and inserting in place thereof the following section:-

Section 42B. Every foreign limited liability company taxed as a corporation separate from its members for federal income tax purposes and every corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, which has a usual place of business in the commonwealth, and is engaged in manufacturing therein, or engaged therein in research and development shall, for the purposes of this chapter, be deemed to be a foreign manufacturing corporation or a foreign research and development corporation. Every foreign manufacturing corporation shall be taxed in the same manner and shall have the same duties under this chapter and chapter 62C

as other foreign corporations, except insofar as the determination of the excise under this chapter may be affected by reason of the exemption from local taxation of the machinery of a foreign manufacturing corporation. A foreign research and development corporation for the purposes of this section is one whose principal activity herein is research and development and which derives more than 2/3 of its receipts attributable to the commonwealth from the activity or incurs more than 2/3 of its expenditures attributable to the commonwealth allocable to the activity; provide however, that a corporation that qualifies as a foreign research and development corporation only by reason of its expenditures shall not be entitled to the credit provided in section 31A of chapter 63 by virtue of its qualification as a foreign research and development corporation. Corporations that are engaged in research and development and that conduct manufacturing activities shall exclude expenditures related to manufacturing from total expenditures for the purpose of assessing whether 2/3 of expenditures are allocable to research and development, whether or not the manufacturing activities of the corporation are substantial. Receipts from research and development shall include receipts from the provision of research and development services and from royalties or fees derived from the licensing of patents, know-how or other technology developed from research and development. For purposes of this section, research and development is experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, the development or improvement of methods for producing products; and does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literacy, historical or similar projects. Nothing in this section shall be construed to provide for an exemption from local taxation of the machinery of a corporation deemed to be a foreign research and development corporation which is not deemed to be a foreign manufacturing corporation.

SECTION 30. Chapter 75 of the General Laws is hereby amended by adding the following section:-

Section 45. (a) There shall be a Massachusetts Technology Transfer Center, hereinafter referred to as the center, at the University of Massachusetts, that shall facilitate the transfer of technology from the commonwealth's research institutions to the commonwealth's industries, for productive use by such industries.

(b) The center shall provide advice and assistance to public and private research institutions on strategies for technology transfer including, but not limited to, advice and assistance in the following areas:

- (1) assessing the viability and value of developing technologies;
- (2) defining and exploiting potential markets for such technologies;
- (3) commercialization strategies;
- (4) intellectual property issues, including licensing strategies; and
- (5) business development.

(c) The board of trustees of the University of Massachusetts, in consultation with the director of business and technology, shall appoint an executive director of the center. The executive director shall devote his full time to the operation of the center and may be removed at the pleasure of the board of trustees. The executive director shall report annually to the department of business and technology on the number of technology transfer transactions or projects that have been consummated with the assistance of the center, the names and geographic locations of the recipient industries and the estimated number of new jobs created as a result of such transactions or projects.

(d) There shall be an advisory committee relative to the center consisting of the director of business and technology, or his designee, the director of science and technology within the department of business and technology and 7 members selected by the executive director of the center, with the approval of the board of trustees, 1 of whom shall be a representative from a technology industry, at least 1 such member shall be a representative from academia, at least 1 such member shall have experience in venture financing and at least 1 such member shall have experience in public administration. The appointed members of the committee may be removed by the executive director with or without cause, subject to the approval of the board of trustees, and shall serve without compensation, except that each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee shall meet at least twice annually.

(e) There shall be a center for economic analysis and assessment within the McCormack Graduate School of Policy Studies' Center for State and Local Policy. The center shall analyze and study economic trends in the commonwealth and shall provide its analysis to elected officials. The center shall continuously research and inform elected officials on the following subject areas:

- (1) effectiveness of the commonwealth's economic development incentive programs including, but not limited to, tax credits, loan and matching grant programs;
- (2) job creation programs;
- (3) tax policy;
- (4) workforce training and development programs; and
- (5) regional and national competitiveness of the state's economy.

The center shall work with existing research entities within the University of Massachusetts system and other public agencies to prepare timely analysis of the economy of the commonwealth and other economic indicators.

SECTION 31. Section 6 of chapter 136 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out clause (52) and inserting in place thereof the following clause:-

(52) The retail sale of alcoholic beverages not to be drunk on the premises on Sundays by retail establishments licensed under section 15 of chapter 138; provided, however, that establishments operating under this clause shall compensate an employee, for

work performed on a Sunday, at a rate of not less than one and one-half of the employee's regular rate; provided further, that a local governing board may limit the sale of alcoholic beverages to 6 days a week and choose which days retail establishments licensed under section 15 of chapter 138 may sell alcoholic beverages; and provided further, that no such sale shall occur unless such permit has been granted; and provided further, that such permit shall not allow such sale prior to the hour of twelve noon or on Christmas Day if Christmas occurs on a Sunday; provided, however, that establishments operating under this clause which employ more than 7 persons shall compensate all employees for work performed on a Sunday, at a rate of not less than one and one-half of the employee's regular rate. No employee shall be required to work on a Sunday and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, deduction of hours or any other penalty.

SECTION 32. Chapter 138 of the General Laws is hereby amended by striking out section 33, as so appearing, and inserting in place thereof the following section:-

Section 33. (a) No licensee under section 15 shall sell or deliver alcoholic beverages, and no registered pharmacist acting under section 29 and no licensee under section 30A shall sell alcoholic beverages or alcohol without a physician's prescription, during polling hours on any day on which a state or municipal election, caucus or primary is held in a city or town in which such licensed place is conducted; provided that these restrictions shall not apply if the local licensing authority issues an order to that effect applicable alike to all licensees of every class subject to such restrictions. Except as provided in section 33A, no holder of a tavern license shall sell any alcoholic beverages on Sundays and no other licensee under section 12 shall sell any such beverages on Sundays between 1:00 a.m. and 12:00 noon and in any county other than Suffolk, no licensee under section 12 shall sell any such beverages on Christmas day, or on the day following when Christmas occurs on a Sunday, or on the last Monday in May, between 1:00 a.m. and 12:00 noon. In Suffolk county, no licensee under said section 12 shall sell alcoholic beverages on Christmas day or on the day following when Christmas occurs on a Sunday, or on the last Monday in May, between 2:00 a.m. and 12:00 noon. No registered pharmacist acting under section 29 and no licensee under section 30A shall sell alcoholic beverages or alcohol without a prescription on Sundays or legal holidays, no licensee under section 15 shall sell or deliver any alcoholic beverages on the last Monday in May, Thanksgiving day or Christmas day or on the day following when Christmas day occurs on a Sunday. No licensee under section 18 or 19 shall sell or deliver alcoholic beverages on a Sunday or on the last Monday in May, Thanksgiving day or Christmas day or on the day following when Christmas occurs on a Sunday; provided, however, that a licensee under section 19B may sell wine at retail by the bottle to consumers for consumption off the winery premises on Sundays and legal holidays; provided further, that a licensee under section 19C may sell malt beverages at retail by the bottle to consumers for consumption off the brewery premises on Sundays and legal holidays; provided further, that a licensee under section 19E may sell distilled products at retail by the bottle to consumers for consumption off the distillery premises on Sundays and legal holidays; provided further, that a licensee who is a natural person who observes Saturday as the Sabbath by closing his

place of business from sundown Friday to sundown Saturday and who sells or delivers kosher meat or fish pursuant to clause (23) of section 6 of chapter 136, may sell or deliver kosher wine on Sundays if it has been labeled and certified as such. Notwithstanding chapter 136 or 140 to the contrary, the local licensing authorities may authorize a licensee under section 12, who is authorized to sell alcoholic beverages on Sundays between the hours of 12:00 midnight and 1:00 a.m. or 2:00 a.m., to allow dancing during that 1 or 2-hour period, as the case may be, in which he is so authorized to sell alcoholic beverages.

(b) Notwithstanding subsection (a), and clause (52) of section 136 of chapter 6, in a city or town that accepts this subsection, there shall be no retail sale of alcoholic beverages on Sundays.

(c) Notwithstanding the provisions of section 77 of chapter 138 a city or town that authorizes licensees under section 15 to conduct business on a Sunday as provided by clause 52 of section 6 of chapter 136 shall permit said licensee to cease the conduct of business on one day of the week.

SECTION 33. Section 1 of chapter 176D of the General Laws, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) "Person", any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, operators of any medical service plan and hospital service plan as defined in chapters 176B, 176C, 176E and 176F, carriers and health maintenance organizations as defined in chapter 176G, insurers and sponsors of a legal services plan as defined in chapter 176H, any other legal entity or self insurer which is engaged in the business of insurance, including agents, brokers, and adjusters, the Massachusetts Insurers Insolvency Fund and any joint underwriting association established pursuant to law. For purposes of this chapter, operators of any such medical and hospital service plans and carriers and such health maintenance organizations shall be engaged in the business of insurance.

SECTION 34. Section 1 of chapter 176G of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Carrier" the following definition:-

"Affiliate", an affiliate of, or person affiliated with, a specific person, is a person that directly, or indirectly through 1 or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

SECTION 35. Said section 1 of said chapter 176G, as so appearing, is hereby further amended by inserting after the definition of "Company" the following definition:-

"Control", including controlling, controlled by and under common control with, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds

with the power to vote, or holds proxies representing, 10 per cent or more of the voting securities of any other person. In the case of a person subject to chapter 180, control shall be presumed to exist if any other person shall, directly or indirectly, own, control or hold, more than 10 per cent of the aggregate rights in any membership class or shall, directly or indirectly, have the right to appoint or elect more than 10 per cent of the directors serving on the person's board of directors. Any of these aforementioned presumptions may be rebutted by a showing made in the manner provided with respect to insurers under subsection (k) of section 206C of chapter 175 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that such control exists in fact, notwithstanding the absence of a presumption to that effect.

SECTION 36. Said section 1 of said chapter 176G, as so appearing, is hereby further amended by inserting after the definition of "Evidence of Coverage" the following definition:-

"Foreign health maintenance organization", a health maintenance organization formed by authority of any state or government other than the commonwealth and qualified to conduct business in the commonwealth.

SECTION 37. Said section 1 of said chapter 176G, as so appearing, is hereby further amended by inserting after the definition of "Health maintenance organization" the following definition:-

"Health maintenance organization holding company system", a health maintenance organization holding company system consists of 2 or more affiliates, 1 or more of which is a health maintenance organization.

SECTION 38. Said section 1 of said chapter 176G, as so appearing, is hereby further amended by striking out the definition of "Member" and inserting in place thereof the following 3 definitions:-

"Managed hospital payment basis", agreements wherein the financial risk is primarily related to the degree of utilization rather than to the cost of the services.

"Member", any individual who has entered into a health maintenance contract, or on whose behalf such an arrangement has been made, with a health maintenance organization or carrier or both for health services and any dependent of such individual who is covered by the same contract; provided that in sections 25 to 29, inclusive. "Enrolled member" shall mean any such individual, and "Member" shall have the same meaning as set forth in chapter 180.

"Net worth", the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt pursuant to subsection (d) of section 24.

SECTION 39. Said section 1 of said chapter 176G, as so appearing, is hereby further amended by adding the following 4 definitions:-

"Person", shall have the meaning set forth in section 206 of chapter 175.

"Subsidiary", shall have the meaning set forth in section 206 of chapter 175.

"Uncovered expenditures", the cost to a health maintenance organization for health care services that are the obligation of such a health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organizations' insolvency and for which no alternative arrangements have been made to cover such costs that are acceptable to the commissioner.

"Voting security", shall have the meaning set forth in section 206 of chapter 175.

SECTION 40. Section 3 of said chapter 176G, as so appearing, is hereby amended by striking out, clause (1) and inserting in place thereof the following clause:-

(1) organize and operate a health maintenance organization as a line of business, division, department, subsidiary or affiliate under the provisions of this chapter provided that where such is organized as a line of business, division, department, subsidiary or affiliate, the operation of the health maintenance organization shall be separately accounted for, the income and expenses shall be allocated in accordance with statutory accounting practices and procedures prescribed or permitted by the commissioner, and the carrier or companies shall not utilize the income from such health maintenance organization for unrelated activities.

SECTION 41. Said chapter 176G is hereby further amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. Every health maintenance organization shall annually file with the commissioner, within 60 days of the close of its fiscal year, a report verified by at least 2 principal officers and covering its preceding fiscal year; provided that, if the commissioner determines that a threat of insolvency exists with respect to a health maintenance organization, he may require that such report be made available prior to the expiration of said 60 days. The report shall include:-

(1) financial statements of the health maintenance organization on the latest applicable form of annual statement approved by the National Association of Insurance Commissioners for health maintenance organizations, with any additional information the commissioner may require for the purpose of eliciting a complete and accurate exhibit of the condition and transactions of the health maintenance organization;

(2) statistics relating to the cost of operations and the pattern of utilization of services in the previous fiscal year; and

(3) such other information as the commissioner may reasonably require relating to the past performance of the organization.

All financial information reflected in the annual report shall be maintained and prepared in accordance with statutory accounting practices and procedures prescribed or permitted by the commissioner.

The commissioner shall require that the annual report be maintained and prepared in accordance with the Annual Statement Instructions and Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners unless further modified by the commissioner as deemed appropriate.

The commissioner may make an examination of the affairs of a health maintenance

organization when the commissioner deems prudent but, in any event, not less frequently than once every 5 years. Health maintenance organizations shall be examined in all respects as companies subject to and pursuant to section 4 of chapter 175.

Notwithstanding any other provisions of the General Laws, including clause Twenty-sixth of section 7 of chapter 4, chapter 66, or section 4 of chapter 175, the records of any such audit, examination or other inspection and the information contained in the records, reports or books of a health maintenance organization examined pursuant to this section shall be confidential and open only to the inspection of the commissioner, his examiners and assistants. Access to the confidential material may be granted by the commissioner to the National Association of Insurance Commissioners, to the insurance department of any other state or country or to law enforcement officials of the commonwealth or any other state or agency of the federal government at any time, so long as the agency or office receiving the information agrees in writing to hold the material confidential. Nothing in this section shall be construed to prohibit the required production of such records, and information contained in the reports of such health maintenance organization, before any court of the commonwealth or any master or auditor appointed by any such court, in any criminal or civil proceeding, affecting such health maintenance organization, its officers, directors or employees.

The final report of any such audit, examination or other inspection by or on behalf of the division shall be a public record.

SECTION 42. Section 14 of said chapter 176G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- Each applicant for a health maintenance organization license shall upon initial application submit to the commissioner for his approval such materials as the commissioner shall by regulation require, in a form approved by the commissioner. A health maintenance organization shall annually notify the commissioner of any material change to the information submitted, in a form and at a time approved by the commissioner.

SECTION 43. Section 20 of said chapter 176G, as so appearing, is hereby amended by inserting, after the figure "175", in line 6, the following words:- , and sections 20A and 29 of chapter 176G.

SECTION 44. Said section 20 of said chapter 176G, as so appearing, is hereby further amended by striking out, in lines 7 to 18, inclusive, the words ", the following: the health maintenance organization is insolvent or in unsound financial condition, the health maintenance organization's business policies or methods are unsound or improper, the health maintenance organization's condition or management is such as to render its further transaction of business hazardous to the public or to its members or creditors, the health maintenance organization is transacting business fraudulently, the health maintenance organization or its officers or agents have refused to submit an examination under section 10, the health maintenance organization has attempted or is attempting to compromise with its creditors on the ground that it is financially unable to pay its claims in full or the health maintenance organization has inadequately reserved for unearned premiums." and inserting

in place thereof the following words: any ground identified in section 20A and in chapter 175J.

SECTION 45. Said chapter 176G is hereby amended by inserting after section 20, as so appearing, the following section:-

Section 20A. If the commissioner is satisfied, upon examination or other evidence submitted to him, that (1) any health maintenance organization is insolvent or is in an unsound financial condition, (2) its business policies or methods are unsound or improper, (3) its condition or management is such as to render its further transaction of business hazardous to the public or its members or creditors, (4) it is transacting business fraudulently, (5) the health maintenance organization or its officers or agents have refused to submit to an examination under section 10 or to perform any legal obligation relative thereto, (6) the amount of its funds, net cash or contingent assets is deficient, (7) the health maintenance organization has attempted or is attempting to compromise with its creditors on the ground that it is financially unable to pay its claims in full, or (8) the health maintenance organization has inadequately reserved for unearned premiums, he may seek administrative supervision, rehabilitation or liquidation pursuant to section 20 or revoke or suspend the license issued to the health maintenance organization under section 14 for a period not exceeding the unexpired terms thereof.

In the case of revocation or suspension, the commissioner shall give written notice to the company specifying the date on which such revocation or suspension shall be effective, the term of any such suspension and the ground for such revocation or suspension; provided, that if the ground for revocation or suspension is that the health maintenance organization has violated any provision of law or has failed to comply with its charter, the effective date of such revocation or suspension shall be not less than 10 days from the date of issue of the notice, and the particulars of such violation or failure to comply with its charter shall be specified in said notice. Such notice may be served by registered mail, sent postage prepaid, addressed to the health maintenance organization at its last home office address or to the last known address of the resident agent. An affidavit of the commissioner, in such form as he may prescribe, or of anyone authorized by him to give such notice, appended to a copy thereof, that such notice has been mailed as aforesaid shall be prima facie evidence that such notice has been duly given. He shall also cause notice of such revocation or suspension to be published in such manner as he may deem necessary for the protection of the public. A health maintenance organization aggrieved by a revocation or suspension of its license under this section, may within 10 days from the effective date of such revocation or suspension file a petition in the supreme judicial court for the county of Suffolk for a review of such action of the commissioner. The court shall summarily hear and determine the question whether the ground for revocation or suspension specified in the notice of the commissioner exists and may make any appropriate order or decree. If the order or decree is adverse to the petitioning health maintenance organization it may within 10 days therefrom appeal to the full court and in case of such an appeal the revocation or suspension of the license of the health maintenance organization shall continue in full force until the final determination of

the question by the full court, unless vacated by the commissioner during the pendency of such appeal.

SECTION 46. Said chapter 176G is hereby further amended by adding the following 5 sections:-

Section 25. (a) The commissioner shall require upon issuance of an initial license under this chapter that a health maintenance organization shall have an initial adjusted net worth of \$1,500,000.

(b) Except as provided by subsection (c) or (d), the commissioner shall require that the adjusted net worth of a health maintenance organization be maintained subsequent to initial licensure in an amount equal to the greater of the following amounts:

(1) \$1,000,000; or

(2) 2 per cent of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first \$150,000,000 of premium and 1 per cent of annual premium on the premium in excess of \$150,000,000; or

(3) An amount equal to the sum of 3 months uncovered health care expenditures as reported on the most recent financial statement filed with the commissioner; or

(4) An amount equal to the sum of:

(i) 8 per cent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis as reported on the most recent financial statement filed with the commissioner; and

(ii) 4 per cent of annual hospital expenditures paid on a managed hospital payment basis as reported on the most recent financial statement filed with the commissioner.

(c) A health maintenance organization licensed before January 1, 2004 must maintain a minimum adjusted net worth of:

(1) 10 per cent of the amount required by subsection (b) by December 31, 2004;

(2) 25 per cent of the amount required by subsection (b) by December 31, 2005;

(3) 40 per cent of the amount required by subsection (b) by December 31, 2006;

(4) 55 per cent of the amount required by subsection (b) by December 31, 2007;

(5) 70 per cent of the amount required by subsection (b) by December 31, 2008;

(6) 85 per cent of the amount required by subsection (b) by December 31, 2009; and

(7) 100 per cent of the amount required by subsection (b) by December 31, 2010.

(d) In determining adjusted net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner, which shall at a minimum meet the following requirements:

(1) The effective date, amount, interest and parties involved in such debt are clearly set forth;

(2) The principal sum and any interest accrued thereon are subject to and subordinate to all other liabilities of the health maintenance organization, and upon dissolution or liquidation, no payment of any kind shall be made until all other liabilities of the health maintenance organization have been paid;

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(3) The instrument states that the parties agree that the health maintenance organization must obtain written approval from the commissioner prior to any payment of interest or repayment of principal; and

(4) The debt is deemed fully subordinated by the commissioner in his discretion.

(e) Any debt incurred by a note meeting the requirements of subsection (d) shall not be considered a liability and shall be recorded as equity.

(f) The commissioner may adopt rules, regulations and guidelines, from time to time, requiring any health maintenance organization incorporated, licensed, approved or authorized to engage in business pursuant to this chapter to possess and constantly maintain capital and surplus levels in excess of the statutory levels required by this chapter based upon any of the following factors:

(1) the nature and type of health maintenance contracts that a health maintenance organization provides, arranges for or otherwise participates in, the nature and type of such contracts in effect in the overall health maintenance organization market in the commonwealth, and the capability of the health maintenance organization to provide protection against loss of prepaid fees or other revenues or unavailability of covered health services or from other financial impairment of its obligations to its members;

(2) the volume of contract premiums or fees relative to health maintenance contracts that a health maintenance organization provides, arranges for or otherwise participates in;

(3) the composition, quality, duration or liquidity of a health maintenance organization's investment portfolio;

(4) fluctuations in the market value of securities or other assets a health maintenance organization holds;

(5) the adequacy of a health maintenance organization's reserves; or

(6) the size of a health maintenance organization's asset valuation reserves and interest maintenance reserves.

The rules, regulations or guidelines adopted under this section shall be designed to assure the financial solvency of health maintenance organizations for the protection of policyholders, enrolled members, shareholders and the general public. The commissioner may establish, by rule, regulation or guideline, a procedure that shall require a health maintenance organization to increase its capital and surplus amounts over a specified period of time until the required statutory minimums established by this chapter, or higher levels as ordered by the commissioner, are met.

Section 26. (a) Except as provided in subsections (b) and (d), each health maintenance organization shall maintain a deposit with a trustee acceptable to the commissioner through which a custodial or controlled account is utilized of cash, securities or any combination of these or other measures that are acceptable to him, which is to be used exclusively to protect the interests of policyholders, enrolled members, and the general public and which at all times shall have a value of not less than \$1,000,000.

(b) Each health maintenance organization approved by the commissioner before January 1, 2004 shall provide evidence of and maintain at all times a deposit as described in

subsection (a) in the amount of \$500,000 not later than July 1, 2004. Not later than January 1, 2005, the health maintenance organization shall provide evidence of and maintain a deposit in the amount of an additional \$500,000 to constitute the required \$1,000,000 deposit.

(c) All income from the deposit shall be an asset of the health maintenance organization. A health maintenance organization that has made a securities deposit may withdraw that deposit or any part thereof after making a substitute deposit of cash, securities or any combination of these or other measures of equal amount and value. The commissioner shall approve any securities before they are deposited or substituted.

(d) The commissioner may reduce or eliminate the deposit requirement if the health maintenance organization deposits with the state treasurer, insurance commissioner or other official body of the state or jurisdiction of domicile, for the protection of policyholders, enrolled members and subscribers of such health maintenance organization and the general public, cash, acceptable securities or surety, and delivers to the commissioner a certificate to such effect, duly authenticated by the appropriate entity holding the deposit.

(e) If in the opinion of the commissioner the deposit requirement as established above would be inadequate to protect the interests of enrolled members, the deposit shall be appropriately adjusted in order to protect the interests of policyholders, enrolled members and subscribers of the health maintenance organization and the general public.

(f) The deposit shall be an admitted asset of the health maintenance organization in the determination of net worth pursuant to section 25. The commissioner may use the deposit for administrative costs directly attributable to any receivership, administrative supervision, rehabilitation or liquidation pursuant to section 20. If the health maintenance organization is ordered into receivership, administrative supervision, rehabilitation or liquidation, the deposit shall be an asset subject to the provisions of section 20.

Section 27. (a) No person other than the health maintenance organization shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire, or acquire, in the open market or otherwise, any voting security of, any membership rights in, or any right to appoint or elect members of the board of directors of a domestic health maintenance organization if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such health maintenance organization. A person shall not enter into an agreement to merge with or otherwise to acquire control of a domestic health maintenance organization or any person controlling a domestic health maintenance organization unless, at the time any such offer, request or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities, membership rights, or board of directors appointment or election rights, if no offer or agreement is involved, such person has filed with the commissioner and has sent to such health maintenance organization, a statement containing the information required by this section, and such offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner hereinafter described. For purposes of this section a domestic health maintenance

organization shall include any person controlling a domestic health maintenance organization. For the purposes of this section, a person shall not include any securities broker holding, in the usual and customary broker's function, less than 10 per cent of the voting securities, membership rights, or board of directors appointment or election rights, of a domestic health maintenance organization or of any person which controls a domestic health maintenance organization.

(b) The statement to be filed with the commissioner pursuant to subsection (a) shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected, hereinafter called the acquiring party, and (i) if such person is an individual, his principal occupation and all offices and positions held during the past 5 years, and any convictions of crimes other than minor traffic violations during the past 10 years; (ii) if such person is not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by this subparagraph.

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, including any pledge of the health maintenance organization's stock or assets, or the stock or assets of any of its subsidiaries, or controlling affiliates, and the identity of persons furnishing such consideration; provided, however, that where the source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each such acquiring party or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such health maintenance organization, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management. A person who omits from the statement filed hereunder any plans or proposals that should have been included pursuant to this subsection, and shall be granted approval for a change of control without the disclosure of the plans or proposals, shall be prohibited for a period of 2 years from the date of the approval from engaging in or taking any steps preparatory to

engaging in any transaction described or referenced in or contemplated by the plans or proposals except with the specific approval of the commissioner.

(5) The number of any shares of any security, or the extent of any membership rights, or board of directors appointment or election rights, as the case may be, referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in said subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security, membership right, board of directors appointment or election rights referred to in said subsection (a), as the case may be, which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements or understandings with respect to any security, membership right, board of directors appointment or election rights, as the case may be, referred to in said subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, put or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. The description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(8) A description of the purchase of any security, membership right, board of directors appointment or election rights, as the case may be, referred to in said subsection (a) during the 12 calendar months preceding the filing of the statement, by the acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefore.

(9) A description of any recommendations to purchase any security, membership right, board of directors appointment or election rights, as the case may be, referred to in said subsection (a) made during the 12 calendar months preceding the filing of the statement, by any acquiring party, or by anyone based on interviews or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities, membership rights, board of directors appointment or election rights, as the case may be, referred to in said subsection (a), and, if distributed, of additional soliciting material relating thereto.

(11) The term of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities, membership rights, board of directors appointment or election rights, as the case may be, referred to in said subsection (a) for tender or the like, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

(12) Such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of enrolled members, policyholders, stockholders and members of the health maintenance organization or in the public interest.

If the person required to file the statement pursuant to subsection (a) is a partnership, limited partnership, limited liability company, syndicate or other group, the commissioner may require that the information required by subparagraphs (1) to (12), inclusive, shall be given with respect to each partner of such partnership or limited partnership, each member or manager of such limited liability company, each member of such syndicate or group and each person who controls such partner, member or manager. If any such partner, member, manager or person is a corporation or the person required to file the statement referred to in said subsection (a) is a corporation, the commissioner may require that the information called for by said subparagraphs (1) to (12), inclusive, shall be given with respect to such corporation, each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such health maintenance organization pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such health maintenance organization within two business days after the person learns of such change.

(c) If any offer, request, invitation, agreement or acquisition referred to in subsection (a) is proposed to be made by means of a registration statement under the Securities Act of 1933, 5 U.S.C. section 77, et seq., or in circumstances requiring the disclosure of similar information under the Securities Act of 1934, 15 U.S.C. sections 78a to 78k, inclusive, or under a law of any state requiring similar registration or disclosure, the person required to file the statement referred to in said subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) (1) The commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing on the merger or other acquisition, he finds that:

(i) after the change of control, the domestic health maintenance organization referred to in said subsection (a) would not be able to satisfy such requirements as the commissioner may, by rule or regulation, establish for an organization seeking approval as a health maintenance organization under this chapter;

(ii) the effect of the merger or other acquisition of control would be substantially to lessen competition in the health care insurance market in this commonwealth or tend to create a monopoly in the commonwealth;

(iii) the financial condition of any acquiring party is such as might jeopardize the financial stability of the health maintenance organization, or prejudice the interests of its subscribers, policyholders or enrolled members;

(iv) the terms of the offer, request, invitation, agreement or acquisition referred to in said subsection (a) are unfair and unreasonable to the subscribers, policyholders or enrolled members of the health maintenance organization;

(v) the plans or proposals which the acquiring party has to liquidate the health maintenance organization, sell its assets or any seat on its board of directors, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to the subscribers, policyholders or enrolled members of the health maintenance organization and not in the public interest;

(vi) the competence, experience and integrity of those persons who would control the operation of the health maintenance organization are such that it would not be in the interest of the subscribers, policyholders or enrolled members of the health maintenance organization or of the public to permit the merger or other acquisition of control; or

(vii) the acquisition is likely to be hazardous or prejudicial to the health insurance buying public or to the actual enrollees under health insurance plans in the commonwealth.

(2) The public hearing referred to in subparagraph (1) of subsection (d) shall be held within 30 days after the statement required by subsection (a) is filed, and at least 20 days notice thereof shall be given by the commissioner to the person filing the statement. The person filing the statement shall give not less than 7 days notice of such public hearing to the health maintenance organization and to such other persons as the commissioner may designate. The commissioner shall make a determination within 30 days after the conclusion of such hearing. At the hearing, the person filing the statement, the health maintenance organization, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby, shall have the right to present evidence, examine and cross-examine witnesses, offer oral or written arguments in connection therewith, and shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the superior court department of the trial court. All discovery proceedings shall be concluded not later than 3 days before the commencement of the public hearing.

(3) The commissioner may retain at the acquiring party's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

(4) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.

(e) This section shall not apply to any offer, request, invitation, agreement or acquisition that the commissioner by order shall exempt from this section as:

(1) not having been made or entered into for the purpose, and not having the effect, of changing or influencing the control of a domestic health maintenance organization, or

(2) otherwise not comprehended within the purposes of this section.

(f) The following shall be violations of this section:

(1) The failure to file any statement, amendment or other material required to be filed pursuant to subsection (a) or (b); or

(2) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic health maintenance organization unless the commissioner has given his approval thereto.

(g) The courts of the commonwealth shall be vested with jurisdiction over any person not resident, domiciled or authorized to do business in the commonwealth who files a statement with the commissioner under this section and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at his last known address.

(h) Nothing in this section shall be construed to relieve any health maintenance organization or any person acquiring control of a health maintenance organization of any obligation arising on their part under chapter 180 with respect to any transaction contemplated under this section; and to the extent that any transaction contemplated under this section requires the approval, consent or endorsement of the attorney general pursuant to chapter 180, or otherwise, such approval, consent or endorsement shall first be obtained in writing from the attorney general prior to the filing of the statement required by subsection (b), and such written approval, consent or endorsement shall be filed with the commissioner along with the statement required by subsection (b).

Section 28. (a) Every health maintenance organization which may do business in the commonwealth and which is a member of a health maintenance organization holding company system, shall register with the commissioner. Notwithstanding the foregoing, a foreign health maintenance organization shall not be required to register with the commissioner if the foreign health maintenance organization is subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in subsection (a) to subsection (m), inclusive, subsection (q) and subsection (s). Any health maintenance organization which is subject to registration under this section shall register within 15 days after it becomes subject to registration, or 180 days after the effective date of this section, whichever is later, and annually thereafter for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require any foreign health maintenance organization authorized to do business in the commonwealth that is a member of a health maintenance organization holding company system and that is not subject to registration under this section to furnish a copy of the registration statement, the summary specified in subsection (c), or other information filed by such health maintenance organization with the insurance regulatory authority of the jurisdiction of its domicile.

(b) Every health maintenance organization subject to registration shall file the registration statement on a form prescribed by the commissioner, which shall contain the following current information:

(1) any material change to the information submitted pursuant to section 14;

(2) the identity and relationship of every member of the health maintenance organization holding company system;

(3) the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between such health maintenance organization and any affiliates:

(i) loans, other investments, or purchases, sales or exchanges of securities of any affiliates by the health maintenance organization or of the health maintenance organization by its affiliates;

(ii) purchases, sales or exchange of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual or contingent exposure of the health maintenance organization's assets to liability, other than health maintenance contracts entered into in the ordinary course of the health maintenance organization's business;

(v) all management agreements, service contracts and cost-sharing arrangements; but, all records and information regarding contracts entered into with providers disclosed under this clause shall be confidential and open only to the inspection of the commissioner, his examiners and assistants. Nothing herein shall be construed to prohibit the required production of the records, and information contained in the reports of the health maintenance organization, before a court of the commonwealth or a master or auditor appointed by the court, in a criminal or civil proceeding, affecting the health maintenance organization, its officers, directors or employees;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders or members; and

(viii) consolidated tax allocation agreements;

(4) any pledge of the health maintenance organization's stock or assets, including stock or assets of any subsidiary or controlling affiliate, for a loan made to any member of a health maintenance organization holding company system; and

(5) other matters concerning transactions between the health maintenance organization and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

(c) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments or guarantees or any transaction involving one-half of one percent or less of a health maintenance organization's admitted assets as of the next preceding December 31 shall not be deemed material for purposes of this section.

(e) Subject to subsection (q), each domestic health maintenance organization shall

report to the commissioner all dividends and other distributions to its shareholders or members within 5 business days following the declaration thereof, and at least 10 business days, commencing from the date of receipt by the commissioner, prior to the payment thereof. No domestic health maintenance organization shall pay any dividend or make any distribution to its shareholders or members from other than unassigned funds unless the commissioner shall have approved such dividend or distribution. For purposes of this section, the term "unassigned funds" shall have the same meaning as that term is used in the latest applicable form approved by the National Association of Insurance Commissioners.

(f) Any person within a health maintenance organization holding company system subject to registration shall be required to provide complete and accurate information to a health maintenance organization, where such information is reasonably necessary to enable the health maintenance organization to comply with sections 27 to 29, inclusive.

(g) The commissioner may require or allow 2 or more affiliated health maintenance organizations subject to registration hereunder to file a consolidated registration statement.

(h) The commissioner may allow a health maintenance organization that is authorized to do business in the commonwealth and that is part of a health maintenance organization holding company system to register on behalf of any affiliated health maintenance organization that is required to register under subsection (a) and to file all information and material required to be filed under this section.

(i) This section shall not apply to any health maintenance organization, information or transaction if and to the extent that the commissioner by rule, regulation or order shall exempt the same from the provisions of this section.

(j) Any person that has in the past filed a registration statement indicating affiliation with any other health maintenance organization or membership in a health maintenance organization holding company system may file with the commissioner a disclaimer of affiliation with any authorized health maintenance organization or such a disclaimer may be filed by such health maintenance organization or any member of a health maintenance organization holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such health maintenance organization as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the health maintenance organization shall not be relieved of any duty to register or report under this section which may arise out of the health maintenance organization's relationship with such person unless and until the commissioner allows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(k) The failure to file a registration statement or any summary of the registration statement thereto required by this section within the time specified for such filing shall be a violation of this section.

(l) Transactions within a health maintenance organization holding company system to which a health maintenance organization subject to registration is a party shall be subject

to the standards specified by the commissioner by rule, regulation or order, including the following:

- (1) the terms shall be fair and reasonable;
- (2) charges or fees for services performed shall be reasonable;
- (3) expenses incurred and payment received shall be allocated to the health maintenance organization in conformity with section 10;

- (4) the books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

- (5) the health maintenance organization's net worth following any dividends or distributions to affiliates shall be reasonable in relation to the health maintenance organization's outstanding liabilities, adequate to its financial needs, and otherwise in conformance with the provisions of this chapter.

(m) The following transactions involving a domestic health maintenance organization and any person in its holding company system may not be entered into unless the health maintenance organization has notified the commissioner in writing of its intention to enter into any such transaction at least 30 days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within such period.

- (1) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments provided such transactions are equal to or exceed the lesser of 3 per cent of the health maintenance organization's admitted assets or 25 per cent of net worth as of the next preceding December 31;

- (2) loans or extensions of credit to any person who is not an affiliate, where the health maintenance organization makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the health maintenance organization making such loans or extensions of credit provided such transactions are equal to or exceed the lesser of 3 per cent of the health maintenance organization's admitted assets or 25 per cent of net worth as of the next preceding December 31;

- (3) reinsurance agreements or modifications to the agreements in which the reinsurance premium or a change in the health maintenance organization's liabilities equals or exceeds the lesser of 3 per cent of the health maintenance organization's admitted assets or 25 per cent of net worth as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from a health maintenance organization to a non-affiliate, if an agreement or understanding exists between the health maintenance organization and non-affiliate that any portion of such assets will be transferred to one or more affiliates of the health maintenance organization;

- (4) all management agreements, service contracts, all cost-sharing arrangements which are not based on statutory accounting principles and all cost-sharing arrangements which would be reportable as transactions on the health maintenance organization's annual

report under section 10. The commissioner may exempt from the requirements of this subsection any management agreement, service contract or cost-sharing arrangement; and

(5) any transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the health maintenance organization's policyholders or enrolled members.

Notification shall be provided to the commissioner for transactions in clauses (1) to (5), inclusive, which increase or decrease the health maintenance organization's net worth as of the next preceding December 31 by 5 per cent or more. The notification shall accompany the next quarterly financial statement filing. Nothing in this section shall authorize or permit any transactions which would otherwise be contrary to law, or to relieve any health maintenance organization or other person of any obligation arising under chapter 180.

(n) A domestic health maintenance organization may not enter into transactions that are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over any 12-month period for the purpose of avoiding the statutory threshold amount, he may exercise his authority under subsection (b) of section 29.

(o) The commissioner, in reviewing transactions pursuant to subsections (1) and (m), shall consider whether the transactions comply with the standards set forth in subsection (1) and whether they may adversely affect the interests of policyholders or enrolled members.

(p) The commissioner shall be notified within 30 days of any investment of the domestic health maintenance organization in any one corporation if the total investment in such corporation by the health maintenance organization holding company system of which the health maintenance organization is a member exceeds ten percent of such corporation's voting securities or ownership interest.

(q) No domestic health maintenance organization shall pay any extraordinary dividend or make any other extraordinary distributions to its shareholders, members or officers until 30 days after the commissioner receives notice of the declaration thereof and has not within such period disapproved such payment, or the commissioner approves such payment. For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with other dividends or distributions made within the preceding 12 months exceeds the greater of (i) 10 per cent of such health maintenance organization's net worth as of the next preceding December 31, or (ii) the net income of the health maintenance organization for the 12-month period ending the next preceding December 31.

Notwithstanding any other general law to the contrary, a health maintenance organization may declare an extraordinary dividend or distribution which is conditional on the commissioner's approval thereof, and such a declaration shall confer no rights upon any person until the commissioner has approved the payment of such dividend or distribution or

the commissioner has not disapproved such payment within the 30 day period set by this subsection.

(r) (1) Notwithstanding the control of a domestic health maintenance organization by any person, the officers and directors of the health maintenance organization shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the health maintenance organization shall be managed so as to assure its separate operating identity consistent with this chapter, and other applicable law.

(2) Nothing herein shall preclude a domestic health maintenance organization from having or sharing a common management or cooperative or joint use of personnel, property or services with one or more other persons under arrangements meeting the standards of subsection (1).

(s) For purposes of sections 27 to 29, inclusive, in determining whether a health maintenance organization's net worth is reasonable in relation to the health maintenance organization's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the health maintenance organization as measured by its assets, capital and net worth, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the nature and extent of the health maintenance organization's reinsurance program;

(3) the quality, diversification and liquidity of the health maintenance organization's investment portfolio;

(4) the recent past and projected future trend in the size of the health maintenance organization's investment portfolio and net worth;

(5) the net worth maintained by other comparable health maintenance organizations;

(6) the adequacy of the health maintenance organization's reserves;

(7) the quality and liquidity of investments of the health maintenance organization and any members of its holding company system. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of net worth whenever in his judgment such investment so warrants;

(8) the quality of the health maintenance organization's earnings and the extent to which the reported earnings include extraordinary items;

(9) the extent to which the insurer's business is diversified among the several lines of insurance; and

(10) the number and size of risks insured in each line of business.

(t) (1) Subject to the limitation contained in this section and in addition to the powers conferred upon the commissioner by section 10 relating to the examination of health maintenance organizations, the commissioner shall also have the power to order any health maintenance organization approved under this chapter to produce such records, books, or other information papers in the possession of the health maintenance organization or its affiliates as are reasonably necessary to ascertain the financial condition of such health maintenance organization or to determine compliance with this chapter. In the event such

health maintenance organization fails to comply with such order, the commissioner shall have the power to examine the health maintenance organization and such affiliates to obtain such information.

(2) The commissioner may retain, at the expense of the health maintenance organization, such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subparagraph (1). Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

(3) Each registered health maintenance organization producing records, books and papers for said examination pursuant to said subparagraph (1) shall be liable for and shall pay the expense of such examination.

(u) Notwithstanding any other provisions of the General Laws, including clause Twenty-sixth of section 7 of chapter 4 and chapter 66, all information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to subsection (t) and all information reported pursuant to section 28, shall be given confidential treatment and shall be open only to the inspection of the commissioner, or examiners and assistants. Access to such confidential material may be granted by the commissioner to the National Association of Insurance Commissioners, to the insurance department of any other state or country or to law enforcement officials of the commonwealth or any other state or agency of the federal government at any time, so long as the agency or office receiving the information agrees in writing to hold such material confidential. Such confidential materials shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, without the prior written consent of the health maintenance organization to which it pertains unless the commissioner, after giving the health maintenance organization who would be affected thereby, notice and opportunity to be heard, determines that the interest of policyholders, members, shareholders, enrolled members or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

(v) The commissioner may, pursuant to chapter 30A, upon notice and opportunity for all interested parties to be heard, issue such rules, regulations and orders as shall be necessary to carry out sections 27 to 29, inclusive.

Section 29. (a) (1) Whenever it appears to the commissioner that any health maintenance organization or any director, officer, employee or agent thereof has committed or is about to commit a violation of sections 27 to 29, inclusive, or any rule, regulation or order issued by the commissioner thereunder, the commissioner may apply to the superior court department of the trial court for Suffolk county for an order enjoining such health maintenance organization or such director, officer, employee or agent thereof from violating or continuing to violate said sections 27 to 29, inclusive, or any such rule, regulation or order, and for such other equitable relief as the nature of the case and the interest of the health maintenance organization's policyholders, enrolled members, creditors, shareholders,

members or the public may require.

(2) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of sections 27 to 29, inclusive, or of any rule, regulation or order issued by the commissioner thereunder, may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the health maintenance organization or unless the courts of this commonwealth have so ordered. If a health maintenance organization or the commissioner has reason to believe that any security, membership or board of directors appointment or election rights of the health maintenance organization has been or is about to be acquired in contravention of sections 27 to 29, inclusive, of any rule, regulation or order issued by the commissioner thereunder, the health maintenance organization or the commissioner may apply to the superior court department of the trial court for Suffolk county to enjoin any offer, request, invitation, agreement or acquisition made in contravention of sections 27 to 29, inclusive, or any rule, regulation or order issued by the commissioner thereunder, to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interest of the health maintenance organization's policyholders, enrolled members, creditors, shareholders, members or the public may require.

(3) In any case where a person has acquired or is proposing to acquire any voting securities, membership or board of directors appointment or election rights of a health maintenance organization in violation of sections 27 to 29, inclusive, or any rule, regulation or order issued by the commissioner thereunder, the superior court department of the trial court for Suffolk county, or the superior court department of the trial court for the county in which the health maintenance organization has its principal place of business, may, on such notice as the court deems appropriate, upon the application of the health maintenance organization or the commissioner seize or sequester any voting securities of the health maintenance organization owned directly or indirectly by such person, and issue such order with respect thereto as may be appropriate to effectuate sections 27 to 29, inclusive. Notwithstanding any other provision of law, for the purposes of said sections 27 to 29, inclusive, the sites of the ownership of the securities of domestic health maintenance organizations shall be deemed to be in the commonwealth.

(b) (1) Any health maintenance organization failing, without just cause, to file any registration statement as required in sections 27 to 29, inclusive, may be required, after notice and hearing, to pay a penalty of \$500 for each day's delay. The maximum penalty under this section shall be \$10,000. The commissioner may reduce the penalty if the health maintenance organization demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the health maintenance organization.

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(2) Every director or officer of a health maintenance organization holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the health maintenance organization to engage in transactions or make investments which have not been properly reported or submitted pursuant to subsection (a), (m) or (q) of section 28, or which violate any provisions of sections 27 to 29, inclusive, may if so determined by the commissioner, pay, in their individual capacity, a civil forfeiture of not more than \$5,000 per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations and such other matters as justice may require.

(3) Whenever it appears to the commissioner that any health maintenance organization subject to sections 27 to 29, inclusive, or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to subsections (i) to (v), inclusive, of section 28 and which would not have been approved had such approval been requested, the commissioner may order the health maintenance organization to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the health maintenance organization to void any such contracts and restore the status quo if such action is in the best interest of the health maintenance organization's policyholders, enrolled members, creditors, subscribers or the public.

(4) Whenever it appears to the commissioner that any health maintenance organization or any director, officer, employee or agent thereof has committed a willful violation of sections 27 to 29, inclusive, the commissioner may report the facts to the attorney general or to the proper district attorneys. Any health maintenance organization that willfully violates any provision of sections 27 to 29, inclusive, may be fined not more than \$10,000. Any individual who willfully violates any provision of said sections 27 to 29, inclusive, may be fined in his individual capacity not more than \$5,000 per violation.

(5) Any officer, director, or employee of a health maintenance organization holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports or false filings with the intent to deceive the commissioner in the performance of his duties under sections 27 to 29, inclusive, upon conviction thereof, shall be imprisoned for not more than two years or fined \$5,000, or both. The officer, director or employee shall pay any fines imposed in his individual capacity.

(c) Whenever it appears to the commissioner that any person has committed a violation of sections 27 to 29, inclusive, which so impairs the financial condition of a domestic health maintenance organization as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, enrolled members, creditors, subscribers, or the public, then the commissioner may proceed as provided in sections 20 and 20A and chapter 175J.

(d) (1) If an order for liquidation or rehabilitation of a domestic health maintenance organization has been entered, the receiver appointed under such order shall have a right to

recover on behalf of the health maintenance organization, (i) from any parent corporation or holding company or person or affiliate who otherwise controlled the health maintenance organization, the amount of distributions, other than distributions of shares of the same class of stock, paid by the health maintenance organization on its capital stock, or (ii) any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the health maintenance organization or its subsidiaries to a director, officer or employee, where the distribution or payment pursuant to clauses (i) or (ii) is made at any time during the one year preceding the petition for liquidation, conservation or rehabilitation, as the case may be, subject to the limitations of paragraphs (2), (3) and (4) of this subsection.

(2) No such distribution shall be recoverable if the parent corporation or affiliate shows that when paid such distribution was lawful and reasonable, and that the health maintenance organization did not know and could not reasonably have known that such distribution might adversely affect the ability of the health maintenance organization to fulfill its contractual obligations.

(3) Any person who was a parent corporation or holding company or a person who otherwise controlled the health maintenance organization or affiliate at the time such distributions were paid shall be liable up to the amount of distributions or payments under paragraph (1) such person received. Any person who otherwise controlled the health maintenance organization at the time such distributions were declared shall be liable up to the amount of distributions he would have received if they had been paid immediately. If 2 or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent health maintenance organization to pay the contractual obligations of the impaired or insolvent health maintenance organization.

(5) To the extent any person liable under paragraph (3) is insolvent or otherwise fails to pay claims due from it pursuant to said paragraph (3), its parent corporation or holding company or person who otherwise controlled the health maintenance organization or affiliate at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from such parent corporation or holding company or person who otherwise controlled it.

(e) Whenever it appears to the commissioner that any person has committed a violation of sections 27 to 29, inclusive, which makes the continued operation of a health maintenance organization contrary to the interest of the policyholders, enrolled members or the public, the commissioner may, after giving notice and an opportunity to be heard, suspend, revoke or refuse to renew such health maintenance organization's license or authority to do business in the commonwealth for such period as he finds is required to protect the interests of the policyholders, enrolled members or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

(f) (1) Any person aggrieved by any act, determination, rule, regulation or order or any other action of the commissioner pursuant to sections 27 to 29, inclusive, may appeal therefrom to the superior court department of the trial court for Suffolk county. The court shall conduct its review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulating.

(2) The filing of an appeal pursuant to this subsection shall stay the application of any such rule, regulation, order or other action of the commissioner to the appealing party unless the court, after giving such party notice and an opportunity to be heard, determines that such a stay would be detrimental to the interest of policyholders, enrolled members, shareholders, creditors, members or the public.

(3) Any person aggrieved by any failure of the commissioner to act or make a determination required by sections 27 to 29, inclusive, may petition the superior court department of the trial court for Suffolk county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make such determination forthwith.

SECTION 47. Section 31 of chapter 19 of the acts of 1993 is hereby repealed.

SECTION 48. Chapter 133 of the acts of 1992 is hereby amended by striking out section 137 and inserting in place thereof the following section:-

Section 137. (a) Notwithstanding any general or special law, rule or regulation to the contrary, there shall be established an Urban Initiative Fund, a loan and grant program for inner-city neighborhoods; provided that grants shall be made available for the purposes of education, job training, business development, health care, day care, youth activities, including athletic and recreation programs, violence and crime prevention, and housing; provided, that loans shall be for the purpose of business development, employment creation and employment preservation; provided further, that loans shall be made to non-profit organizations and profit-motivated businesses located in targeted communities; provided further, that said organizations and businesses shall be owned and controlled by minority group members; provided further that, notwithstanding sections 4, 4A, and 5 of chapter 40F of the General Laws to the contrary, the community development finance corporation shall administer the Urban Initiative Fund for the purposes of the loan and grant program; provided further, that all interest income received from loans issued pursuant to the Urban Initiative Fund program shall be applied to the administrative costs of the community development finance corporation; and provided further, that all expenditures made pursuant to the program shall be reviewed as part of the state auditor's annual field audit of the Massachusetts Community Development Finance Corporation, pursuant to section 7A of chapter 324 of the acts of 1987.

SECTION 49. The definition of "project" in subsection (a) of section 11 of chapter 294 of the acts of 1996 is hereby amended by inserting after the word "park", in line 2, the following words:- and residential housing.

SECTION 50. Item 6033-9015 of section 2 of chapter 246 of the acts of 2002 is hereby amended by striking out the words "For the Mystic Valley development commission to be allocated for engineering and construction costs", in lines 1 and 2, and inserting in place thereof the following words:- For the Mystic Valley development commission to pay for and reimburse the costs of, the acquisition of parcels of land designated as parcels numbered 4-7, 4-8, 4-12 and 4-14 on a plan of land entitled "Plan of Land in the Cities of Malden, Medford and Everett, MA; Mystic Valley Development Commission; Composite Plan of Property Acquisitions in a Portion of Land in the Telecom City Project; Fay, Spofford & Thorndike, LLC; May 1, 2003" and the relocation of occupants therefrom.

SECTION 51. Said item 6033-9015 of said section 2 of said chapter 246 is hereby further amended by adding the following words:- provided, however, that said payment and reimbursement shall not diminish the portion of the bond cap available to the department of highways in any year in which payment and reimbursement is made.

SECTION 52. (a) Notwithstanding any special or general law to the contrary, the department of revenue shall institute a Massachusetts Corporation Tax Benefit Certificate program.

As used in this section, the following words shall have the following meanings:-

"Affiliated company", a company that directly or indirectly owns or controls 5 per cent or more of the voting rights or 5 per cent or more of the value of all classes of stock of the corporation surrendering the tax benefit.

"Department", the Massachusetts department of revenue.

"Job growth", the increase in the number of persons employed by a new or expanding company from the beginning to the end of a calendar year.

"New or expanding company", a corporation that satisfies the criteria set forth in subsection (d).

"Program", the Massachusetts Corporation Tax Benefit Certificate program.

"Purchasing corporation", a corporation that is subject to tax under chapter 63 of the General Laws and that provides financial assistance to a new or expanding company in exchange for a tax benefit certificate. The purchasing corporation may not be an affiliated company.

"Tax benefit", net operating loss carry forward described in paragraph 5 of section 30 of said chapter 63 and the credit for research expenses set forth in section 38M of chapter 63.

"Tax benefit amounts eligible for transfer", in the case of credits, the aggregate amount of credits that the corporation generated but was not able to use as of the close of the last taxable year for which a return was filed, because of limited tax liability or any limitations upon use of credits set forth in this section; in the case of net operating loss carry forwards, the aggregate amount of the net operating loss carry forwards that the corporation generated but was not able to use as of the close of the last taxable year for which a return was filed, because of limited tax liability or any limitations upon use of such carry forwards

set forth in said chapter 63, multiplied by the Massachusetts apportionment factor of the corporation that generated the carry forwards for the last taxable year for which a return was filed, multiplied by 9½ per cent.

(b) The department shall establish the Massachusetts Tax Credit Certificate Program to allow new or expanding companies doing business in the commonwealth with unused tax benefits to surrender those tax benefits for use by purchasing corporations in exchange for private financial assistance to be provided by the corporations to assist in the funding of costs incurred by the new or expanding companies. The private financial assistance shall be used to fund expenses incurred in connection with the operation of the new or expanding company in the commonwealth, including but not limited to, costs associated with fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures, and any other expenses determined by the department, with the assistance of the Massachusetts office of business development and the Massachusetts Technology Park Corporation, to be necessary to carry out the purposes of the program.

(c) A new or expanding company that wishes to participate in the program shall file an application with the department, on a form prescribed by the department, that sets forth the tax benefit amounts eligible for transfer, the use to which the new or expanding company intends to put the private financial assistance to be provided, the identity of the purchasing corporation, the amount of the financial assistance to be provided, and such other information as the department may require. The tax benefits shall not be surrendered unless the purchasing corporation provides financial assistance in an amount at least equal to 75 per cent of the tax benefit amounts eligible for transfer.

(d) The department, with the assistance of the Massachusetts office of business development and the Massachusetts Technology Park Corporation, shall review the applications and, if the proposed transfer meets the requirements set forth in this section, it may, upon receipt of adequate evidence that the purchasing corporation has provided the specified financial assistance, issue a tax benefit certificate to the purchasing corporation reflecting the tax benefit amounts transferred, a copy of which shall be attached to each tax return filed by a purchasing corporation in which the tax benefits are used. All applications shall be received on or before June 30 for the next succeeding state fiscal year.

(e) To receive approval, an applicant shall meet the following criteria:-

(1) the applicant shall have more than 15 full-time employees but fewer than 150 full-time employees;

(2) the applicant shall satisfy one of the following criteria;

(i) At least 10 per cent job growth in each of the last 2 years;

(ii) At least 20 per cent cumulative job growth over the last 2 years; or for companies in existence for less than 2 years as of the date of application, job growth that exceeds 10 per cent per calendar year on a pro-rate basis;

(3) applicants that have surrendered benefits in the past shall demonstrate job growth of not less than 10 per cent in each of the years in which it surrendered benefits; and

(4) Applicants shall not be established solely for the purpose of obtaining and transferring tax credits under this section.

(f) The department may also consider the following criteria:

(1) whether the company has existing contractual relationships with other companies in the commonwealth, charitable corporations, institutions of higher learning or state, regional or local governments;

(2) whether the company's products are sufficiently innovative to provide a competitive advantage;

(3) whether the company has sufficient resources to operate in the short term; and

(4) whether the proposed financial assistance will result in significant growth in permanent, full-time employment in the commonwealth.

(g) The department may require certifications or audits to determine compliance with the requirements of subsections (e) and (f).

(h) The total amount of the tax credit transfers authorized by the department shall not exceed \$2,000,000 for any given year. The maximum annual value of tax benefits that a corporation may surrender under the program is \$200,000. The maximum cumulative value of tax benefits that a corporation may surrender under the program shall not exceed \$1,000,000. No application shall be approved in which the new or expanding company: (1) has demonstrated positive net income in any of the two previous full years of ongoing operations as determined on its financial statements; or (2) has demonstrated a ratio in excess of 110 per cent or greater of operating revenues divided by operating expenses in any of the two previous full years of operations as determined on its financial statements; or (3) is directly or indirectly at least 50 per cent owned or controlled by another corporation that has demonstrated positive net income in any of the 2 previous full years of ongoing operations as determined on its financial statements or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net income in any of the 2 previous full years of ongoing operations as determined on its combined financial statements.

(i) The purchasing corporation shall enter into a written agreement with the new or expanding company concerning the terms and conditions of the private financial assistance made in exchange for the tax benefit certificate. A copy of the agreement shall be filed with the application. The copy of the agreement shall be subject to section 21 of chapter 62C of the General Laws, but the department may publish statistics so classified as to prevent the identification of particular agreements or parties thereto.

(j) The purchasing corporation shall treat the tax benefit amounts purchased under the program as a credit against its excise under chapter 63 of the General Laws. The purchasing corporation shall use the tax benefit amounts so treated in tax returns filed within 5 years of the issuance of the certificate, after which the benefits will be considered to have expired. The purchasing corporation may not use the tax benefit amounts to reduce the excise to less than the amount due under subsection (b) of section 32 of said chapter 63, subsection (b) of section 39 of said chapter 63, or section 67 of said chapter 63.

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(k) Any new or expanding company that applies for a tax benefit certificate under this program shall pay a non-refundable fee of \$1000 for its first application and a \$500 fee for its second and subsequent applications.

(l) No new or expanding company that has surrendered tax benefits under the program may use the benefits to reduce its tax liability under said chapter 63.

(m) Tax benefits transferred pursuant to this section may only be used as a credit under the excise due under said chapter 63 for taxable years beginning on or after January 1, 2004. The department of revenue shall not issue any certificates pursuant to this section after July 1, 2009.

(n) The commissioner of revenue shall report on the results of the Massachusetts Corporation Tax Benefit Certificate program set forth in this section, including the numbers of applications received and granted, the amounts of the tax benefits transferred and the forms and uses of private financial assistance provided under the written agreements for the assistance. The commissioner shall file an interim report of results on or before July 1, 2007 with the joint committee on taxation and the house and senate committees on ways and means, and shall file a final report with recommendations for further legislative action with the joint committee on taxation and the house and senate committees on ways and means by December 31, 2009.

(o) The commissioner of revenue shall promulgate regulations necessary to implement this sections.

SECTION 53. (a) There shall be established within the department of business and technology a small business and very small firms assistance advisory council, in this section called council, which shall make policy recommendations to the department regarding the commonwealth's small business and very small firms assistance programs and funding activities. For the purposes of this act, the term "very small firms" shall include entrepreneurs whose businesses employ less than 20 people and are less likely and less able to tap traditional sources of business consulting, assistance and finance.

(b) The council shall be comprised of the following members: the director of the department of business and technology or his designee, who shall serve as the chair of the council; the director of the department of housing and community development or his designee; the director of Massachusetts Development or his designee; the President of the Massachusetts Community Development Finance Agency; the director of the state office of minority and women business assistance; a representative of the Massachusetts Entrepreneurial Opportunity Network; a representative of the Massachusetts Association of Community Development Corporations; a representative of the Massachusetts Community Action Program Director's Association; a representative of the Massachusetts Bankers Association; a representative of the Massachusetts Community Banking Council; the director of the Massachusetts office of the Small Business Administration or his designee; and the following 4 members to be appointed by the director of the department of business and technology: a representative of the commonwealth's small business centers, the director of a community development financial institution, a small business owner, and, a member of an

organization that provides technical assistance or training to very small firms.

(c) Members of the council shall serve for 2 year terms and shall be appointed within 3 months of the effective date of this act.

(d) The council shall: conduct an evaluation of the current state system of delivering assistance to small businesses and very small firms; produce data on the number and types of small businesses and very small firms in the commonwealth; research and investigate strategies for the delivery of state assistance to small businesses and very small firms; make recommendations to the department of business and technology and the legislature for improving the delivery system for assistance to small businesses and very small firms, including recommendations for a more efficient and effective strategy for reaching and providing assistance to very small firms, cost-effective delivery methods for providing technical assistance, better coordination of assistance programs, and better coordination with other state programs, agencies, and public instrumentalities so that state assistance can leverage charitable foundation support, federal program funding and private sector support for small businesses and very small firms; and, conduct continual evaluations of the commonwealth's delivery system.

(e) The council shall meet on a monthly basis or as needed and shall produce an initial report within 6 months of its first meeting to the governor, the secretary of economic affairs, and the clerks of the house of representatives and the senate who shall forward the same to the president of the senate, the minority leader of the house, the minority leader of the senate, the speaker of the house of representatives and the chairpersons of the house and senate committees on labor and commerce. The report shall contain the evaluation of the current state system of delivering assistance to small businesses and very small firms. The council shall also report within 1 year of first meeting, which report shall outline best practices for state-level delivery of assistance to small businesses and very small firms and make recommendations to the department of business and technology for improving the delivery system. Thereafter, the council shall meet at least quarterly and additionally as needed. The council shall report annually, evaluating the state system of delivering assistance to small businesses and very small firms with recommendations for improvements.

SECTION 54. Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$6,000,000 \$1,500,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:

Of the total transfer, not less than \$3,000,000 shall be expended for the operation of programs whose primary purpose is workplace education and training grants managed by industry-driven partnerships that include, but are not limited to, workforce development providers, institutions of higher education, and employers to promote the career advancement of workers and the productivity of businesses in the commonwealth, including for the operation of the Building Essential Skills through Training Initiative.

Not more than \$250,000 shall be made available to the Massachusetts Council of Human Service Providers, Inc. to develop an industry-guided, internet-based workforce de-

velopment program for direct care workers who provide direct care services pursuant to purchase of service contracts with the executive office of health and human services or agencies within that executive office.

The workforce development grant program shall: (1) provide essential training and credentialing for the direct care workforce in an industry; (2) improve the quality of services provided to clients; and (3) improve recruitment and retention of a well-trained direct care workforce. The council may expend these funds to hire a program director as well as consultants with expertise in the field of human services training to develop a curriculum and to administer the program using an e-learning, or web or internet based environment.

Not less than \$1,250,000 of the funds allocated herein shall be for grants under the health professions worker training program established pursuant to section 9 of chapter 23H of the General Laws; provided, that not less than \$500,000 shall be provided for grants to providers of workforce development and job skills training services for projects benefiting older adults; provided further, that not less than \$1,000,000 shall be made available for grants under a competitive application process to community-based nonprofit organizations that provide workforce development and job training services, utilizing the following criteria; whether the project will lead to employment on the part of unemployed individuals and improved employment for low wage workers; whether the project will result in employment at wages sufficient to support a family or place individuals on a career path leading to such employment and wages; and whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers. Grants awarded under this section shall observe the following guidelines: the educational or eligible service provider, as defined in section 8 of chapter 23H, is an existing, experienced, and effective provider of workforce development services within the state; the program involves workforce development services that is an area of local employment need, particularly for low income residents or low wage workers; and preference will be given to educational and eligible service providers, as defined in section 8 of chapter 23H, which provide workforce development services which operate in economic opportunity areas as defined in section 3E of chapter 23A of the General Laws or serve residents of economic opportunity areas.

Recipients of grants under this section must match such grant funding in an amount equal to thirty percent of the value of such grant. The match may be in the form of funding, equipment, or personnel.

The director shall annually, by September 31, 2005, report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, the joint committee on state administration, and the joint committee on commerce and labor the status of grants awarded under this section, including the number of educational and eligible service providers receiving grants, the number of participants receiving services, the number of participants placed in employment, the salary and benefits that participants receive post placement, and the cost per participant, and job retention or promotion rates one year after training ends.

The director, working with and through the state workforce investment board, may collect and disseminate information concerning areas of projected employment need. The state workforce investment board may also prepare and publish studies, organize conferences, and conduct special projects which will increase knowledge and communication in the areas of employment need, skills training, and education.

The director of the department of workforce development shall adopt regulations to carry out the purposes of this section.

SECTION 55. Notwithstanding any general or special law to the contrary, for the day of August 14, 2004, no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of chapter 64H of the General Laws, but for the purposes of this act, tangible personal property shall not include telecommunications, gas, steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

SECTION 56. Notwithstanding any general or special law to the contrary, for the day of August 14, 2004, no vendor in the commonwealth shall add to the sales price or collect from any purchaser any excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 14, 2004 but any excise erroneously or improperly collected during the day of August 14, 2004 shall be remitted to the department of revenue. The provisions of this section shall not apply to the sale of telecommunications, gas, steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

SECTION 57. Any reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the day of August 14, 2004.

SECTION 58. On or before December 31, 2004, the commissioner of revenue shall certify to the comptroller the amount of sales tax revenue forgone due to the operation of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, notwithstanding this act.

SECTION 59. The commissioner of revenue shall issue any instructions or forms, or promulgate rules or regulations, necessary to carry out the purposes of this act.

SECTION 60. (a) The Massachusetts International Trade Council shall establish the Massachusetts International Tourism Fund, which shall be the fund in which private and in-kind international travel, and tourism donations shall be accepted and recorded. The fund shall be administered by the Massachusetts International Trade Council with monthly lists of deposits, expenses and in-kind services submitted to the house and senate committees on ways and means, the house and senate clerk, the office of the state auditor, and the executive

office of administration and finance by the third Wednesday in January.

(b) The Massachusetts International Trade Council, in consultation with the advisory board established by this section, shall award a contract to a non-profit organization to provide international marketing and tourism promotion services on behalf of the commonwealth. The nonprofit organization shall be selected through a competitive procurement process, which process shall include without limitation a written request for proposals. Expenditures for the contract shall not exceed \$2,000,000 and shall be funded from the Economic Stimulus Trust Fund established herein. The nonprofit organization shall match the amount of the contract with a binding pledge of funds or in-kind contributions equal to the amount of the contract award from nongovernmental sources to be expended for the purposes established in this section.

(c) Any in-kind contributions pledged by a nonprofit organization under this section shall be considered to have the value determined by the Massachusetts international trade council. The nonprofit organization shall not expend more than 20 per cent of the contract funds for the cost of administrative services. The organization shall, as a condition of receiving the grant, submit, by every third Wednesday in January for the duration of the contract, a total operating budget which shall identify each source and use of operating funds, and an operating plan which shall demonstrate how the grant promotes tourism. The office shall reserve the right to withhold the grants if the conditions outlined in this section are not met. Not more than 2 per cent of the amount shall be expended by the Massachusetts international trade council for administrative costs incurred by the council in connection with the administration of the contract.

(d) The International Trade Council shall establish an advisory board to advise it on the scope of services to be provided under the contract with the nonprofit organization and to provide ongoing guidance assistance to the International Trade Council regarding the management and oversight of the contract; provided, however, that the advisory board shall consist of not more than 17 members, as follows: the president of the senate or his designee; the speaker of the house or his designee; the chairman of the senate committee on ways and means or his designee; the chairman of the house committee on ways and means or his designee; 1 member to be appointed by the minority leader of the senate; 1 member to be appointed by the minority leader of the house; provided, however, that those members shall be broadly representative of the tourism industries in the commonwealth; 1 member to be appointed by the Massachusetts office of travel and tourism; 1 member to be appointed by the Greater Boston Convention and Visitors Bureau; 1 member to be appointed by the Greater Springfield Convention and Visitors bureau; 1 member to be appointed by the Massachusetts Restaurant Association; 2 members to be appointed by the Berkshire Visitors Bureau, 1 of whom shall be from a Berkshire area hotel; 2 members to be appointed by the Cape Cod Chamber of Commerce, 1 of whom shall be from a Cape Cod area hotel; 1 member to be appointed by the Bristol County Convention and Visitors Bureau; 1 member to be appointed by the Massachusetts Cultural Council; and 1 member to be appointed by the

Massachusetts Lodging Association; provided further, that the members of the advisory board shall serve without compensation and at the pleasure of their appointing authorities; provided further that the advisory board shall seek additional funding from private funding sources; and provided further, that notwithstanding any general or special law to the contrary, advisory board members shall not be deemed state employees for the purposes of chapter 268A of the General Laws as a result of their service on the advisory board.

SECTION 61. Notwithstanding any general or special law to the contrary, \$20,750,000 of the unexpended balance of the Workforce Training Fund as of July 1, 2003, established pursuant to section 2RR of chapter 29 of the General Laws, may be expended in fiscal year 2004, without further appropriation, for workforce development grants committed to prior to July 1, 2003, under the terms of said section.

SECTION 62. Notwithstanding any general or special law to the contrary, (a) there shall be a council of economic advisors, in this section called the "council", to develop long-term policies to support economic development in the commonwealth. The council shall serve as an advisor to the governor and the general court and shall be administered by the secretary of economic affairs. The council shall consist of equal numbers appointed by the governor, the senate president and the speaker of the house. Members shall include, but not be limited to, representatives from relevant industry sectors, institutions of higher learning, labor organizations, nonprofit organizations, financial institutions, and relevant quasi-public organizations.

(b) At a minimum, the council shall conduct studies and make recommendations relating to policy development in the following areas: e-government and e-commerce, emerging technologies and the labor market for scientists, engineers and science and math educators in the commonwealth. The council shall make recommendations as to how the commonwealth may encourage companies to conduct business within the commonwealth, and shall place an emphasis on promoting greater minority and women involvement in emerging technology sectors.

(c) The council shall establish the following task force and others that it deems to be needed from time to time: a task force on science, math, engineering and technology education to investigate, study and make legislative recommendations on maintaining a specialized workforce to support and expand the science, math, engineering and technology sectors in the commonwealth, preparing students for the demands of a knowledge-based economy of the future and attracting and retaining students entering science, math, engineering and technology fields of study. The task force shall also investigate the public college and university system, including community colleges, to establish job training programs specifically geared toward creating manufacturing, science, math, engineering and technology employment opportunities and to identify and establish career ladders within science, math, engineering and technology employment opportunities. The task force shall also investigate the impact of changing demographics on the state and make recommendations on ways to incorporate such changes in order to enhance the state's capacity to build a

strong and competitive workforce. The task force shall include the following members, among others: the commissioner of the department of education or his designee; the director of workforce development, or his designee; a labor economist; a CEO of a life-science firm; a CEO of a technology firm; a CEO of a health care corporation; a representative of a woman-led firm and minority-led firm; the chair of the board of higher education, or his designee; a chancellor of a state university or college; a president of a state college; a president of a community college; a superintendent of a Massachusetts public school system; the executive director of the Massachusetts Technology Collaborative; the executive director of the Massachusetts Development Finance Agency; the President of Associated Industries of Massachusetts; the President of the Massachusetts Federation of Teachers; 3 members of the senate to be appointed by the senate president, 1 of whom shall serve as co-chair and 1 of whom shall be a member of the minority party; and three members of the house of representatives to be appointed by the speaker of the house, 1 of whom shall serve as co-chair and 1 of whom shall be a member of the minority party. The taskforce shall conduct hearings and file a report on the results of its study, along with recommendations and any legislation necessary to carry out its recommendations with the clerks of the house of representatives and the senate, not later than June 1, 2004. The taskforce shall be administered by the Massachusetts Technology Park Corporation, established pursuant to chapter 40J of the General Laws.

SECTION 63. Notwithstanding any general or special law to the contrary, the board of higher education shall, in consultation with the presidents and chancellors of the Massachusetts state universities, colleges, and community colleges, or their designees, conduct a study of the feasibility of creating courses at the request of businesses residing in Massachusetts, customized to address the special workforce needs of said businesses, for which said businesses will pay the state institution providing the educational service a tuition fee to be set by an agreement between said institution and said businesses. The board shall solicit opinions from state business leaders, including, but not limited to, executives, managers, and other business officials who have a vested interest in the effective education of the state workforce. The board shall issue a report to the joint committee on education, arts and humanities, the joint committee on commerce and labor, and the clerks of the house of representatives and the senate, no later than September 1, 2004, which shall state the findings of the board; provided, that said findings shall include: the cost effectiveness for businesses to utilize state higher education resources for the education and training of their workforce; estimates of the tuition revenue generated by providing customized courses for the education and training of the employees of state businesses, which would be available for the supplementation of the operating budget and endowment of a given state institution of higher education; a detailed synopsis of the proposed subject matter and structure of courses that could be created at the request of businesses for the purpose of workforce education and training; testimonies from state business leaders regarding their interest in utilizing state higher education resources for the purpose of workforce education and training; and any other item the board feels would provide an accurate representation of the

feasibility of such policy. The board shall also consider in the course of its study, and include in its report, as provided in this section, the structure of customized business courses provided by business graduate schools for large blue chip and other companies, which are generating hundreds of thousands of dollars in additional revenue for said business graduate schools. The board shall also consider in the course of its study, and include in its report, as provided in this section, the feasibility of customized courses for the purpose of workforce education and training for workers of all skill levels, across all industries. The board shall consider said study and said report, as provided in this section, to be an important initiative in the state strategy to better integrate the workforce education and training needs of state workers and businesses with the extensive educational resources of the institutions of higher education of the commonwealth, and shall pursue this study, as provided in this section, and follow the intent of this section, with all appropriate due diligence.

SECTION 64. Notwithstanding any general or special law to the contrary, 10 days after the effective date of this act, the comptroller shall transfer \$2,400,000 from the Economic Stimulus Trust Fund to the Massachusetts Technology Transfer Center at the University of Massachusetts established in section 45 of chapter 75 of the General Laws. Of that amount not less than \$500,000 shall be made available as a one-time grant to the center for economic analysis and assessment within the McCormack Graduate School of Policy Studies' Center for State and Local Policy.

SECTION 65. Notwithstanding any general or special law to the contrary, not less than \$1,000,000 \$500,000 from the Economic Stimulus Trust Fund shall be made available to the Massachusetts Community Development Finance Corporation for the recapitalization of said corporation.

SECTION 66. Notwithstanding any general or special law to the contrary, all assets of the Urban Initiative Fund as of the effective date of this act shall be transferred to the sole control of the Massachusetts Community Development Finance Corporation; provided, that the transfer shall take effect upon the effective date of this act; provided further, that all loans issued pursuant to the Urban Initiative Fund loan program and outstanding as of the effective date of this act shall remain in full force and effect and shall be administered by the Massachusetts Community Development Finance Corporation; provided further, that 5 per cent of any cash assets of the Urban Initiative Fund transferred to the sole control of the corporation pursuant to this section shall fund loans to newly-organized and start-up, profit-motivated businesses, and to existing businesses that do not generate more than \$500,000 in yearly gross receipts, for the purposes of education, job training, business development, health care, day care, youth activities, violence and crime prevention, and housing; provided further, that the businesses shall be located in targeted communities and shall be owned and controlled by minority group members; provided further, that all funds received by the Massachusetts Community Development Finance Corporation as payments of principal on said outstanding loans shall be considered funds available for loans to newly-organized and start-up, profit-motivated businesses, and to existing businesses that do not generate more than \$500,000 in yearly gross receipts, for the purposes of education,

job training, business development, health care, day care, youth activities, violence and crime prevention, and housing; provided further, that the businesses shall be located in targeted communities and shall be owned and controlled by minority group members; provided further, that all funds received by the Massachusetts Community Development Finance Corporation as interest payments on the outstanding loans shall be applied to the administrative costs of the corporation; and provided further, that any other assets of the Urban Initiative Fund transferred to the sole control of the Massachusetts Community Development Finance Corporation pursuant to this section shall be available for loans and grants pursuant to this act.

SECTION 67. Notwithstanding any general or special law to the contrary, there shall be a special commission to study and report legislative findings relative to sections 14 to 17, inclusive, of this act and on the laws, rules and procedures used by state agencies to promulgate regulations, including, but not limited to the cost impact of such regulatory changes. The commission shall further study the effect of reauthorizing regulations every 5 years, the advantages and disadvantages of regulatory impact statements, the type of notice parties to regulation receive and the agencies' legislative reporting requirements. This commission shall consist of 9 members, 3 of which shall be appointed by the senate president, including the minority leader of the senate, and the senate chair of the joint committee on commerce and labor who shall act as the co-chair, the 3 of which shall be appointed by the speaker of the house, including the minority leader of the house, and the house chair of the joint committee on commerce and labor who shall act as the co-chair and 3 members appointed by the attorney general. This commission shall conduct hearings and file a report on the results of its study, along with recommendations and any legislation necessary to carry out its recommendations with the clerks of the house of representatives and the senate not later than April 30, 2004.

SECTION 68. Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Economic Stimulus Trust Fund, the purposes of which shall be to fund programs established in this act. Not later than 10 days after the effective date of this act, the comptroller shall transfer the following amounts to said Economic Stimulus Trust Fund: (i) the amount of \$33,633,333 from the Health Care Security Trust Fund, established pursuant to section 1 of chapter 29D of the General Laws, (ii) the amount of \$33,633,333 from the Stabilization Fund, established pursuant to section 2H of chapter 29 of the General Laws and (iii) the amount of \$33,633,334 from any monies received by the commonwealth in accordance with the federal Jobs Growth Act of 2003. Said fund shall be a separate expendable trust, subject to the control of the state comptroller, who shall serve as the trustee of the fund. The fund shall be a separate expendable trust, shall not be subject to appropriation and shall be administered in accordance with this act. Said fund shall expire on June 30, 2004.

SECTION 69. The department of revenue shall certify by December 31, 2004 the amount necessary to reconcile General Fund revenues lost pursuant to sections 21 and 25, 27 and 29, sections 55, 56 and 57, and section 52. The comptroller shall transfer an amount

not to exceed \$16,000,000 not later than June 30, 2004 from the Stabilization Fund to the General Fund for these purposes.

SECTION 70. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws, the amount of \$15,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, for the creation and operation of the John Adams Innovation Institute under said Massachusetts Technology Park Corporation, established pursuant to section 6A of chapter 40J. Said amount shall be deposited in a separate fund, administered by said corporation, which shall be expended exclusively for the uses established in said section 6A. Commencing on April 1, 2004, the executive director of said corporation shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor on the following: (i) a detailed description of purposes and amounts of administrative costs charged to the fund, (ii) the annual budget of the John Adams Innovation Enterprise, (iii) a quarterly statement of cash inflows and outflows detailing the sources and uses of funds, (iv) a description of the organizations receiving funds from this fund, the purposes to which the funding will be used by said organizations, (v) the associated amounts received by each organization, (vi) the amounts of non-state funding leveraged as a result of the funding, a potential projection of the number and nature of employment opportunities that may be created in the commonwealth as a result of the various forms of assistance disbursed from said fund, and (vii) an analysis of the purposes and geographical location of projects funded through the John Adams Innovation Enterprise.

SECTION 71. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, the amount of \$25,000,000 from the from the Economic Stimulus Trust Fund, established pursuant this act, to the Emerging Technology Fund, established pursuant to section 27 of chapter 23G of the General Laws. Commencing on April 1, 2004, the executive director of the Massachusetts Development Finance Agency, established pursuant to section 2 of said chapter 23G, shall file a report on a quarterly basis with the house and senate committees on ways and means, the house and senate committees on science and technology and the joint committee on commerce and labor on the following: the number and amounts of qualified investments made to further the goals of the fund, the number of loans and guarantees approved by said agency from said fund for facilities or specialized equipment for technology-based companies, a description of any financial and technical assistance that has been provided to such technology based companies as a result of the utilization of revenues within said fund, administrative costs charged to the fund, return on investment in qualified investments, return on investments in funds not required for immediate disbursement, a forecast of future payments based on current binding obligations, and an analysis of the purposes and geographical location of qualified investments; provided, that not less than \$250,000 shall be transferred to the Small Business Association of New England for the layoff aversion through management assistance

program for consultant and technical assistance to manufacturing companies in Massachusetts to prevent business closure and employee displacement. Any such expenditure of the layoff aversion through management program as provided for in accordance with this section shall leverage at least \$1 for each dollar granted pursuant to this section. Commencing on January 1, 2004, the president of the small business association of new england shall file a report on a quarterly basis with the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor on the number of employees and manufacturing based companies that have received financial assistance through this section, a detailed description of the services provided to manufacturing companies in Massachusetts through the layoff aversion through management program, and a detailed account of the expenditures of the layoff aversion program, including administrative costs.

SECTION 72. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Technology Development Corporation, established pursuant to section 3 of chapter 40G of the General Laws, the amount of \$5,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act. Commencing on April 1, 2004, the board of directors of the Massachusetts Technology Development Corporation shall submit a quarterly report to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor on the number and nature of early stage technology companies, both startup and expansion, operating in the commonwealth that said corporation has invested in as a result of funds transferred to said corporation pursuant to this section, the number and nature of jobs created in Massachusetts as a result of investments made by said corporation from funds transferred to said corporation pursuant to this section, the amount of private investments leveraged for said companies as a result of investments made by said corporation, the internal rate of return on the entire portfolio of investments made by said corporation from funds transferred pursuant to this section, the cumulative realized gains on equity investments made by said corporation since the transfer of funds authorized by this section and the cumulative realized losses on both debt and equity investments made by said corporation since the transfer of funds authorized by this section.

SECTION 73. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, established pursuant to this act, the amount of \$2,500,000 from the Economic Stimulus Trust Fund, established pursuant to this act for the creation and operation of said fund in accordance with this act. Commencing on April 1, 2004, chancellor of higher education shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor and the joint committee on education, arts and humanities on the following: (i) a list of grant recipients, (ii) the associated grant amounts, (iii) the amounts of nonstate funding leveraged as a result of the grants, (iv) the

purposes of the grants, (v) an annual statement of cash inflows and outflows detailing the sources and uses of funds, (vi) a forecast of future payments based on current binding obligations, and (vii) a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.

SECTION 74. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, \$20,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, to the Massachusetts Research Center Matching Fund, established pursuant to section 4F of chapter 40J of the General Laws for the creation and operation of the fund under the Massachusetts Technology Park Corporation. Commencing on April 1, 2004, the executive director of the corporation shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, and the joint committee on commerce and labor the following: a list of grant recipients, the associated grant amounts, the amounts of non-state funding leveraged as a result of the grants, the purposes of the grants, a quarterly statement of cash inflows and outflows detailing the sources and uses of funds, a forecast of future payments based on current binding obligations, and a detailed breakdown of the purposes and amounts of administrative costs charged to the fund.

SECTION 75. Notwithstanding any general or special law to the contrary, effective December 31, 2003, the comptroller shall transfer \$6,000,000 \$3,000,000 shall be made available to the Brownfields Redevelopment Access to Capital Fund from the Economic Stimulus Trust Fund. Commencing on April 1, 2004, the secretary of economic development shall report quarterly to the house and senate committees on ways and means, the house and senate committees on science and technology, the joint committee on commerce and labor and the joint committee on natural resources on the location and amounts of financing provided to applicants under this program and the administrative costs charged to the fund.

SECTION 76. (a) Notwithstanding any general law or special law to the contrary, the Economic Stabilization Trust, established pursuant to sections 8 to 16 of chapter 23D of the General Laws, shall be solely within the Massachusetts Development Finance Agency, established pursuant to chapter 23G of the General Laws. The trust shall continue to be a public instrumentality and the exercise of its powers shall continue to be deemed the performance of an essential government function and all approvals, agreements and obligations of the trust on the effective date hereof shall remain in force. The trust shall, pursuant to this act, exercise the powers of the trust as set forth in the commonwealth's laws, and continue to own all of its assets and retain all of its liabilities.

SECTION 77. Sections 4A to 4D, inclusive, and section 76 of this act shall take effect on June 30, 2004.

SECTION 78. Section 67D of chapter 62C of the General Laws shall be effective as to jobs incentive payment requests made by biotechnology companies or medical device manufacturing companies for calendar years 2005 to 2009, inclusive.

SECTION 79. Section 11 shall take effect on June 30, 2005.

SECTION 80. Sections 14 to 17 inclusive, shall take effect on January 1, 2005.

SECTION 81. Sections 22 and 24 shall take effect on January 1, 2005 and shall apply to taxable years commencing on or after such date; provided, however that before the effective date of this act, the department of revenue, in consultation with the chairman of the Massachusetts historical commission may promulgate regulations necessary to implement and facilitate the implementation of this act.

SECTION 82. Sections 21 and 26 shall take effect on January 1, 2004 and shall not apply to tax expenditures granted or applied for before the effective date.

SECTION 83. Sections 33 to 46, inclusive, shall take effect on January 1, 2004.

This bill was returned on November 26, 2003, 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:

Sections Disapproved:

SECTION 72.

SECTIONS 3, 4A, 4B, 4C, 4D, 7, 9, 14, 15, 16, 17, 21, 26, 51, 52, 53, 60, 62, 67, 76, 77, 80, and 82.

SECTIONS 54, 64, 65, 70, 71, 73, 74, and 75 *Sections reduced in amount and by striking the wording*

Section	Reduce by	Reduce to	Wording Stricken
54	4,500,000	1,500,000	"Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$6,000,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:"

Wording Inserted

"Notwithstanding any general or special law to the contrary, not later than 10 days after the effective date of this act, \$1,500,000 shall be made available from the Economic Stimulus Trust Fund to the department of workforce development for grants administered by the department for the following purposes:"

Section	Reduce by	Reduce to	Wording Stricken
			<p>"Of the total transfer, not less than \$3,000,000 shall be expended for the operation of programs whose primary purpose is workplace education and training grants managed by industry-driven partnerships that include, but are not limited to, workforce development providers, institutions of higher education, and employers to promote the career advancement of workers and the productivity of businesses in the commonwealth, including for the operation of the Building Essential Skills through Training Initiative."</p> <p>and</p> <p>"Not less than \$1,250,000 of the funds allocated herein shall be for grants under the health professions worker training program established pursuant to section 9 of chapter 23H of the General Laws; provided, that not less than \$500,000 shall be provided for grants to providers of workforce development and job skills training services for projects benefiting older adults; provided further, that not less than \$1,000,000 shall be made available for grants under a competitive application process to community-based nonprofit organization that provide workforce development and job training services, utilizing the following criteria; whether the project will lead to employment on the part of unemployed individuals and improved employment for low wage workers; whether the project will result in employment at wages sufficient to support a family or place individuals on a career path leading to such employment and wages; and whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers. Grants awarded under this section shall observe the following guidelines: the educational</p>

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Section	Reduce by	Reduce to	Wording Stricken
			or eligible service provider, as defined in section 8 of chapter 23H, is an existing, experienced, and effective provider of workforce development services within the state; the program involves workforce development services that is an area of local employment need, particularly for low income residents and/or low wage workers; and preference will be given to educational and eligible service providers, as defined in section 8 of chapter 23H, which provide workforce development services which operate in economic opportunity areas as defined in section 3E of chapter 23A of the General Laws or serve residents of economic opportunity areas."
64	1,200,000	1,200,000	<p><i>Wording Stricken</i></p> <p>"Notwithstanding any general or special law to the contrary, 10 days after the effective date of this act, the comptroller shall transfer \$2,400,000 from the Economic Stimulus Trust Fund to the Massachusetts Technology Transfer Center at the University of Massachusetts established in section 45 of chapter 75 of the General Laws. Of that amount not less than \$500,000 shall be made available as a one-time grant to the center for economic analysis and assessment within the McCormack Graduate School of Policy Studies' Center for State and Local Policy."</p> <p><i>Wording Inserted</i></p> <p>"Notwithstanding any general or special law to the contrary, 10 days after the effective date of this act, the comptroller shall transfer \$1,200,000 from the Economic Stimulus Trust Fund to the Massachusetts Technology Transfer Center at the University of Massachusetts established in section 45 of chapter 75 of the General Laws. Of that amount not less than \$500,000 shall be made</p>

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Section	Reduce by	Reduce to	<i>Wording Inserted</i>
			available as a one-time grant to the center for economic analysis and assessment within the McCormack Graduate School of Policy Studies' Center for State and Local Policy."
65	500,000	500,000	<i>Wording Stricken</i> "Notwithstanding any general or special law to the contrary, not less than \$1,000,000 from the Economic Stimulus Trust Fund shall be made available to the Massachusetts Community Development Finance Corporation for the recapitalization of said corporation." <i>Wording Inserted</i> "Notwithstanding any general or special law to the contrary, not less than \$500,000 from the Economic Stimulus Trust Fund shall be made available to the Massachusetts Community Development Finance Corporation for the recapitalization of said corporation."
70	7,500,000	7,500,000	<i>Wording Stricken</i> "Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws, the amount of \$15,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, for the creation and operation of the John Adams Innovation Institute under said Massachusetts Technology Park Corporation, established pursuant to section 6A of chapter 40J." <i>Wording Inserted</i> "Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effec-

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Section	Reduce by	Reduce to	Wording Inserted
			tive December 31, 2003, to the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws, the amount of \$7,500,000 from the Economic Stimulus Trust Fund, established pursuant to this act, for the creation and operation of the John Adams Innovation Institute under said Massachusetts Technology Park Corporation, established pursuant to section 6A of chapter 40J."
71	12,500,000	12,500,000	<p><i>Wording Stricken</i></p> <p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, the amount of \$25,000,000 from the from the Economic Stimulus Trust Fund, established pursuant this act, to the Emerging Technology Fund, established pursuant to section 27 of chapter 23G of the General Laws."</p> <p><i>Wording Inserted</i></p> <p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, the amount of \$12,500,000 from the from the Economic Stimulus Trust Fund, established pursuant this act, to the Emerging Technology Fund, established pursuant to section 27 of chapter 23G of the General Laws."</p> <p><i>Wording Stricken</i></p> <p>"; provided, that not less than \$250,000 shall be transferred to the Small Business Association of New England for the layoff aversion through management assistance program for consultant and technical assistance to manufacturing companies in Massachusetts to prevent business closure and employee displacement."</p>

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Section	Reduce by	Reduce to	Wording Stricken
73	1,250,000	1,250,000	<p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, established pursuant to this act, the amount of \$2,500,000 from the Economic Stimulus Trust Fund, established pursuant to this act for the creation and operation of said fund in accordance with this act."</p> <p><i>Wording Inserted</i></p> <p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, to the Massachusetts Mathematics, Science, Technology and Engineering Grant Fund, established pursuant to this act, the amount of \$1,250,000 from the Economic Stimulus Trust Fund, established pursuant to this act for the creation and operation of said fund in accordance with this act."</p>
74	10,000,000	10,000,000	<p><i>Wording Stricken</i></p> <p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, \$20,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, to the Massachusetts Research Center Matching Fund, established pursuant to section 4F of chapter 40J of the General Laws for the creation and operation of the fund under the Massachusetts Technology Park Corporation."</p> <p><i>Wording Inserted</i></p> <p>"Notwithstanding any general or special law to the contrary, the comptroller shall transfer, effective December 31, 2003, \$10,000,000 from the Economic Stimulus Trust Fund, established pursuant to this act, to the Massachusetts Research</p>

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Section	Reduce by	Reduce to	Wording Inserted
			Center Matching Fund, established pursuant to section 4F of chapter 40J of the General Laws for the creation and operation of the fund under the Massachusetts Technology Park Corporation,"
75	3,000,000	3,000,000	<p>Wording Stricken</p> <p>"Notwithstanding any general or special law to the contrary, effective December 31, 2003, the comptroller shall transfer \$6,000,000 shall be made available to the Brownfields Redevelopment Access to Capital Fund from the Economic Stimulus Trust Fund."</p> <p>Wording Inserted</p> <p>"Notwithstanding any general or special law to the contrary, effective December 31, 2003, the comptroller shall transfer \$3,000,000 shall be made available to the Brownfields Redevelopment Access to Capital Fund from the Economic Stimulus Trust Fund."</p>

The remainder of the bill was approved by the Governor on November 26, 2003 at two o'clock and fifty-five minutes, P.M.

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 13, 2004 the House of Representatives and on January 15, 2004 the Senate passed the following Sections: **SECTIONS: 60, 64, 70, 71, 73, and 74.***

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 21, 2004 the House of Representatives and on January 22, 2004 the Senate passed the following Sections: **SECTIONS: 9, and 54.***

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 21, 2004 the House of Representatives and on February 5, 2004 the Senate passed the following Section: **SECTION: 72.***

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on February 10, 2004 the House of Representatives and on March 4, 2004 the Senate passed the following Section: **SECTION: 75.***

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on February 25, 2004 the House of Representatives and on March 4, 2004 the Senate passed the following Section: **SECTION: 53.***

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on March 24, 2004 the House of Representatives and on March 25, 2004 the Senate passed the following Section: **SECTION: 65.***

Chapter 142. AN ACT RELATIVE TO THE REFORM OF THE UNEMPLOYMENT INSURANCE SYSTEM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to reform forthwith the unemployment insurance system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public welfare.

Be it enacted, etc., as follows:

SECTION 1. Section 9N of chapter 23 of the General Laws is hereby amended by inserting after the word "employees", in line 8, as appearing in the 2002 Official Edition, the following words:- from a list of 3 persons recommended by the president of the Massachusetts AFL-CIO.

SECTION 1A. Subsection (a) of section 9N of chapter 23 of the General Laws, as most recently amended by section 558 of chapter 26 of the acts of 2003, is hereby further amended by adding the following 4 paragraphs:-

The state advisory council shall serve as the nominating panel for the board of review established pursuant to subsection (b). Before any submission of nominations for appointment or reappointment to the board of review, the advisory council shall review applications for such nominations and consider the following factors:

- (1) skills in fact-finding;
- (2) demonstrated basic understanding of the unemployment insurance law; and
- (3) a bachelor's degree or demonstrated writing ability as evidenced by at least 4 years in positions in which writing skills are a major job responsibility.

The review shall be made on the basis of the application, experience, education and training of the applicant, writing samples, interviews, and any other information the panel may require. When the application is for reappointment, the panel shall review, in addition to any other information, the performance since the candidate's appointment including, but not limited to:

- (1) three decisions written and selected by the applicant;
- (2) where applicable, the total number of cases decided by the applicant heard by an appellate body, and the number of those cases which were remanded for further proceedings;
- (3) any decisions of an appellate body which specifically reference the candidate's demeanor or temperament;
- (4) at the discretion of the deputy director, written complaints from attorneys received by the deputy director regarding the candidate's demeanor or temperament; and
- (5) evidence of any demonstrable bias against particular defendants, claimants or attorneys.

The state advisory council shall rate the candidate as highly qualified, qualified or unqualified.

Any information regarding a candidate compiled by the state advisory council or the deputy director shall be forwarded to the governor. If the candidate is appointed or reappointed by the governor the performance evaluation and any ratings by the council shall

be forwarded to the executive council.

SECTION 2. Said section 9N of said chapter 23, as so amended, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) There shall be in the department a board of review consisting of 3 persons to be appointed by the governor, with the advice and consent of the council. Nominees to the board of review shall be selected from a list submitted to the governor by the state advisory council. Of the members first appointed, 1 shall be appointed for a term of 2 years, 1 for a term of 4 years and 1 for a term of 6 years and thereafter, as the term of a member expires, his successor shall be appointed for a term of 6 years. Vacancies shall be filled in like manner for the remainder of an unexpired term. All members shall serve until the qualification of their respective successors. The governor shall from time to time designate 1 of the members as chairman; provided, however, that the member designated as chairman shall be an attorney. The offices and the incumbents thereof shall not be subject to chapter 31 and the rules and regulations thereunder. The positions of chairman and each of the other members of the board shall be classified in accordance with section 45 of chapter 30 and the salaries shall be determined in accordance with section 46C of said chapter 30 and each member shall devote his full time during business hours to the duties of his office. Members of the board shall receive their traveling and other necessary expenses incurred in the performance of their duties.

SECTION 3. Section 13 of chapter 151A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 4 paragraphs:-

Should the commissioner determine at any time that the solvency of the Unemployment Compensation Fund is in jeopardy and the continuation of benefit payments or Federal loan repayments is in danger, he shall add to every employer's contribution rate a uniform secondary adjustment payment in an amount sufficient to ensure that the Federal loans can be repaid in full before September 30.

Each employer shall be required to make contributions authorized pursuant to this section, in addition to any other payments required under this chapter, in accordance with the following table:

Employer Account Reserve Percentage	Rate
Negative Percentage	
7.0 or more	0.9
3.0 but less than 7.0	0.8
0.0 but less than 3.0	0.7
Positive Percentage	
0.0 but less than 4.0	0.6
4.0 but less than 9.0	0.5
9.0 but less than 13.5	0.4
13.5 or more	0.3

The secondary adjustment payments shall be paid to the commissioner in accordance with the procedures prescribed by the commissioner. The commissioner shall deposit the receipts of such payments into the Unemployment Compensation Fund established in section 48 or the Federal Loan Interest Fund established in section 14K. Such payments shall not be subject to the allowable state tax revenue limitations established by chapter 29B or chapter 62F. Prior to the depositing of the receipts, the commissioner may deduct all administrative costs incurred as a result of this section, including an amount as determined by the United States Secretary of Labor in accordance with federal cost rules, if applicable.

Except where inconsistent with the terms of this section, the terms and conditions of this chapter which are applicable to the payments and the collection of contributions shall apply to the same extent to the payment of and the collection of secondary adjustment payments, including that those payments shall be credited to each employer's account for the purpose of determining the employer's experience rate for the next succeeding calendar year pursuant to paragraph (1) of subsection (h) of section 14. Upon his determination that a secondary adjustment payment is due, the commissioner shall give notice to the joint committee on commerce and labor of the amount necessary for collection to maintain the solvency of the Fund. The notice shall be made within 10 days.

SECTION 4. Subsection (a) of section 14 of said chapter 151A, as so appearing, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) "Unemployment insurance taxable wage base", with respect to calendar years beginning on or after January 1, 2004, the term "unemployment insurance taxable wage base" shall mean \$14,000.

SECTION 5. Subsection (i) of said section 14 of said chapter 151A, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) With respect to calendar years beginning on or after January 1, 2004, the experience rate of an employer qualifying therefor under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:

EXPERIENCE RATE TABLE
UNEMPLOYMENT COMPENSATION FUND RESERVE PERCENTAGE

	A	B	C	D	E	F	G
		1.6%	1.4%	1.1%	0.8%	0.5%	
	1.75% and over	or more but less than 1.75%	or more but less than 1.6%	or more but less than 1.4%	or more but less than 1.1%	or more but less than 0.8%	less than 0.5%
Employer Account Reserve Percentages							
Negative Percentage							
15 or more	7.80	8.74	9.78	10.96	12.27	13.75	15.40
13.0 but less than 15.0	7.40	8.29	9.28	10.40	11.64	13.04	14.61
11.0 but less than 13.0	7.00	7.84	8.78	9.83	11.01	12.34	13.82
9.0 but less than 11.0	6.60	7.39	8.28	9.27	10.39	11.63	13.03
7.0 but less than 9.0	6.20	9.94	7.78	8.71	9.76	10.93	12.24
5.0 but less than 7.0	5.80	6.50	7.28	8.15	9.13	10.22	11.45
3.0 but less than 5.0	5.40	6.05	6.77	7.59	8.50	9.52	10.66
1.0 but less than 3.0	5.00	5.60	6.27	7.02	7.87	8.81	9.87
0.0 but less than 1.0	4.60	5.15	5.77	6.46	7.24	8.11	9.08
Positive Percentage							
0.0 but less than 0.5	3.90	4.37	4.89	5.48	6.14	6.87	7.70
0.5 but less than 1.0	3.80	4.26	4.77	5.34	5.98	6.70	7.50
1.0 but less than 1.5	3.70	4.14	4.64	5.20	5.82	6.52	7.30
1.5 but less than 2.0	3.60	4.03	4.52	5.06	5.66	6.34	7.11
2.0 but less than 2.5	3.50	3.92	4.39	4.92	5.51	6.17	6.91
2.5 but less than 3.0	3.40	3.81	4.26	4.78	5.35	5.99	6.71
3.0 but less than 3.5	3.30	3.70	4.14	4.64	5.19	5.82	6.51
3.5 but less than 4.0	3.20	3.58	4.01	4.50	5.04	5.64	6.32
4.0 but less than 4.5	3.10	3.47	3.89	4.36	4.88	5.46	6.12
4.5 but less than 5.0	3.00	3.36	3.76	4.21	4.72	5.29	5.92
5.0 but less than 5.5	2.90	3.25	3.64	4.07	4.56	5.11	5.72
5.5 but less than 6.0	2.80	3.14	3.51	3.93	4.41	4.93	5.53
6.0 but less than 6.5	2.70	3.02	3.39	3.79	4.25	4.76	5.33

	A	B	C	D	E	F	G
		1.6%	1.4%	1.1%	0.8%	0.5%	
	1.75% and over	or more but less than 1.75%	or more but less than 1.6%	or more but less than 1.4%	or more but less than 1.1%	or more but less than 0.8%	less than 0.5%
Employer Account Reserve Percentages							
Positive Percentage							
6.5 but less than 7.0	2.60	2.91	3.26	3.65	4.09	4.58	5.13
7.0 but less than 7.5	2.50	2.80	3.14	3.51	3.93	4.41	4.93
7.5 but less than 8.0	2.40	2.69	3.01	3.37	3.78	4.23	4.74
8.0 but less than 8.5	2.30	2.58	2.89	3.23	3.62	4.05	4.54
8.5 but less than 9.0	2.20	2.46	2.76	3.09	3.46	3.88	4.34
9.0 but less than 9.5	2.10	2.35	2.63	2.95	3.30	3.70	4.15
9.5 but less than 10.0	2.00	2.24	2.51	2.81	3.15	3.52	3.95
10.0 but less than 10.5	1.90	2.13	2.38	2.67	2.99	3.35	3.75
10.5 but less than 11.0	1.80	2.02	2.26	2.53	2.83	3.17	3.55
11.0 but less than 11.5	1.70	1.90	2.13	2.39	2.67	3.00	3.36
11.5 but less than 12.0	1.60	1.79	2.01	2.25	2.52	2.82	3.16
12.0 but less than 12.5	1.50	1.68	1.88	2.11	2.36	2.64	2.96
12.5 but less than 13.0	1.40	1.57	1.76	1.97	2.20	2.47	2.76
13.0 but less than 13.5	1.30	1.46	1.63	1.83	2.05	2.29	2.57
13.5 but less than 14.0	1.20	1.34	1.51	1.69	1.89	2.11	2.37
14.0 but less than 15.0	1.00	1.12	1.25	1.40	1.57	1.76	1.97
15.0 but less than 16.0	0.90	1.01	1.13	1.26	1.42	1.59	1.78
16 or more	0.80	0.90	1.00	1.12	1.26	1.41	1.58

SECTION 6. Section 14F of said chapter 151A , as so appearing, is hereby amended by striking out, in lines 29 and 30, the words "the months of January, April, and August" and inserting in place thereof the following words:- every month.

SECTION 7. Subsection (a) of section 15 of said chapter 151A , as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding section 47, if an employer or an officer or agent of an employer knowingly fails or refuses to pay any contribution, payment in lieu of contribution or interest

charge or attempts in any manner to evade or defeat any contribution or payment in lieu of contribution or who knowingly makes a false statement or misrepresents the employment status of an individual under his employ to avoid or reduce any contribution, he shall be punished by a fine equal to the total amount of contributions owed, including any interest, in addition to a penalty equal to the total amount that the individual fraudulently collected during the total period in which such individual was under his employ.

SECTION 8. Subsection (e) of section 25 of said chapter 151A is hereby amended by inserting after the eighth paragraph the following 2 paragraphs:-

A temporary employee of a temporary help firm shall be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment before filing for benefits and the unemployment benefits may be denied for failure to do so. Failure to contact the temporary help firm shall not be deemed a voluntary quitting unless the claimant has been advised of the obligation in writing to contact the firm upon completion of an assignment.

For the purposes of this paragraph, "temporary help firm" shall mean a firm that hires its own employees and assigns them to clients to support or supplement the client's workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects. "Temporary employee" shall mean an employee assigned to work for the clients of a temporary help firm.

SECTION 9. Said section 25 of said chapter 151A, as so appearing, is hereby amended by adding the following subsection:-

(j) Any week in which the individual fraudulently collects benefits while not in total or partial unemployment. Whoever fraudulently collects benefits while not in total or partial unemployment, may be disqualified for each otherwise compensable week for each such week of erroneous payment; provided, however, that the amount in question shall be reduced by any earnings disregard in subsection (d) of section 29; provided further, that in the discretion of the commissioner, an amount erroneously paid may be deducted first from any future payments of benefits accruing to the individual under this chapter; provided further, that the amount deducted each week shall not exceed 25 per cent of the individual's weekly unemployment benefit rate; and provided further, that the individual shall have had actual notice of the requirement to report his earnings and the notice shall have met the requirements of clause iii of subsection (d) of section 62A. Any individual subjected to a deduction under this section may file an appeal and obtain review in accordance with sections 39 to 42, inclusive, and section 71.

SECTION 10. Section 30 of said chapter 151A, as so appearing, is hereby amended by striking out, in line 5, the word "twenty-nine" and inserting in place thereof the following words:- 29; provided, however, that if in any month the average local unemployment for the last 12 months, as determined by the United States Department of Labor is equal to or below 5.1 per cent in each of the 10 metropolitan statistical areas of the commonwealth, the total benefits which an unemployed individual who then files a claim may receive during his benefit year shall be an amount equal to 36 per cent of his wages in the base period or an amount

equal to 26 times his benefit rate, whichever is less, plus dependency benefits payable under said section 29; provided further that no such reduction in benefit rate from 30 times to 26 times the benefit rate due to the operation of this section shall occur to an individual's total benefit amount if, in any month during the individual's benefit year, the requirements of this section have not been met.

NO SECTION 11.

SECTION 12. Said section 47 of said chapter 151A , as so appearing, is hereby further amended by adding the following paragraph:-

On or before October 15 of the first year, the department shall file with the house and senate committees on ways and means and the clerks of the house of representatives and the senate and the joint committee on commerce and labor a report which shall contain a comprehensive evaluation of the effectiveness of collections and payments authorized by section 15, subsection (a) of section 47, section 58 and section 69D including, but not limited to, the total amount of monies collected and deposited into the contingent fund pursuant to those sections.

SECTION 13. Section 58A of said chapter 151A , as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding the foregoing, the commissioner may pay from the contingent fund to an individual who has voluntarily provided information to the department which leads to the establishment of an overpayment or to a determination that an employer has filed a false or fraudulent contribution report an amount not to exceed 10 per cent of the total amount of the penalty assessed and collected pursuant to subsection (a) of section 15, section 47, section 69D or section 69E. An employer shall not take any adverse action against an individual because the individual has reported such information to the department. Any employer who takes such adverse action shall be liable in a civil action, action for contempt or other appropriate proceeding to such employee for all wages and employment benefits lost by the employee as a result of such action, litigation costs and reasonable attorney fees. An employee may bring an action in the appropriate district court department or the superior court department of Suffolk county for the relief provided in this subsection. The department shall make available a toll free telephone number for the purpose of reporting such fraudulent acts and shall adequately promote and advertise the number to the public.

SECTION 13A. Section 69 of said chapter 151A , as so appearing, is hereby amended by inserting after the word "chapter", in line 5, the following words:- provided that there has been a final decision as defined in section 69D.

SECTION 14. Said chapter 151A is hereby further amended by inserting after section 69C the following section:-

Section 69D. As used in this section, the term "final" shall mean that: (1) there is no pending hearing or appeal under section 39 to 42, inclusive, from a decision determining that an individual knowingly and willfully failed to furnish information; (2) no hearing or appeal from a decision on ineligibility for benefits is pending; (3) no request for waiver pursuant to

subsection (c) of section 69 is pending; (4) no request for a redetermination pursuant to section 71 is pending; and (5) from a determination of overpayment, an opportunity for an interview and all appeal rights have been exhausted or not taken within the time allowed by law.

SECTION 15. Notwithstanding section 14 of chapter 151A of the General Laws, the experience rate of an employer qualifying for it under subsection (b) of said section 14 of said chapter 151A shall be the rate which appears in the column designated "D" for calendar years 2004, 2005, 2006 and 2007.

SECTION 16. This act shall take effect on January 1, 2004.

The foregoing was laid before the Governor on the nineteenth day of November, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 143. AN ACT RELATIVE TO THE TAX LAWS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to implement certain changes to the tax laws of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 30 of chapter 62C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following 2 paragraphs:-

For purposes of this section, a final determination of a change by the federal government includes a closing agreement or accepted offer in compromise under the Code, as amended and in effect for the taxable year, or any similar agreement that results in a change in federal taxable income, whether or not the audit or other review is complete with respect to issues not addressed in the agreement.

The commissioner of revenue may promulgate rules and regulations necessary to implement this section.

SECTION 2. Section 33 of said chapter 62C, as so appearing, is hereby amended by adding the following subsection:-

(g) If after the commissioner has required taxpayers either to prepare or file any required return, document, or information, or to make a required tax payment or estimated payment, by way of a specified automated or electronic means, format, method, or medium, a taxpayer fails to comply with the prescribed method for the filing, data transfer, or payment, the taxpayer shall be considered not to have made the required filing or the required

payment. Upon a failure to comply, the commissioner, in addition to other remedies available to him, shall send the taxpayer a notice of improper filing or payment specifying the nonconformity therein, but shall not be required to send the notice for subsequent instances of noncompliance. Thereafter, if the taxpayer, without reasonable cause, fails to conform any filing, data transfer or payment with the method prescribed by the commissioner in tax years beginning on or after January 1, 2005, there shall be added to and become a part of the tax required to be paid a penalty in an amount not greater than \$100 for each improper return, document or data transmission, and for each improper payment. The penalty shall be considered assessed by the issuance by the commissioner of a notice to the taxpayer setting out the amount of the penalty, the tax period and tax type affected and the reason for the penalty. No notice of intention to assess, notice of assessment, or any demand for payment shall be required as a prerequisite to the imposition or collection of a penalty imposed under this subsection. A penalty imposed by the commissioner for an improper filing or payment shall be subject to subsection (f) relative to the waiver of penalties.

SECTION 2A. Section 36 of said chapter 62C, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

An application for an abatement or a refund of an overpayment of any tax where a return which is required to be filed has not been timely filed, shall be made and filed, along with the overdue return, within 3 years from the date that the return was due to be filed, without regard to extensions, or within 2 years of the date that the tax was paid, whichever is later. An application for an abatement or refund filed beyond those alternate deadlines shall be denied by the commissioner. An application for refund of and overpayment of any tax where no return is required shall be made by the taxpayer within 2 years from the time such tax was paid. An application for an abatement or refund in any other circumstance, including either where no return is required to be filed, or where the return has been filed in a timely manner, shall be made within the periods provided under section 37.

SECTION 2B. Said chapter 62C is hereby further amended by striking out section 39, as so appearing, and inserting in place thereof the following section:-

Section 39. Any person aggrieved by the refusal of the commissioner to abate or to refund any tax, in whole or in part, whether such refusal results from the denial of an abatement application made under section 36 or section 37, may appeal therefrom, within 60 days after the date of notice of the decision of the commissioner or within 6 months after the time when the application for abatement is deemed to be denied as provided in section 6 of chapter 58A, as follows:

(a) appeals from the decision of the commissioner as to the value of an asset of the estate for purposes of chapter 65C shall be made by filing a petition with the clerk of the appellate tax board;

(b) appeals from the decision of the commissioner as to all other matters arising under chapter 65C shall be made by filing a petition with either the clerk of the appellate tax board or the probate court having jurisdiction of the estate of the decedent;

(c) appeals from the commissioner's refusal to abate any other tax or to refund any tax, in whole or in part, whether such refusal results from the denial of an abatement application made under section 36 or section 37, shall be made by filing a petition with the clerk of the appellate tax board. If, on hearing, the board or the court, whichever the case may be, finds that the person making the appeal was entitled to an abatement or a refund, it shall make such abatement or refund as it sees fit. If a tax so abated has been paid, the state treasurer, upon presentation to him of the notice of the decision of the board, or the court, shall repay to the petitioner the amount of the abatement and interest computed in accordance with section 40.

SECTION 3. Section 1 of chapter 63 of the General Laws, as most recently amended by section 12 of chapter 4 of the acts of 2003, is hereby further amended by striking out the definition of "Financial institution" and inserting in place thereof the following definition:-

"Financial institution", (a) any bank, banking association, trust company, federal or state savings and loan association, including all banks for cooperatives organized under the United States Farm Credit Act of 1933, whether of issue or not, existing by authority of the United States, or any state, or a foreign country, or any law of the commonwealth; (b) any other institution, association or entity, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Deposit Insurance Corporation, any institution, association or entity, which is a member of a federal Home Loan Bank, excluding corporations described in section 1 of chapter 171, any other bank or thrift institution incorporated or organized under the laws of a state which is engaged in the business of receiving deposits, any corporation organized under the provisions of 12 USC 611-631 and 12 USC 3101; (c) any corporation subject to chapter 167A, or registered under the Federal Bank Holding Company Act of 1956, or registered as a savings and loan holding company under federal law, but excluding a diversified savings and loan holding company unless it satisfies the definition of a financial institution elsewhere herein, including any subsidiary which participates in the filing of a consolidated return of income to the federal government; (d) any corporation subject to supervision by the division of banks including but not limited to corporations described in section 24 of chapter 93, sections 96 to 104, inclusive, or section 114C of chapter 140; section 38 of chapter 167; section 5 of chapter 167B; chapter 169A; chapter 255B; chapter 255C; chapter 255D; and chapter 255E; or (e) any other corporation organized under the laws of the United States, the commonwealth or any other state or a foreign country which, in substantial competition with financial institutions as defined in any or all of clauses (a) to (d), inclusive, derives more than 50 per cent of its gross income, excluding nonrecurring, extraordinary items, from loan origination, from lending activities, including discounting obligations, or from credit card activities; but, corporations described in section 1 of chapter 171 shall be excluded from the definition of financial institution.

SECTION 4. The definition of "Net income" in said section 1 of said chapter 63,

as amended by said section 12 of chapter 4, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The term "dividends received", as it relates to distribution from a real estate investment trust, as provided in sections 856 to 859, inclusive, of the Code, shall be treated in the same manner as under the Code, as amended and in effect for the taxable year. For purposes of this section, any dividend received directly or indirectly from the real estate investment trust shall not be treated as a dividend. Any dividend received directly or indirectly from a regulated investment company, as provided in sections 851 to 855, inclusive, of the Code, shall not be included as part of the dividends received deduction otherwise available under this section.

SECTION 5. Paragraph 4 of section 30 of said chapter 63 is hereby further amended by striking out the third sentence, inserted by section 14 of said chapter 4, and inserting in place thereof the following 2 sentences:- For purposes of this section, any dividend received directly or indirectly from a real estate investment trust, as provided in sections 856 to 859, inclusive, of the Code, for the taxable year of the trust in which a dividend is paid, shall not be: (i) treated as a dividend; and (ii) included as part of the dividends received deduction otherwise available to the taxpayer under paragraph (1) of subsection (a) of section 38. Any dividend received directly or indirectly from a regulated investment company, as provided in sections 851 to 855, inclusive, of the Code, shall not be included as part of the dividends received deduction otherwise available under paragraph (1) of subsection (a) of section 38.

SECTION 6. Chapter 64D of the General Laws is hereby amended by inserting after section 6A the following section:-

Section 6B. The register of deeds may refuse to record or register any deed, instrument or writing which does not have the stamps required by this chapter, as determined by the register, affixed thereto or to vellum, parchment or paper upon which it is written or printed.

SECTION 7. Section 1 shall be applicable to any closing agreements executed by any person or taxpayer with the Internal Revenue Service on or after January 1, 2004.

SECTION 8. The commissioner of revenue may issue rules or regulations necessary to implement section 2.

SECTION 9. Sections 4 and 5 shall apply to taxable years beginning on or after January 1, 2004.

Approved December 4, 2003.

**Chapter 144. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET
MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT
IN A CERTAIN PARCEL OF LAND IN THE TOWN OF 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, grant to Tufts University, a nonprofit educational institution, a non-exclusive easement for vehicular and pedestrian access and utility services to and from Westboro road, state highway route 30, for all purposes for which public and private streets are used in the town of Grafton, in, over, through and under those traveled ways to which the general public currently has no legal right of access located on the commonwealth's adjoining property. Such ways are shown on sheet 1 of 3 of that certain plan entitled "Plan of Land, Grafton-Westborough, Massachusetts," dated August 31, 1978, prepared by Harry R. Feldman, Inc., recorded with the Worcester county registry of deeds in Plan Book 456, Page 31. The university may, at its expense, widen or improve the easement areas to the extent necessary to provide reasonable access to and from Westboro road, state highway route 30, or as otherwise required by the town of Grafton or any other governmental authority in connection with the development of the university's Science Park or School of Veterinary Medicine. The exact boundaries of the easement area shall be determined by the commissioner after completion of a survey prepared by and at the expense of the university and the easement shall be subject to such reasonable conditions as the commissioner shall deem necessary to protect the value of the commonwealth's adjacent property.

SECTION 2. The commissioner of capital asset management and maintenance shall submit the instruments or agreements granting the easement authorized by this act and any subsequent amendments thereof 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 easement shall permit certain roadway improvements to be constructed by the town of Grafton on the Tufts University's campus with proceeds secured by the town of Grafton from the commonwealth through grants under the public works economic development and community development action grant programs with access to and from Westboro road, state highway route 30, over the commonwealth's burdened property in order to provide for a safe and efficient flow of traffic. The easement shall also facilitate the development of the university's science park and, accordingly, benefit the commonwealth under a profit sharing agreement between the university and the commonwealth, dated June 6, 1994, pursuant to which the commonwealth is entitled to a portion of the profits, if any, ultimately derived from the development of the university's science park previously authorized by the general court. The commonwealth, deriving such benefits from the use by the university and its successors of the easements authorized hereby, shall require no further consideration from the university for the use of such easements, excepting only the cost of such improvements to the burdened property that the university may elect to make.

SECTION 4. Nothing in this act shall be interpreted as limiting or otherwise affecting any provision of chapter 644 of the acts of 1974, section 42 of chapter 367 of the

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acts of 1978, chapter 315 of the acts of 1992 or any agreement executed and delivered in accordance with these acts.

Approved December 5, 2003.

Chapter 145. AN ACT RELATIVE TO THE BOARD OF HEALTH OF THE TOWN OF TEWKSBURY.

Be it enacted, etc., as follows:

Section 15 of chapter 275 of the acts of 1986, amended by section 2 of chapter 229 of the acts of 1995, is hereby further amended by inserting after the third paragraph the following paragraph:-

The board of health shall be elected at the annual town election. The board shall consist of 5 persons serving 3 year terms with 2 persons elected 1 year, 2 persons elected the second year and 1 person elected the third year. For the purpose of implementation, the 3 sitting members shall serve out their terms with 2 open seats being filled at the next annual election, 1 seat for 3 years and the second for 2 years.

Approved December 11, 2003.

Chapter 146. AN ACT INCREASING THE NUMBER OF SELECTMEN IN THE TOWN OF FOXBOROUGH FROM 3 TO 5.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Foxborough shall consist of 5 members elected by the voters for 3 year terms, so arranged that the term of office of at least 1 member, but not more than 2 members, shall expire each year. The board of selectmen shall annually elect a chairperson from among its members. Members of the board of selectmen in office on the effective date of this act shall serve until the terms for which they have been elected have expired.

SECTION 2. This act shall be submitted to the voters of the town at the next annual town election in the form of the following question which shall be placed on the official ballot to be used at that election:-

"Shall an act passed by the general court in the year 2003, entitled 'An Act increasing the number of selectmen in the town of Foxborough from 3 to 5' be accepted?" If $\frac{2}{3}$ of the votes cast in answer to this question are in the affirmative, then this act shall take full effect, but not otherwise.

Approved December 11, 2003.

Chapter 147. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DONNA M. TANSEY, AN EMPLOYEE OF THE DIVISION OF UNEMPLOYMENT ASSISTANCE.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the division of unemployment assistance shall establish a sick leave bank for Donna M. Tansey an employee of the division. Any employee of the division may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Donna M. Tansey. Whenever Donna M. Tansey terminates employment with the division or requests to dissolve the sick leave bank established by this act, the balance of the sick leave time shall be transferred to the extended illness leave bank.

Approved December 12, 2003.

Chapter 148. AN ACT AUTHORIZING THE MASSACHUSETTS WATER RESOURCES AUTHORITY TO GRANT ACCESS TO ITS SEWER SYSTEM TO A CERTAIN PROPERTY IN THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding paragraph (c) of section 8 of chapter 372 of the acts of 1984 or any general or special law to the contrary, the Massachusetts Water Resources Authority may provide sewer services through the city known as the town of Weymouth sewer system to the property located at 60 Research road in the town of Hingham, as shown on a deed recorded in the Plymouth registry of deeds, Book 19375, Page 26-28, and on assessor's Map 207, Lot 16, which premises are owned by Campanelli Hingham LLC, a Massachusetts limited liability company, provided that the discharge from the property to the sewer system shall not exceed a maximum of 2,475 gallons per day. The authority may allow the property to use and be serviced by its sewer system to the same extent as parcels of property located within the district covered by the authority, provided that the property is subject to all rules, regulations and requirements of the authority. Further, the city known as the town of Weymouth may allow the property to connect to its sewer system to convey the discharge to the authority's sewer system. All costs and expenses incurred for labor and materials relative to the installation of a sewer connection from the property to the city known as the town of Weymouth sewer system shall be paid by Campanelli Hingham LLC,

and all work and labor shall be performed in accordance with the specifications of the authority and the city known as the town of Weymouth. The authority and the city known as the town of Weymouth may assess charges upon the owner of the property for the use of their sewer systems and for their provision of services related thereto. Except as specifically provided herein, nothing in this act shall grant that portion of the town of Hingham that is not a part of the north sewer district of Hingham the right to receive sewer services from the authority or otherwise cause that portion of the town of Hingham that is not a part of the north sewer district of Hingham to have any of the rights or obligations of the political subdivisions listed in paragraph (c) of section 8 of chapter 372 of the acts of 1984.

SECTION 2. Notwithstanding section 1, the provision of sewer services by the Massachusetts Water Resources Authority, through the city known as the town of Weymouth sewer system, to the property located at 60 Research Road in the town of Hingham shall begin only after the authority makes findings as set forth in paragraph (c) of section 8 of chapter 372 of the acts of 1984 in accordance with its applicable policies, including the approval of the town of Hingham, the city known as the town of Weymouth, other regulatory bodies where required, and the authority's advisory board and board of directors.

Approved December 18, 2003.

**Chapter 149. AN ACT AUTHORIZING THE TOWN OF WEYMOUTH TO GRANT
ACCESS TO ITS SEWER SYSTEM AND TO ASSESS CHARGES
THEREFOR.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding paragraph (c) of section 8 of chapter 372 of the acts of 1984 or any other general or special law to the contrary, the Massachusetts Water Resources Authority may provide sewer services through the city known as the town of Weymouth sewer system to the property located at 105 Research Road in the town of Hingham, as shown on a deed recorded in the Plymouth county land court, certificate number LCC93472, and on assessor's MAP 206, Lot 12, currently owned by Research Road LLC, a Massachusetts limited liability company, provided that the discharge from the property to the sewer system shall not exceed a maximum of 2,025 gallons per day. The authority may allow the property to use and be serviced by its sewer system to the same extent as parcels of property located within the district covered by the authority, provided that the property is subject to all rules, regulations and requirements of the authority. Further, the city known as the town of Weymouth may allow the property to connect its sewer system to convey the discharge to the authority's sewer system. All costs and expenses incurred for labor and materials relative to the installation of a sewer connection from the property to the city known as the town of Weymouth sewer system shall be paid by Research Road LLC, and all work and labor shall be performed in accordance with the specifications of the authority and

the city known as the town of Weymouth. The authority and the city known as the town of Weymouth may assess charges upon the owner of the property for the use of their sewer systems and for their provision of services related thereto. Except as specifically provided herein, nothing in this act shall grant that portion of the town of Hingham that is not a part of the north sewer district of Hingham the right to receive sewer services from the authority or otherwise cause that portion of the town of Hingham that is not a part of the north sewer district of Hingham to have any of the rights or obligations of the political subdivisions listed in paragraph (c) of section 8 of chapter 372 of the acts of 1984.

SECTION 2. Notwithstanding section 1, the provision of sewer services by the Massachusetts Water Resources Authority, through the city known as the town of Weymouth sewer system, to the property located at 105 Research road in the town of Hingham shall begin only after the authority makes findings as set forth in paragraph (c) of section 8 of chapter 372 of the acts of 1984 in accordance with its applicable policies, including the approval of the town of Hingham, the city known as the town of Weymouth, other regulatory bodies where required, and the authority's advisory board and board of directors.

Approved December 18, 2003.

Chapter 150. AN ACT AUTHORIZING THE TOWN OF MONROE TO LEASE CERTAIN LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Monroe may lease 3 parcels of land to New England Wind, LLC for a period not to exceed 40 years, for the purpose of developing and maintaining a wind farm. The parcels are identified as assessors map 402, Lot 1, assessors map 402, Lot 3, assessors map 402, Lot 4, said lots being located in the southeast corner of the town.

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

Approved December 18, 2003.

Chapter 151. AN ACT AUTHORIZING THE TOWN OF FLORIDA TO LEASE CERTAIN LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Florida may lease 2 parcels of land

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to New England Wind, LLC for the purpose of developing and maintaining a wind farm, for a term not to exceed 40 years. The parcels are identified as assessors Map 6, lot 4 and assessors Map 4, lot 11.

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

Approved December 18, 2003.

Chapter 152. AN ACT RELATIVE TO CERTAIN FUNDS OF THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 323 of the acts of 1998 is hereby amended by striking out section 4 and inserting place thereof the following section:-

Section 4. All amounts paid annually by Millennium Power Partners, L.P. or its successors or assigns in lieu of taxes as authorized by chapter 46 2 of the acts of 1996 shall be allocated as follows:

The members of the board of selectmen, board of assessors and the town treasurer shall, annually, acting jointly, by a majority vote, specify the amounts to be deposited in the following funds: (a) 50 per cent to the town's General Fund, (b) no more than 40 per cent in the town's Debt Service Reserve Fund, (c) no more than 10 per cent in the town's Stabilization Fund; provided, however, that such deposit shall not cause the amount of the fund to exceed the limit established under section 5B of chapter 40 of the General Laws, and (d) any remaining funds shall be deposited in the Charlton Capital Expenditures Fund.

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

Approved December 18, 2003.

Chapter 153. AN ACT PROVIDING FOR AN APPOINTED TOWN TREASURER AND TOWN COLLECTOR IN THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, the offices of treasurer and collector in the town of Charlton shall not be elected but shall be appointed by the town administrator, or, if the position of town administrator is vacant when such appointment is to be made, then by the board of selectmen. In either case, each appointment shall be for a term not to exceed 3 years. A vacancy in either office shall be filled in a like manner for the unexpired portion of the term.

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SECTION 2. Notwithstanding section 1, any incumbents in the office of treasurer or collector upon the effective date of this act shall continue to hold the office and to perform the duties of the office until the appointment of a treasurer or collector to perform the duties pursuant to this act.

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

Approved December 18, 2003.

Chapter 154. AN ACT RELATIVE TO THE COLOR OF EMERGENCY MEDICAL SERVICES VEHICLES.

Be it enacted, etc., as follows:

Subsection (b) of section 3 of chapter 111C of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) establish minimum standards for, inspect and certify, as appropriate, EMS vehicles in accordance with section 7, but EMS vehicles operated under this section by fire departments may be primarily red in color with a secondary color of white.

Approved December 18, 2003.

Chapter 155. AN ACT AUTHORIZING AN INCREASE IN FINES FOR PARKING VIOLATIONS ON THE ISLAND OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 20A ½ of chapter 90 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Nantucket may establish, by rule or regulation, a schedule of fines for time restriction and other parking violations, which fines shall not exceed \$50, if paid within 21 days, not more than \$60 if paid after 21 days but before the parking clerk reports to the registrar as provided in said section 20A ½ of said chapter 90 and not more than \$75 if paid after the violation has been reported to the registrar. The board of selectmen, in its discretion and after a public hearing, may establish a schedule of lesser amounts for the violations.

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

Approved December 19, 2003.

Chapter 156. AN ACT RELATIVE TO THE SURVIVOR BENEFITS OF GEORGE CALDER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the contributory retirement board of the town of Wellesley shall pay a member survivor allowance to Carol Calder, widow of George Calder, effective on the date of his death March 5, 1998, and who was a retired member of the contributory retirement system of the town, equal to the amount she would have received if he had elected to take Option (c) of section 12 of chapter 32 of the General Laws when he retired on December 31, 1997.

SECTION 2. This act shall take effect as of March 5, 1998.

Approved December 19, 2003.

Chapter 157. AN ACT RELATIVE TO A CERTAIN PARCEL OF LAND IN THE TOWN OF IPSWICH.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Ipswich may sell and convey the fee or a lesser interest in the former Middle School Annex Building and a portion of the parcel of land upon which it is located, situated in the area of 25 Green street, and shown on Assessor's Map 42A, Lot 99, to the North Shore Housing Trust for the development of affordable elderly rental housing units, for a minimum consideration of \$1, together with an easement or easements for access, utilities, and vehicular parking to serve the dwelling units over the remainder portion of this town land. The board of selectmen shall determine the precise boundaries of the parcel or easements.

SECTION 2. Chapter 149 and section 38K of chapter 7 of the General Laws shall not apply to any work or improvements to the Middle School Annex building or property undertaken by a lessee of the building property.

The foregoing was laid before the Governor on the eighth day of December, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 158. AN ACT EXTENDING THE DEADLINE FOR MAILING QUARTERLY TAX BILLS.

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

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is, in part, to provide forthwith for an extension of the deadline to mail certain tax bills in cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 57C of chapter 59 of the General Laws or any other general or special law or rule or regulation to the contrary, for fiscal year 2004, an actual real estate tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for any preliminary tax payments previously made, shall be due and payable in 2 installments. The first installment shall be due and payable on February 1, 2004 or 30 days after the actual real estate tax bills are mailed, whichever is later, and the second installment shall be due and payable on May 1, 2004, after which dates, if unpaid, they shall become delinquent.

If the actual real estate tax bills issued in fiscal year 2004 shall not be mailed by January 30, 2004, then, upon the establishment of the tax rate, there shall be a single actual tax bill due and payable on May 1, 2004 or 30 days after the date of the mailing, whichever is later. That tax bill shall represent the full balance owed after credit is given for the preliminary tax payments previously made.

This section shall apply to a city or town that accepts it by vote of its city or town council, subject to its municipal charter, or its board of selectmen.

SECTION 2. Chapter 138 of the acts of 2003 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Notwithstanding section 57C of chapter 59 of the General Laws, the commissioner of revenue shall allow cities and towns to issue a third-quarter preliminary tax bill in fiscal year 2004. The third-quarter preliminary tax bill shall not exceed 125 per cent of the first-quarter preliminary tax bill. A separate percentage factor may be designated for the residential, open space, commercial, industrial or personal classes of property, as defined in section 2A of said chapter 59.

Approved December 23, 2003.

Chapter 159. AN ACT EXEMPTING THE DEPUTY CHIEF OF POLICE IN THE TOWN OF MILFORD FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of deputy chief of police in the town of Milford shall be exempt from chapter 31 of the General Laws.

SECTION 2. Candidates for appointment to the position of deputy chief of police in the town of Milford shall come from the personnel of the police department of the town

consistent with standards established by the chief of police.

SECTION 3. Section 1 shall not impair the civil service status of any incumbent holding the position of deputy chief of police in the town of Milford on the effective date of this act.

Approved December 31, 2004.

Chapter 160. AN ACT RELATIVE TO THE APPOINTMENT OF RETIRED POLICE OFFICERS AS SPECIAL POLICE OFFICERS IN THE TOWN OF FAIRHAVEN.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Fairhaven may appoint, as they deem necessary, retired Fairhaven police officers as special police officers for the purpose of performing police details or any other police duties arising therefrom or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers must have been regular Fairhaven police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. A special police officer must pass a medical examination, by a physician or other certified professional chosen by the town, to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or section 99A of chapter 41 of the General Laws.

SECTION 3. Special police officers shall, when performing the duties under section 1, have the same powers to make arrests and perform other police functions as do regular police officers of the town of Fairhaven.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal by the board of selectmen of the town of Fairhaven at anytime with 14 days written notice. Upon request, the board of selectmen shall provide reasons for removal in writing.

SECTION 5. Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the police department and chief of police of the town of Fairhaven including restrictions on the type of detail assignment, requirements regarding medical examinations to determine continued capability to perform the duties of a special police officer, requirements for training, requirements for firearm licensing and qualification and requirements regarding uniforms and equipment. Special police officers shall not be subject to section 96B of chapter 41 of the General Laws.

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SECTION 6. Special police officers shall be sworn in before the town clerk of the town of Fairhaven who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F exceed, in any calendar year, the limitation on earning contained in subsection (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from the current 65 years of age, the termination of benefits under said section 111F, as provided herein to special police officers, shall terminate at such a higher age limit but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.

SECTION 8. Appointment as a special police officer shall entitle any individual appointed as such to assignment to any detail.

SECTION 9. Retired police officers in the town of Fairhaven serving as special police officers under this act shall be subject to the limitations on hours worked and on payments to retired town employees under subsection (b) of section 91 of chapter 32 of the General Laws.

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

Approved December 31, 2004.

Chapter 161. AN ACT RELATIVE TO THE OFFICE OF TOWN MANAGER IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of section 11 of chapter 503 of the acts of 1952, as amended by section 3 of chapter 634 of the acts of 1956, is hereby further amended by striking out, in line 6, the words "experience as a city or town manager" and inserting in place thereof the following words: - of significant municipal management or administrative experience.

SECTION 2. Said section 11 of said chapter 503 is hereby further amended by striking out the sentence "He shall be a resident of the town during his term of office."

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

Approved December 31, 2003.

Chapter 162. AN ACT PROVIDING FOR ALTERNATE MEMBERS OF THE OLD AND HISTORIC DISTRICTS COMMISSION OF THE TOWN OF MARBLEHEAD.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 101 of the acts of 1965 is hereby amended by adding the following sentence:- There shall be 2 alternate members to be appointed by the board of selectmen, who may be designated by the chairman to sit on the commission in the case of absence, inability to act or conflict of interest on the part of any member or in the event of a vacancy until the vacancy is filled in the manner provided in this act.

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

Approved December 31, 2003.

Chapter 163. AN ACT RELATIVE TO VOTING EQUIPMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow prompt selection of voting equipment before the 2004 presidential primary, therefore 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 section 34 of chapter 54 of the General Laws or any other general or special law to the contrary, a city or town may, by vote of a majority of the city council or by vote of a majority of the board of selectmen, at a meeting held not later than 60 days prior to the 2004 presidential primary, determine upon the use of, and may lease, purchase, or lease with an option to purchase, the automatic tabulating equipment necessary to any electronic voting system approved for use.

SECTION 2. Thereafter, all such primaries, preliminary elections and elections held in the city or town, until otherwise ordered by vote of the city council in a city or of the selectmen in a town, the electronic voting system shall be used in those polling places designated by the city council or board of selectmen.

SECTION 3. Notice of determination to use an approved electronic voting system shall be sent to them state secretary by the city or town clerk within 5 days after such determination.

Approved December 31, 2003.

Chapter 164. AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN BONDS BY THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding clause (9) of section 8 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Revere may borrow the sum of \$2,650,000 authorized for the costs of the Beachmont school fuel oil remediation project pursuant to said clause (9) for a term of 20 years and may use the proceeds of the borrowing to reimburse any funds of the city used to pay such costs prior to borrowing.

SECTION 2. The order of the city council approved by the mayor on July 24, 2003 authorizing bonds for the costs described in section 1 of this act is hereby ratified and confirmed in all respects.

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

Approved December 31, 2003.

Chapter 165. 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 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 2003 may be approved upon renewal, notwithstanding that less than 35 per cent of its members are insured during calendar year 2004.

Approved December 31, 2003.

Chapter 166. AN ACT AUTHORIZING THE TOWN OF ROCKLAND TO TRANSFER CERTAIN FUNDS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the treasurer of the town of Rockland may, as unanimously approved by the October 14, 2003 special town meeting, transfer the sum of \$600,000 from the stabilization fund to be ex-

pending for the purpose of balancing the fiscal year 2004 town budget. The use of such funds for such purpose is hereby ratified, approved, validated and confirmed.

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

Approved December 31, 2003.

Chapter 167. AN ACT RELATIVE TO THE UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to allow the immediate commencement of certain improvements to the Upper Blackstone Water Pollution Abatement District regional wastewater treatment facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 752 of the acts of 1968 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The city of Worcester, by vote of its city council, and the towns of Auburn, Boylston, Holden, Leicester, Millbury, Oxford, Paxton, Rutland, Shrewsbury and West Boylston, by vote of a town meeting, may, subject to conditions enumerated in this act, create a water pollution abatement district which shall be a body corporate known as the Upper Blackstone Water Pollution Abatement District, in this act referred to as the district. There shall be no time limit on the date of acceptance of this act. The department of conservation and recreation may act as a sewer district under this act, accept its provisions and become a participating member of the district.

All of the sewer districts, not now members of the district, representing a portion of any of the above towns may become associate members of the district without representation on the board and without voting status, if a sewer district has, or has contracted for, sewerage facilities to transport its sewage to the district for treatment and has paid the membership fee in accordance with section 10.

SECTION 2. Section 2 of said chapter 752 is hereby amended by striking out the second paragraph, as most recently amended by chapter 99 of the acts of 1977, and inserting in place thereof the following paragraph:-

The board shall consist of residents or employees of the district member city, towns or districts. In order to ensure that Worcester, as the majority member of the board, retains a majority vote on the board, the board shall consist of 1 member representing each member of the district, except the city of Worcester, which shall appoint not less than 3 nor more than 5 board members. The total number of votes of the board shall equal 2 times the number of

board members not from Worcester plus 1. The votes shall be distributed so that each board member not from Worcester shall be entitled to 1 vote with the remaining votes to be distributed evenly among the Worcester board members.

SECTION 3. Section 2 of said chapter 752 is hereby further amended by striking out the fifth paragraph, inserted by chapter 184 of the acts of 1973, and inserting in place thereof the following paragraph:-

The appointing authorities in the city of Worcester, member towns and sewer districts, may appoint 1 alternate board member for each duly appointed board member, who shall be empowered to serve in place of the duly appointed board member, when so authorized by the board member or by the appointing authority, at such times and places and to the same degree as the board member is empowered to serve in his own right.

SECTION 4. The first paragraph of section 5 of said chapter 752 is hereby amended by striking out the third sentence, as appearing in chapter 156 of the acts of 1995, and inserting in place thereof the following 2 sentences:- Members of the board may receive compensation from the district, which shall not exceed \$2,500 per year for a board member, \$3,250 per year for the vice chairman and secretary and \$3,750 per year for the chairman. Compensation at the discretion of the board may be increased from time to time, but not more often than every 3 years, and not to exceed the annual increase in the Consumer Price Index.

SECTION 5. Section 10 of said chapter 752 is hereby amended by striking out the third and fourth paragraphs and inserting in place thereof the following 2 paragraphs:- The operation and maintenance costs of the district and its treatment facilities shall be apportioned among the member city, towns and sewer districts on the basis of their contributions to the flow entering the district's facilities. The contribution of each member to the flow entering the district's facilities shall be determined annually by the board using either metered monitoring data or such other estimation techniques as the board may determine to properly represent the member's contribution to the facility. Commencing in fiscal year 2004, the contributions shall be determined using a 3-year moving average of data representing the 3 most recently completed fiscal years.

Upon acceptance of this act by an eligible town or sewer district not previously a member, the district shall determine the fair market value at that time of the assets of the district, including capital assets. The district shall determine the value of the assets of the district including, but not limited to land, structures, equipment, other improvements, inventories and restricted and unrestricted reserve funds, but excluding any debt service costs associated with bonded indebtedness for which payments are yet due. In establishing the value of the land, structures, equipment and other improvements, the district shall, not less frequently than once every 10 years, use the services of an independent appraiser to estimate the value of such land structures, equipment and other improvements, taking into account the replacement costs of such land, structures, equipment and other improvements and the actual physical and functional depreciation thereof. The district shall use a cost index that it considers appropriate to adjust the most recent estimated replacement costs to the year in which

an eligible town or sewer district proposes to become a member of the district. The district shall also adjust the physical and functional depreciation by the same index and shall include additional depreciation reflecting the amount of time from the date of the last appraisal to the year in which an eligible town or sewer district proposes to become a member of the district. If the district has made additional investments in structures, equipment or other improvements since the time of the most recent appraisal, the value of the additional investments shall be computed as the cost of such investments, adjusted according to a cost index the district deems appropriate to adjust the additional investments to the year in which an eligible town or sewer district proposes to become a member of the district and deducting therefrom depreciation of the investment as determined by the district. The appraised value, indexed as appropriate, together with the value of additional investments and the original costs of land acquired by the district, net of depreciated contributions in aid of construction and net of principal of debt outstanding, shall be used to establish the buy-in costs paid by such eligible town or sewer district. The cost of membership in the district shall be computed as the proportion of the population of the new member community or sewer district to the revised total population of the district, new plus previous members, times the fair market value. Buy-in costs shall be apportioned and paid to previous members on the basis of population, according to the most recent federal census.

SECTION 6. The first paragraph of section 13 of said chapter 752 is hereby amended by striking out the third and fourth sentences.

SECTION 7. Said chapter 752 is hereby further amended by inserting after section 14A the following section:-

Section 14B. Sums apportioned by the district and assessed to the members of the district as provided in section 11, including principal and interest falling due on bonds or notes issued pursuant to section 9, for costs incurred by the district for plant improvements defined in the Upper Blackstone Water Pollution Abatement District Regional Wastewater Treatment Facilities Plan of October 2001, including, but not limited to, work and measures found by the district to be necessary to assure security of the facilities, or to mitigate environmental, social and economic impacts of facilities to be improved or constructed, and the cost of maintenance and operation of the facilities as limited by this section, shall not be subject to the limitations contained in section 20B of chapter 59 of the General Laws, or in any other general or special law, and shall be paid to the district as required by section 11; but these maintenance and operation costs shall become subject to section 20B of chapter 59 of the General Laws after such facilities have been substantially completed and operated for a period of 3 years.

Approved December 31, 2003.

Chapter 168. AN ACT RELATIVE TO RECALL ELECTIONS IN THE TOWN OF BERNARDSTON.

Be it enacted, etc., as follows:

SECTION 1. A person who holds an elected office in the town of Bernardston, with more than 6 months remaining in the term of that office on the date of the filing of a recall affidavit, referred to in section 2, may be recalled from office by the registered voters of the town of Bernardston, in the manner herein provided.

SECTION 2. Fifty or more voters of the town of Bernardston may file with the clerk of the town an affidavit containing the name of the officer whose recall is being sought, along with a statement of the grounds for removal. The clerk of the town shall provide to the voters, petition blanks demanding the recall, printed forms of which shall be kept available by the clerk. The petition blanks may be completed either by writing or typewriting, shall be addressed to the board of selectmen, shall contain the names of the voters who filed the affidavit and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to that office; and shall be dated and signed by the clerk. A copy of the petition shall be kept on file in the office of the clerk in a record book maintained for the purpose.

The recall petition shall be returned and filed in the office of the clerk within 14 days following the date upon which the clerk issued such petitions; they shall contain the signatures of at least 10 per cent of the total number of voters duly recorded on the registration list of the clerk as of the most recent preceding town election.

The clerk shall, within 48 hours following the filing, submit the petition to the registrars of voters who shall, within 5 days, certify thereon the number of signatures which in fact are names of voters of the town.

SECTION 3. If the recall petition shall be certified by the registrars of voters to contain the sufficient number of voters, the clerk of the town shall forthwith submit the petitions to the board of selectmen. Upon its receipt of the certified petitions, the board of selectmen shall, within 48 hours, give written notice of the recall petitions and the certification thereon to the person whose recall is being sought.

If the officer sought to be recalled does not resign his office within 5 days following the delivery of the notice, the board of selectmen shall order an election to be held not less than 65 nor more than 90 days after the date of certification of the sufficiency of the petition by the registrars of voters; but if another town election is to occur within 100 days after the date of the certification, the board of selectmen may, at their discretion, postpone the holding of the recall election until the date of such other town election.

If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section; but only the ballots for the new candidates shall be counted.

SECTION 4. An officer whose recall is being sought shall not be a candidate to succeed himself at the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the election shall be in accordance with the

law relative to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election is held. If not recalled in the election, the incumbent shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided therein.

If the incumbent officer is recalled he shall be deemed removed upon the qualification of a successor who shall hold office for the remainder of the unexpired term; but if the successor fails to qualify within 5 days after receiving notification of election, the incumbent nevertheless shall thereupon be removed and the office shall remain vacant for the remainder of the unexpired term.

SECTION 6. All ballots used at a recall election shall contain the following propositions in the order indicated:

FOR THE RECALL OF (NAME OF OFFICER)
AGAINST THE RECALL OF (NAME OF OFFICER)

Adjacent to each proposition, there shall be a place to mark a vote.

After the propositions shall appear the word "CANDIDATES" followed by the name of all candidates arranged alphabetically by surname. Adjacent to the name of each candidate shall be a place to mark a vote.

If a majority of the votes cast upon the question of recall are in the affirmative, the candidate receiving the highest number of votes shall be deemed elected.

If a majority of the votes cast upon the question of recall are in the negative, the ballots for the candidates need not be counted unless the incumbent officer has previously resigned from office pursuant to section 3.

SECTION 7. A recall petition shall not be filed against an officer within 6 months of the assumption of his office. In the case of an officer who has been subjected to a recall election and was not recalled thereby, a subsequent recall petition shall not be filed against the officer until at least 6 months after the date of the election at which the initial recall was voted upon.

SECTION 8. A person who has been recalled from an office or who has resigned from an office while recall proceedings were pending, shall not be appointed to any town office within 12 months after the recall or resignation.

SECTION 9. This act shall take effect upon its passage.

The foregoing was laid before the Governor on the fifteenth day of December, 2003 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 169. AN ACT RELATIVE TO PRELIMINARY ELECTIONS IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 34 of the acts of 1979 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Any person who is qualified to vote in the town of Framingham may be a candidate for elective town office, and shall be entitled to have his name as such candidate presented on the official ballot to be used at a preliminary election, provided that he files nomination papers provided by the town clerk containing no less than 50 signatures certified as voters of said town. The preliminary election shall be held on the twenty-eighth day preceding every regular or special town election.

SECTION 2. Said chapter 34 is hereby further amended by striking out section 7, as amended by chapter 341 of the acts of 1998, and inserting in place thereof the following section:-

Section 7. If at the expiration of the time for filing nomination papers of candidates to be voted at the preliminary election, not more than 4 times as many such papers have been filed with the town clerk for all offices as there are persons to be elected to such office, the candidates whose nomination papers have been filed shall be deemed to have been nominated to said office and their names shall be voted on for such office, at the succeeding regular or special election, as the case may be, and the preliminary election shall not be held. If there is at least 1 office where more than 4 times as many nomination papers have been filed, then the preliminary election shall be held and all the offices shall be listed on the ballot.

Nominations that are written on the ballot for the preliminary election shall be 50 in number and meet the requirements of section 6 to be listed on the ballot for the regular or special election.

SECTION 3. Section 1 shall not apply to the 2004 annual town election and to the preliminary election that precedes it.

SECTION 4. The last paragraph of section 7 of chapter 34 of the acts of 1979 shall not apply to the 2004 annual town election and to the preliminary election that precedes it.

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

Approved January 8, 2004.

Chapter 170. AN ACT AUTHORIZING THE TOWN OF MILLBURY TO ISSUE 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

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licensing authority of the town of Millbury may issue to Showcase Cinemas a license for the sale of all alcoholic beverages to be drunk on the premises at the Shops at Blackstone Valley, 70 Worcester/Providence turnpike in said town under section 12 of said chapter 138. Said license shall be subject to all of said chapter 138 except said section 17. Said licensing authority shall not approve the transfer of the license to any other location. Upon issuance of the license, Showcase Cinemas shall return to the town the license for the sale of wines and malt beverages that it now holds.

SECTION 2. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority in the town of Millbury may grant a license for the sale of all alcoholic beverages to be drunk on the premises at the Shops at Blackstone Valley, 70 Worcester/Providence turnpike in that town pursuant to section 12 of said chapter 138. The licenses shall be subject to all of said chapter 138 except said section 17. The licensing authority shall not approve the transfer of the licenses to any other locations.

SECTION 3. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Millbury may grant to The Gourmet Lobster a license for the sale of all alcoholic beverages to be drunk on the premises at state highway route 20 at Ratti Farm road in that town under section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except for said section 17. The licensing authority shall not approve the transfer of the license to any other location.

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

Approved January 8, 2004.

Chapter 171. AN ACT DESIGNATING A CERTAIN OVERPASS IN THE TOWN OF MILTON AS THE PRIVATE FIRST CLASS PAUL W. CURRAN MEMORIAL OVERPASS.

Be it enacted, etc., as follows:

The overpass on Adams street spanning interstate highway route 93 in the town of Milton shall be designated and known as the Private First Class Paul W. Curran memorial overpass, in honor of Private First Class Paul W. Curran who was killed in action in Vietnam in the service of the United States. The department of highways shall erect and maintain suitable markers bearing such designation in compliance with the standards of the department.

Approved January 8, 2004.

**Chapter 172. AN ACT FURTHER REGULATING CERTIFICATES OF BIRTH
RESULTING IN STILLBIRTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate further certificates of birth resulting in stillbirth, therefore 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 effective date of chapter 250 of the acts of 2002 to the contrary, a parent of a stillborn child delivered in the commonwealth before November 10, 2002 may request a certificate of birth resulting in stillbirth in accordance with section 1 ½ of chapter 46 of the General Laws for a period of 90 days following the effective date of this act. If the requirements of said section 1 ½ of said chapter 46 are met, the state registrar of vital records and statistics shall issue the requested certificate.

SECTION 2. This act shall take effect on February 1, 2004.

Approved January 8, 2004.

SUMMARY OF THE ACTS APPROVED, APPROVAL WITHHELD, ACTS VETOED BY THE GOVERNOR AND PASSED OVER HIS VETO

During the first session of the General Court held in 2003, 172 Acts were enacted of which 161 Acts received the Governor's approval.

Chapters 10, 43, 88, 102, 142, 157 and 168 were not approved by the Governor within the ten days prescribed by the Constitution. They were not returned to either legislative branch during the ten days with the Governor's reasons for disapproval in writing and since the General Court had not prorogued during that time, these acts have the force of law and have been so certified.

Four Acts were returned by the Governor to the House, the branch in which each Act had originated, with his objections in writing thereto. Chapter 24 was passed by the House on June 20, 2003 and by the Senate on June 24, 2003. Chapter 45 was passed by the House and the Senate on July 17, 2003. Chapter 89 was passed by the House on September 30, 2003 and by the Senate on October 7, 2003. Chapter 90 was passed by the House and the Senate on October 8, 2003. The Governor's objections notwithstanding, these chapters have the force of law and have been so certified.

This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

The 2003 session of the General Court was dissolved at midnight on Tuesday January 6, 2004 the session having lasted 371 days.



William Francis Galvin
Secretary of the Commonwealth

I hereby certify that the Acts 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

AGGREGATE VOTE ON PROPOSED LAWS AND A NON-BINDING QUESTION
SUBMITTED TO THE PEOPLE AT THE NOVEMBER 5, 2002 ELECTION
Statement of the Secretary in Compliance with M.G.L. c. 5, § 2(6)

Question	Yes	No	Blank
1. Eliminating State Personal Income Tax	885,683	1,070,668	263,950
2. English Language Education in Public Schools	1,359,935	640,525	219,841
3. Taxpayer Funding for Political Campaigns*	517,285	1,462,435	240,581

*Non-binding Ballot Question.

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 2002 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 2003.

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

§ 52 added, 2003, 17.

CHAPTER 3 - The General Court.

§ 41, second paragraph revised, 2003, 26 § 4; 2003, 140 § 3. (See 2003, 26 § 715; 140 § 136.)

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.

§ 15QQQQ added, 2003, 14.

§ 15RRRR added, 2003, 20.

§ 15SSSS added, 2003, 68.

§ 17 amended, 2003, 140 § 4. (See 2003, 140 § 136.)

§ 17A amended, 2003, 26 § 549. (See 2003, 26 § 715.)

§ 43 **repealed**, 2003, 26 § 5. (See 2003, 26 § 715.)

§ 44 **repealed**, 2003, 26 § 5. (See 2003, 26 § 715.)

§ 45 **repealed**, 2003, 26 § 5. (See 2003, 26 § 715.)

§ 116A amended, 2003, 26 § 6. (See 2003, 26 § 715.)

§ 135, paragraph added, 2003, 26 § 7. (See 2003, 26 § 715.)

§ 136, paragraph added, 2003, 26 § 8. (See 2003, 26 § 715.)

§ 156 amended, 2003, 26 §§ 9, 10. (See 2003, 26 § 715.)

§ 172A revised, 2003, 26 § 11; paragraph added, 2003, 46 § 1. (See 2003, 26 § 715.)

§ 178C, definitions of “Employment” and “Institution of higher learning” inserted, 2003, 77 § 1; **section amended**, 2003, 77 §§ 2, 3.

§ 178D amended, 2003, 77 § 4; 2 paragraphs inserted after first paragraph, 2003, 140 § 5.

**CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers
under the Governor and Council, and State Library. - continued**

- § 178E amended, 2003, 77 §§ 5, 6; subsection (a), sentence added, 2003, 140 § 9; subsection (h), second sentence revised, 2003, 77 § 7; **section amended**, 2003, 77 §§ 8, 9, 10; subsections (o), (p) and (q) inserted, 2003, 77 §11; subsection (p), first sentence amended, 2003, 140 § 10; **section amended**, 2003, 140 § 6, 7, 8, 11.
- § 178F amended, 2003, 77 §§ 12, 13, 14.
- § 178F½ amended, 2003, 77 § 15; 140 § 12.
- § 178G amended, 2003, 77 § 16.
- § 178J amended, 2003, 77 § 17; subsection (c), first paragraph, clause (7) inserted, 2003, 77 § 18.
- § 178K amended, 2003, 77 §§ 19, 20, 21; subsection (2), paragraph (c), clause (vii) inserted, 2003, 77 § 22; **section amended**, 2003, 140 § 13.
- § 178O amended, 2003, 140 § 14.
- § 178Q added, 2003, 26 § 12. (See 2003, 26 § 715.)
- § 202, paragraph added, 2003, 26 § 13. (See 2003, 26 § 715.)
- § 214 added, 2003, 69.

CHAPTER 6A - Executive Offices.

- § 2 amended, 2003, 26 § 551. (See 2003, 26 § 715.)
- § 8B added, 2003, 26 § 14. (See 2003, 26 § 715.)
- § 16 revised, 2003, 26 § 15. (See 2003, 26 § 715.)
- § 16B, sentence added, 2003, 26 § 16. (See 2003, 26 § 715.)
- § 16G added, 2003, 26 § 550. (See 2003, 26 § 715.)
- § 17C amended, 2003, 26 § 552. (See 2003, 26 § 715.)
- § 17D amended, 2003, 26 § 553. (See 2003, 26 § 715.)
- § 18½, first paragraph, first sentence revised, 2003, 26 § 22. (See 2003, 26 § 715.)

CHAPTER 6B - Acute Hospital Finance.

**CHAPTER 7 - Executive Office for Administration and Finance.
(Former title, Commission on Administration and Finance.)**

- § 1 revised, 2003, 46 § 2.
- § 4I, first paragraph amended, 2003, 46 § 4.
- § 4Q added, 2003, 46 § 3.
- § 22B ½ added, 2003, 46 § 5.
- § 40N, definition of "Veteran-owned business" inserted, 2003, 137 § 4; **section amended**, 2003, 137 §§ 5, 6, 7, 8, 9, 10, 11, 12; paragraph added, 2003, 137 § 13.
- § 53 amended, 2003, 26 § 25. (See 2003, 26 § 715.)

CHAPTER 7A - Office of the Comptroller.

§ 12 amended, 2003, 26 § 29. (See 2003, 26 § 715.)

§ 18 amended, 2003, 26 §§ 30, 31. (See 2003, 26 § 715.)

CHAPTER 8 - State Superintendent of Buildings, and State House.

§ 9 amended, 2003, 26 § 32. (See 2003, 26 § 715.)

§ 9A revised, 2003, 55 § 3.

CHAPTER 9 - Department of the State Secretary.

§ 31 added, 2003, 4 § 2. (See 2002, 4 § 85.)

**CHAPTER 9A - Address Confidentiality Program.
(New Chapter added, 2000, 409.)**

CHAPTER 10 - Department of the State Treasurer.

§ 10, second paragraph revised, 2003, 26 § 33. (See 2003, 26 § 715.)

§ 35D amended, 2003, 26 § 34. (See 2003, 26 § 715.)

§ 35G repealed, 2003, 26 § 35. (See 2003, 26 § 713.)

§ 35H repealed, 2003, 26 § 36. (See 2003, 26 § 713.)

§ 35L repealed, 2003, 26 § 37. (See 2003, 26 § 713.)

§ 35P revised, 2003, 55 § 4.

§ 35Q repealed, 2003, 26 § 38. (See 2003, 26 § 713.)

§ 35V, subsection (a), second sentence amended, 2003, 26 § 40; subsection (b) revised, subsection (c) inserted, 2003, 26 § 41. (See 2003, 26 § 715.)

§ 35X, subsection (c) inserted, 2003, 26 § 42. (See 2003, 26 § 715.)

§ 42 revised, 2003, 26 § 43(A). (See 2003, 26 § 715.)

§ 42A added, 2003, 26 § 43(A). (See 2003, 26 § 715.)

§ 42B added, 2003, 26 § 43(A). (See 2003, 26 § 715.)

§ 42C added, 2003, 26 § 43(A). (See 2003, 26 § 715.)

§ 47, sentence inserted after seventh sentence, 2003, 26 § 44; **section repealed**, 2003, 46 § 6. (See 2003, 26 § 715.)

§ 49 **repealed**, 2003, 26 § 45. (See 2003, 26 § 713.)

§ 51 **repealed**, 2003, 26 § 46. (See 2003, 26 § 713.)

§ 59, fourth and fifth sentences stricken out, 3 sentences inserted, 2003, 26 § 47. (See 2003, 26 § 715.)

§ 70 added, 2003, 26 § 48; seventh sentence stricken out, 2003, 140 § 15. (See 2003, 26 § 715; 140 § 136.)

§ 71 added, 2003, 26 § 48. (See 2003, 26 § 715.)

§ 72 added, 2003, 26 § 48. (See 2003, 26 § 715.)

CHAPTER 11 - Department of the State Auditor.

§ 12 amended, 2003, 46 § 7.

CHAPTER 12 - Department of the Attorney General, and the District Attorneys.

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.)

CHAPTER 14 - Department of Revenue.

CHAPTER 15 - Department of Education.

CHAPTER 15A - Public Education.

§ 4 revised, 2003, 26 § 683. (See 2003, 26 § 715.)

§ 7, paragraph added, 2003, 26 § 49. (See 2003, 26 § 715.)

§ 7A added, 2003, 26 § 687. (See 2003, 26 § 715.)

§ 9 amended, 2003, 26 §§ 50, 51, 52, 684, 685. (See 2003, 26 § 715.)

§ 15B, paragraph inserted after second paragraph, 2003, 26 § 53; **amended**, 2003, 26 § 54.
(See 2003, 26 § 715.)

§ 22 amended, 2003, 26 §§ 55, 692. (See 2003, 26 § 715.)

§ 41 added, 2003, 26 § 56. (See 2003, 26 § 715.)

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.)

§ 19 revised, 2003, 26 § 57. (See 2003, 26 § 715.)

§ 23 **repealed**, 2003, 26 § 58. (See 2003, 26 § 713.)

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.)

§ 5G, last paragraph, sentence added, 2003, 26 § 59. (See 2003, 26 § 715.)

CHAPTER 18A - Department of Youth Services.

CHAPTER 18B - Department of Social Services.

CHAPTER 19 - Department of Mental Health.

CHAPTER 19A - Department of Elder Affairs.

§ 1, paragraph added, 2003, 26 § 17. (See 2003, 26 § 715.)

§ 4B revised, 2003, 26 § 18. (See 2003, 26 § 715.)

§ 39, subsection (s) inserted, 2003, 4 § 3. (See 2002, 4 § 85.)

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.

§ 10 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 11 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 12 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 13 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 14 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 15 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 16 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 17 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 18 **repealed**, 2003, 26 § 60. (See 2003, 26 § 715.)

§ 20 **repealed**, 2003, 26 § 61. (See 2003, 26 § 715.)

§ 21 **repealed**, 2003, 26 § 61. (See 2003, 26 § 715.)

§ 23 added, 2003, 26 § 62. (See 2003, 26 § 715.)

§ 24 added, 2003, 26 § 62. (See 2003, 26 § 715.)

§ 25 added, 2003, 26 § 62. (See 2003, 26 § 715.)

§ 26 added, 2003, 26 § 62. (See 2003, 26 § 715.)

CHAPTER 21 - Department of Environmental Management.

- § 1, fourth paragraph revised, 2003, 26 § 63. (See 2003, 26 § 715.)
- § 2 revised, 2003, 26 § 64. (See 2003, 26 § 715.)
- § 2A, first paragraph revised, 2003, 26 § 65; **section amended**, 2003, 26 §§ 66, 67, 68, 69. (See 2003, 26 § 715.)
- § 2B amended, 2003, 26 §§ 70, 71; last paragraph stricken out, 2003, 26 § 72. (See 2003, 26 § 715.)
- § 2C amended, 2003, 26 §§ 73, 74, 75, 76. (See 2003, 26 § 715.)
- § 2D amended, 2003, 26 § 77. (See 2003, 26 § 715.)
- § 2E amended, 2003, 26 § 78. (See 2003, 26 § 715.)
- § 2F revised, 2003, 26 § 79. (See 2003, 26 § 715.)
- § 2G added, 2003, 26 § 80. (See 2003, 26 § 715.)
- § 3 revised, 2003, 26 § 81. (See 2003, 26 § 715.)
- § 3A amended, 2003, 26 § 82. (See 2003, 26 § 715.)
- § 3B amended, 2003, 26 § 83. (See 2003, 26 § 715.)
- § 3C amended, 2003, 26 § 84. (See 2003, 26 § 715.)
- § 3D amended, 2003, 26 § 85. (See 2003, 26 § 715.)
- § 4 **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4A **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4B **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4D **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4E **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4F **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 4G **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 5 **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 5A **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6 **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6A **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6B **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6C **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6D **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6E **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6F **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6F½ **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 6I **repealed**, 2003, 26 § 87. (See 2003, 26 § 713.)
- § 7 **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7A **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7B **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7C **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7D **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7E **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)

CHAPTER 21 - Department of Environmental Management. - continued

- § 7F **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7G **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7H **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 7I **repealed**, 2003, 26 § 86. (See 2003, 26 § 715.)
- § 8 amended, 2003, 26 §§ 88, 89. (See 2003, 26 § 715.)
- § 9A amended, 2003, 26 § 90. (See 2003, 26 § 715.)
- § 14 amended, 2003, 26 §§ 91, 92. (See 2003, 26 § 715.)
- § 17A **repealed**, 2003, 26 § 93. (See 2003, 26 § 715.)
- § 17B **repealed**, 2003, 26 § 93. (See 2003, 26 § 715.)
- § 17F **repealed**, 2003, 26 § 94. (See 2003, 26 § 713.)
- § 19 amended, 2003, 26 § 95. (See 2003, 26 § 715.)
- § 26A amended, 2003, 26 § 96. (See 2003, 26 § 715.)
- § 59 added, 2003, 26 § 97. (See 2003, 26 § 715.)
- § 60 added, 2003, 26 § 97. (See 2003, 26 § 715.)
- § 61 added, 2003, 26 § 97. (See 2003, 26 § 715.)
- § 62 added, 2003, 26 § 97. (See 2003, 26 § 715.)
- § 63 added, 2003, 26 § 97. (See 2003, 26 § 715.)

CHAPTER 21A - Executive Office of Environmental Affairs.

- § 7 amended, 2003, 26 § 98. (See 2003, 26 § 715.)
- § 7A **repealed**, 2003, 26 § 99. (See 2003, 26 § 715.)
- § 8 amended, 2003, 26 § 100; fourth paragraph revised, 2003, 26 § 101; **section amended**, 2003, 26 §§ 102, 103, 104, 105; sixth paragraph, last sentence stricken out, 2003, 26 § 106; ninth and tenth paragraphs stricken out, 2003, 26 § 107. (See 2003, 26 § 715.)
- § 8A amended, 2003, 26 §§ 109, 110, 111. (See 2003, 26 § 715.)
- § 10 **repealed**, 2003, 26 § 112.) See 2003, 26 § 715.)
- § 10A added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10B added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10C added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10D added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10E added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10F added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10G added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 10H added, 2003, 26 § 113. (See 2003, 26 § 715.)
- § 11 amended, 2003, 26 § 114. (See 2003, 26 § 715.)
- § 11A amended, 2003, 26 § 115. (See 2003, 26 § 715.)
- § 11B added, 2003, 26 § 116. (See 2003, 26 § 715.)
- § 11C added, 2003, 26 § 116. (See 2003, 26 § 715.)

CHAPTER 21B - Mining Regulation and Reclamation.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.

§ 2 amended, 2003, 26 § 118. (See 2003, 26 § 715.)

§ 3 amended, 2003, 26 §§ 119, 120; last paragraph stricken out, 2003, 26 § 121. (See 2003, 26 § 715.)

§ 7 amended, 2003, 26 § 122. (See 2003, 26 § 715.)

CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.

§ 2 amended, 2003, 46 §§ 8, 8A, 8B, 8C, 8D, 8E.

§ 3A, subsection (j), subparagraph (a) of paragraph (3), clause (i) revised amended, 2003, 141 § 1.

§ 6, subsection (b) of third paragraph, clauses (i), (ii) and (iii) stricken out, clause (i) inserted, 2003, 141 § 2.

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.)

CHAPTER 21J - Underground Storage Tank Petroleum Product Cleanup Fund.
(New chapter inserted, 1990, 524 § 1.)

CHAPTER 21K - Mitigation of Hazardous Material.
(New Chapter inserted, 1998, 194 § 64.)

CHAPTER 21L - ENVIRONMENTAL ENDANGERMENT ACT.
(New Chapter inserted, 2003, 26 § 123.) (See 2003, 26 § 715.)

CHAPTER 22 - Department of Public Safety.

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.)

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.)

§ 3, first sentence revised, 2003, 107 § 1.

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.)

§ 1 revised, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 2 revised, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 3 revised, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 3A inserted, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 4 revised, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 5 stricken out, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 6 stricken out, 2003, 26 § 554. (See 2003, 26 § 715.)

§ 9J, first sentences stricken out, 2 sentences inserted, 2003, 26 § 555. (See 2003, 26 § 715.)

§ 9L **repealed**, 2003, 26 § 556. (See 2003, 26 § 715.)

§ 9M **repealed**, 2003, 26 § 556. (See 2003, 26 § 715.)

§ 9N amended, 2003, 26 §§ 557, 558; **section amended**, 2003, 142 § 1; subsection (a), 4 paragraphs added, 2003, 142 § 1A; subsection (b) revised, 2003, 142 § 2. (See 2003, 26 § 715; 142 § 16.)

§ 11A amended, 2003, 26 § 559. (See 2003, 26 § 715.)

CHAPTER 23A - Department of Economic Development.

(New title inserted, Former title, Department of Commerce and Development.)

§ 1 revised, 2003, 26 § 563. (See 2003, 26 § 715.)

§ 3B amended, 2003, 26 § 564. (See 2003, 26 § 715.)

§ 13A, second paragraph, first sentence revised, 2003, 26 § 566. (See 2003, 26 § 715.)

§ 23A, first paragraph, first sentence revised, 2003, 26 § 567; **section amended**, 2003, 26 § 568. (See 2003, 26 § 715.)

§ 39 amended, 2003, 137 §§ 14, 15.

CHAPTER 23A - Department of Economic Development. - continued

§ 40 amended, 2003, 137 § 16.

§ 44 amended, 2003, 137 §§ 17, 18, 19.

§ 45 **repealed**, 2003, 26 § 565. (See 2003, 26 § 715.)

§ 60 amended, 2003, 141 § 4.

**CHAPTER 23B - Department of Housing and Community Development.
(Title Changed, 1996, 204 § 15, Former Title, Division of Housing
and Community Development.)**

CHAPTER 23C - Board of Conciliation and Arbitration.

CHAPTER 23D - Massachusetts Industrial Service Program.

§ 2 revised, 2003, 26 § 569. (See 2003, 26 § 715.)

**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.)**

§ 7 amended, 2003, 26 § 570. (See 2003, 26 § 715.)

§ 27 revised, 2003, 141 § 5

§ 28 revised, 2003, 141 § 5.

**CHAPTER 23H - WORKFORCE DEVELOPMENT.
(New chapter inserted, 2003, 26 § 571.) (See 2003, 26 § 715.)**

§ 1 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 2 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 3 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 4 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 5 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 6 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 7 added, 2003, 26 § 571. (See 2003, 26 § 715.)

§ 8 added, 2003, 141 § 6.

§ 9 added, 2003, 141 § 6.

§ 10 added, 2003, 141 § 6.

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.

§ 19, sentence inserted after fifth sentence, 2003, 46 § 9.

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.
(Chapter repealed, 2003, 26 § 125.) (See 2003, 26 § 715.)

CHAPTER 28A - Office of Child Care Services.
(See 2000, 313 § 8.) (Former Title, Office For Children.)

§ 5A repealed, 2003, 26 § 126. (See 2003, 26, § 713.)

CHAPTER 29 - State Finance.

§ 1, definition of “Balanced budget, clause (ii) revised, 2003, 26 § 537; definition of “Consolidated net surplus in the operating funds” stricken out, definition of “Consolidated net surplus in the budgetary funds” inserted” revised, 2003, 26 § 127; section amended, 2003, 101 § 1. (See 2003, 26 § 715; 101 § 15.)

§ 2C½ repealed, 2003, 26 § 128. (See 2003, 26 § 704.)

§ 2H, second paragraph amended, 2003, 26 § 129. (See 2003, 26 § 129.)

§ 2J repealed, 2003, 26 § 130. (See 2003, 26 § 713.)

§ 2K repealed, 2003, 26 § 131. (See 2003, 26 § 713.)

§ 2P repealed, 2003, 26 § 132. (See 2003, 26 § 713.)

§ 2P½ repealed, 2003, 26 § 133. (See 2003, 26 § 713.)

§ 2R repealed, 2003, 26 § 134. (See 2003, 26 § 713.)

§ 2S repealed, 2003, 26 § 135. (See 2003, 26 § 713.)

§ 2T repealed, 2003, 26 § 136. (See 2003, 26 § 713.)

§ 2U repealed, 2003, 26 § 137. (See 2003, 26 § 713.)

CHAPTER 29 - State Finance - continued

- § 2Y **repealed**, 2003, 26 § 138. (See 2003, 26 § 713.)
- § 2AA **repealed**, 2003, 26 § 139. (See 2003, 26 § 713.)
- § 2BB **repealed**, 2003, 26 § 140. (See 2003, 26 § 713.)
- § 2CC **repealed**, 2003, 26 § 141. (See 2003, 26 § 713.)
- § 2EE **repealed**, 2003, 26 § 142. (See 2003, 26 § 713.)
- § 2FF amended, 2003, 26 § 143; first paragraph, clause (f) stricken out, 2003, 26 § 144. (See 2003, 26 § 715.)
- § 2GG **repealed**, 2003, 26 § 145. (See 2003, 26 § 713.)
- § 2II **repealed**, 2003, 26 § 146. (See 2003, 26 § 713.)
- § 2KK **repealed**, 2003, 26 § 147. (See 2003, 26 § 713.)
- § 2LL **repealed**, 2003, 26 § 148. (See 2003, 26 § 713.)
- § 2MM **repealed**, 2003, 26 § 149. (See 2003, 26 § 713.)
- § 2NN **repealed**, 2003, 26 § 150. (See 2003, 26 § 713.)
- § 2OO **repealed**, 2003, 26 § 151. (See 2003, 26 § 713.)
- § 2RR, subsection (b), paragraph (1), clause (ix) inserted, 2003, 141 § 8; **section amended**, 2003, 141 §§ 10, 11; subsections (f) to (k) inserted, 2003, 141 § 9. (See 2003, 141 § 79.)
- § 2SS **repealed**, 2003, 26 § 152. (See 2003, 26 § 713.)
- § 2UU **repealed**, 2003, 26 § 153. (See 2003, 26 § 713.)
- § 2VV **repealed**, 2003, 26 § 154. (See 2003, 26 § 713.)
- § 2WW **repealed**, 2003, 26 § 155. (See 2003, 26 § 713.)
- § 2XX **repealed**, 2003, 26 § 156. (See 2003, 26 § 713.)
- § 2YY **repealed**, 2003, 26 § 157. (See 2003, 26 § 713.)
- § 2BBB **repealed**, 2003, 26 § 158. (See 2003, 26 § 713.)
- § 2CCC **repealed**, 2003, 26 § 159. (See 2003, 26 § 713.)
- § 2JJJ added, 2003, 4 § 4. (See 2002, 4 § 85.)
- § 2KKK added, 2003, 4 § 4. (See 2002, 4 § 85.)
- § 2LLL added, 2003, 26 § 162. (See 2003, 26 § 715.)
- § 2MMM added, 2003, 141 § 13.
- § 3A revised, 2003, 26 § 161. (See 2003, 26 § 715.)
- § 5B, last paragraph revised, 2003, 26 § 163. (See 2003, 26 § 715.)
- § 5C revised, 2003, 26 § 164; clause (a) revised, 2003, 26 § 165. (See 2003, 26 § 715.)
- § 9A **repealed**, 2003, 26 § 166. (See 2003, 26 § 715.)
- § 9B, first paragraph, first sentence revised, 2003, 1 §§ 1, 2. (See 2003, 1 § 7.)
- § 9C, first paragraph revised, 2003, 1 § 3; **section revised**, 2003, 26 § 167. (See 2003, 1 § 7; 26 § 715.)
- § 29F amended, 2003, 26 §§ 170, 171. (See 2003, 26 § 715.)
- § 31A amended, 2003, 46 § 10.

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.)

CHAPTER 29D - THE HEALTH CARE SECURITY TRUST.
(New chapter inserted, 1999, 127 § 43.) (See 1999, 127 § 390.)

CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.

§ 1 amended, 2003, 26 § 172. (See 2003, 26 § 715.)

§ 65 added, 2003, 26 § 173; subsection (c) revised, 2003; 140 § 16. (See 2003, 26 § 715; 140 § 136.)

CHAPTER 30A - State Administrative Procedure.

CHAPTER 30B - Uniform Procurement Act.
(New chapter inserted, 1989, 687 § 3.)

§ 12 amended, 2003, 46 § 11.

§ 18 amended, 2003, 137 § 20.

CHAPTER 31 - Civil Service.

§ 48 amended, 2003, 26 § 572. (See 2003, 26 § 715.)

§ 62 amended, 2003, 26 § 174. (See 2003, 26 § 715.)

CHAPTER 31A - Municipal Personnel Systems.

CHAPTER 32 - Retirement Systems and Pensions.

§ 5, subsection (1), paragraph (e) stricken out, 2003, 26 § 175. (See 2003, 26 § 715.)

§ 22C, subsection (1), first sentence of first paragraph stricken out, 2 sentences inserted, 2003, 26 § 176; amended, 2003, 26 § 177; second paragraph, last sentence revised, 2003, 26 § 178; last paragraph amended, 2003, 26 § 179. (See 2003, 26 § 715.)

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.

§ 2, definition of "Employee", sentence inserted after first sentence, 2003, 46 § 12.
§ 9A revised, 2003, 46 § 13.

CHAPTER 33 - Militia.

CHAPTER 34 - Counties and County Commissioners.

CHAPTER 34A - County Charter Procedures.

CHAPTER 34B - Abolition of County Government.
(New chapter inserted, 1999, 127 § 53.) (See 1999, 127 § 390.)

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

CHAPTER 36 - Registers of Deeds.

§ 41 added, 2003, 4 § 5. (See 2002, 4 § 85.)

CHAPTER 37 - Sheriffs.

CHAPTER 38 - Medical Examiners.

§ 6 revised, 2003, 140 § 17.
§ 14 revised, 2003, 140 § 18.

CHAPTER 39 - Municipal Government.

CHAPTER 40 - Powers and Duties of Cities and Towns.

§ 5B revised, 2003, 46 § 14; first paragraph, sentence added, 2003, 140 § 19. (See 2003, 140 § 137.)
§ 8G amended, 2003, 124 § 1; sentence added, 2003, 124 § 2.
§ 44F amended, 2003, 46 § 15.
§ 60 added, 2003, 46 § 16.

CHAPTER 40A - Zoning Regulations.

CHAPTER 40B - Regional Planning.

§ 20 amended, 2003, 26 § 181. (See 2003, 26 § 715.)

§ 24 amended, 2003, 26 § 182. (See 2003, 26 § 715.)

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

§ 21, subsection (h), third sentence revised, 2003, 127 § 1. (See 2003, 127 § 24.)

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.

§ 4E, subsection (1) inserted, 2002, 26 § 183. (See 2003, 26 § 715.)

§ 4F added, 2003, 141 § 19.

§ 6A added, 2003, 141 § 18.

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.)

§ 8 amended, 2002, 26 § 184. (See 2003, 26 § 715.)

§ 18 amended, 2003, 46 § 17.

CHAPTER 400 - BUSINESS IMPROVEMENT DISTRICTS.

(New chapter inserted, 1994, 173.)

CHAPTER 400 - 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 40P - The Massachusetts Rent Control Prohibition Act.

(New chapter inserted, 1997, 19 § 10.) (See 1997, 19 § 127.)

CHAPTER 40Q- DISTRICT IMPROVEMENT FINANCING.

(New Chapter inserted, 2003, 46 § 18.)

CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.

§ 41, sentence inserted after first sentence, 2003, 46 § 19.

§ 95A added, 2003, 46 § 20; **section revised**, 2003, 140 § 20. (See 2003, 140 § 138.)

§ 95B added, 2003, 46 § 20; **section revised**, 2003, 140 § 21.

§ 99E amended, 2003, 46 § 21.

CHAPTER 42 - Boundaries of Cities and Towns.

CHAPTER 43 - City Charters.

CHAPTER 43A - Standard Form of Representative Town Meeting Government.

CHAPTER 43B - Home Rule Procedures.

CHAPTER 43C - OPTIONAL FORMS OF MUNICIPAL ADMINISTRATION ACT.

(New chapter inserted, 1987, 756.)

CHAPTER 44 - Municipal Finance.

§ 7, clause (3A) revised, 2003, 46 § 22; clause (9) revised, 2003, 26 § 23.

§ 8 amended, 2003, 46 §§ 24, 25, 26; clause (15) revised, 2003, 26 § 27; **section amended**, 2003, 26 §§ 28, 29, 30, 31.

§ 10, first paragraph revised, 2003, 46 § 32.

§ 20, 2 sentences added, 2003, 46 § 33.

§ 21A, first paragraph, first sentence revised, 2003, 46 § 34.

§ 42A added, 2003, 46 § 35.

§ 53G amended, 2003, 46 § 36.

§ 72 amended, 2003, 26 § 186. (See 2003, 26 § 186.)

CHAPTER 44A - QUALIFIED BOND ACT.

§ 1, definition of “Board” revised, 2003, 46 § 37.

CHAPTER 44B. - COMMUNITY PRESERVATION.
(New chapter inserted, 2000, 267 § 1.)

§ 5, subsection (f) inserted, 2003, 46 § 38.

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, subsection (e) inserted, 2003, 46 § 40.

CHAPTER 52 - Political Committees.

CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

CHAPTER 54 - Elections.

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.

§ 18C, clause (1) revised, 2003, 26 § 43(B). (See 2003, 26 § 715.)

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.) (SECTION REPEALED, 2003, 26
§ 43(C), (See 2003, 26 § 715.)

CHAPTER 55B - The State Ballot Law Commission.

**CHAPTER 55C - LIMITED PUBLIC FINANCING OF CAMPAIGNS FOR
STATEWIDE ELECTIVE OFFICE.**
(CHAPTER ADDED, 2003, 26 § 43(D). (See 2003, 26 § 715.)

CHAPTER 56 - Violations of Elections Laws.

**CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and
Apportionment of Representatives.**

CHAPTER 58 - General Provisions relative to Taxation.

§ 13 amended, 2003, 26 § 187. (See 2003, 26 § 715.)
§ 17C amended, 2003, 26 § 188. (See 2003, 26 § 715.)
§ 18D amended, 2003, 26 § 189. (See 2003, 26 § 715.)

CHAPTER 58A - Appellate Tax Board.
(Former title, Board of Tax Appeals.) (Chapter revised, 1998, 485
§ 2.) (See 1998, 485 § 23.)

CHAPTER 59 - Assessment of Local Taxes.

§ 2D amended, 2003, 46 § 41; subsection (f) revised, 2003, 46 § 42.
§ 5 amended, 2003, 26 § 190; **section amended**, 2003, 46 §§ 43, 44, 45, 46, 47, 47A; clause
Fifty-fifth inserted, 2003, 46 § 48. (See 2003, 26 § 715.)
§ 5C, paragraph added, 2003, 46 § 49.
§ 5D amended, 2003, 26 § 191. (See 2003, 26 § 715.)
§ 20A amended, 2003, 26 § 192. (See 2003, 26 § 715.)
§ 21C, paragraph (g), paragraph added, 2003, 46 § 50.
§ 25 amended, 2003, 46 § 51.
§ 57, sentence added, 2003, 46 § 52.
§ 57C, first paragraph revised, 2003, 46 § 53; seventh paragraph revised, 2003, 46 § 54.

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 3E added, 2003, 46 § 55.

§ 15 amended, 2003, 46 §§ 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68; clause 19.
Added, 2003, 46 § 69.

§ 23 amended, 2003, 4 § 6. (See 2002, 4 § 85.)

§ 65 amended, 2003, 46 § 70.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 1 amended, 2003, 46 § 71.

CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.

**CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products.
(Former title, Taxation of Forest Products and Classification and
of Forest Lands.)**

CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.

CHAPTER 61B - Classification and Taxation of Recreational Land.

CHAPTER 62 - Taxation of Incomes.

§ 5A, subsection (a), last 2 sentences stricken out, 5 sentences inserted, 2003, 4 § 7.

§ 6 amended, 2003, 141 § 20.

§ 6C amended, 2003, 26 § 43(E). (See 2003, 26 § 715.)

§ 6J added, 2003, 141 § 22. (See 2003, 141 § 81.)

§ 8, paragraph (b) revised, 2003, 4 § 8.

§ 17, first paragraph, sentence added, 2003, 4 § 9.

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.

§ 3A added, 2003, 4 § 10.

§ 21, subsection (b), clause (9) revised, 2003, 9, § 1.

§ 26, subsection (c) revised, 2003, 26 § 193. (See 2003, 26 § 715.)

CHAPTER 62C - Administrative Provisions Relative to State Taxation - continued

§ 30, 2 paragraphs added, 2003, 143 § 1.

§ 33, subsection (g) inserted, 2003, 143 § 2.

§ 36, third paragraph revised, 2003, 143 § 2A.

§ 37 paragraph inserted after first paragraph, 2003, 26 § 194; **section amended**, 2003, 26 § 195. (See 2003, 26 § 715.)

§ 39 revised, 2003, 143 § 2B.

§ 40 amended, 2003, 26 § 196; subsection (a), paragraph added, 2003, 26 § 197; **section amended**, 2003, 26 § 198. (See 2003, 26 § 715.)

§ 67D added, 2003, 141 § 23.

CHAPTER 62D - SET-OFF DEBT COLLECTION.

§ 1, definition of “Claimant agency” revised, 2003, 9, § 2; definition of “Debt” revised, 2003, 9 § 3; 26 § 199; sentence added, 2003, 26 § 201; definition of “Debtor” revised, 2003, 9 § 4; 26 § 200. (See 2003, 26 § 715.)

§ 10, first paragraph revised, 2003, 9 § 5.

§ 13 revised, 2003, 9 § 6; clause (ix) amended, 2003, 26 § 202. (See 2003, 26 § 715.)

CHAPTER 62E - WAGE REPORTING SYSTEM.

§ 3, first paragraph revised, 2003, 9 § 7.

CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.

§ 6A, second paragraph revised, 2003, 26 § 203. (See 2003, 26 § 715.)

CHAPTER 63 - Taxation of Corporations.

§ 1, definition of “Code” inserted, 2003, 4 § 11; definition of “Financial institution” revised, 2003, 143 § 3; definition of “Net income”, 2 sentences inserted after first sentence, 2003, 4 § 12; third sentence revised, 2003, 143 § 4.

§ 30, paragraphs 1 and 2 revised, 2003, 4 § 13; 26 § 204; 127 § 2; paragraph 4, sentence inserted after second sentence, 2003, 4 § 14; third sentence stricken out and 2 sentences inserted, 2003, 143 § 5; clause (v) inserted, 2003, 4 § 15; paragraph 16 added, 2003, 4 § 16. (See 2003, 26 § 712; 127 § 24.)

§ 31A, paragraph (k) revised, 2003, 26 § 205; 141 § 25; paragraph (l) revised, 2003, 26 § 206; 141 § 25. (See 2003, 26 § 715.)

§ 31I added, 2003, 4 § 17.

§ 31J added, 2003, 4 § 17.

§ 31K added, 2003, 136.

CHAPTER 63 - Taxation of Corporations - continued

§ 32D revised, 2003, 4 § 18.

§ 33 amended, 2003, 4 §§ 19, 20, 21; last paragraph, sentence added, 2003, 4 § 22.

§ 38B, subsection (d) inserted, 2003, 4 § 23. (See 2002, 4 § 90.)

§ 38C amended, 2003, 4 § 24; **section revised**, 2003, 141 § 27; first sentence revised, 2003, 127 § 3. (See 2003, 127 § 24.)

§ 38Q amended, 2003, 141 § 28.

§ 38R added, 2003, 141 § 24. (See 2003, 141 § 81.)

§ 39A amended, 2003, 4 §§ 25, 26, 27; last paragraph, sentence added, 2003, 4 § 28.

§ 42B amended, 2003, 4 § 29; **section revised**, 2003, 141 § 29.

§ 52A, definition of “Code” inserted, 2003, 4 § 30.

CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.

CHAPTER 63B - Declaration of Estimated Tax by Corporations.

**CHAPTER 63C - Taxation of Income of Certain Corporations.
(Chapter repealed, 1985, 593 § 24.)**

CHAPTER 64 - Taxation of Stock Transfers.

**CHAPTER 64A - Taxation of Sales of Gasoline.
(Former Title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)**

§ 13 amended, 2003, 101 § 2. (See 2003, 101 § 15.)

CHAPTER 64B - Excise upon Charges for Meals served to the Public.

CHAPTER 64C - Cigarette Excise.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

§ 6B added, 2003, 143 § 6.

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.

CHAPTER 64G - Room Occupancy Excise.

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 1, definition of “Sale at retail” or “Retail sale”, sentence added, 2003, 9 § 8. (See 2003, 9 § 38.)

CHAPTER 64I - Tax on storage, Use or Other Consumption of Certain Tangible Personal Property.

CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.

§ 12 amended, 2003, 46 § 72.

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.

§ 17D amended, 2003, 26 § 207. (See 2003, 26 § 715.)

CHAPTER 66A - Fair Information Practices.

CHAPTER 67 - Parishes and Religious Societies.

CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.

CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.

CHAPTER 69 - Powers and Duties of the Department of Education.

§ 1I, five paragraphs inserted after sixth paragraph, 2003, 46 § 73.

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.)

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.)

§ 6 amended, 2003, 46 § 74.

CHAPTER 71 - Public Schools.

§ 14B, last paragraph revised, 2003, 46 § 75.

§ 16 amended, 2003, 46 §§ 76; 77; clause (o) inserted, 2003, 46 § 78.

§ 16G½ amended, 2003, 46 § 79.

§ 16H **repealed**, 2003, 46 § 80.

§ 55B **repealed**, 2003, 46 § 81.

§ 59C, fifth paragraph revised, 2003, 46 § 82.

§ 68, sentence inserted after fifth sentence, 2003, 46 § 83.

CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.
(Chapter revised, 2002, 386). (See 2002, 386 § 4.)

§ 4, second sentence revised, 2003, 26 § 209; last sentence revised, 2003, 26 § 210. (See 2003, 26 § 715.)

§ 5, subsection (a), third sentence revised, 2003, 26 § 211. (See 2003, 26 § 715.)

§ 7, two paragraphs added, 2003, 26 § 212. (See 2003, 26 § 715.)

§ 7A added, 2003, 26 § 213. (See 2003, 26 § 715.)

CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

§ 3 amended, 2003, 26 § 214. (See 2003, 26 § 715.)

§ 5A, subsection (b), definitions of “n-district programs” and “Out-of-district programs” stricken out, 2003, 26 § 215; subsection (c) revised, 2003, 26 § 216; paragraph added, 2003, 26 § 217. (See 2003, 26 § 715.)

CHAPTER 72 - School Registers and Returns.

CHAPTER 73 - State Colleges and Community Colleges.
(Former title, State Teachers Colleges and Community Colleges.)

CHAPTER 74 - Vocational Education.

§ 8A revised, 2003, 46 § 84.

CHAPTER 74A - INDEPENDENT AGRICULTURAL AND TECHNICAL SCHOOL.

(Chapter inserted 2000, 159 § 191.) (See 2000, 159 § 498.)

§ 22 amended, 2003, 26 § 218. (See 2003, 26 § 715.)

CHAPTER 75 - University of Massachusetts.

(Former title, Massachusetts State College.)

§ 1A, fifth paragraph, clause (n), 8 sentences inserted after first sentence, 2003, 26 § 219.
(See 2003, 26 § 715.)

§ 45 added, 2003, 141 § 30.

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.

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

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.)

§ 18 amended, 2003, 26 § 223. (See 2003, 26 § 715.)

CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

CHAPTER 82A - EXCAVATION AND TRENCH SAFETY.
(New Chapter inserted, 2002, 387 § 2.)

CHAPTER 83 - Sewers Drains and Sidewalks.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

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.

§ 9 amended, 2003, 46 § 85.

§ 11 amended, 2003, 46 § 86.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 2, paragraph added, 2003, 26 § 224. (See 2003, 26 § 715.)

§ 2E amended, 2003, 71.

§ 2F amended, 2003, 46 § 87; **section amended**, 2003, 140 § 22; subsection (c) amended, 2003, 140 § 23.

CHAPTER 90 - Motor Vehicles and Aircraft. - continied

- § 3 amended, 2003, 46 §§ 88, 89, 90, 91, 92. 93, 94, 95.
§ 3½, subsection (c), paragraph added, 2003, 46 § 96.
§ 20, fourth paragraph revised, 2003, 26 § 226. (See 2003, 26 § 715.)
§ 20A, fifth paragraph, third sentence revised, 2003, 46 § 97.
§ 20E amended, 2003, 46 § 98; subsection (b) revised, 2003, 140 § 24; subsection (j) stricken out, 2003, 140 § 25.
§ 22, subsection (j) inserted, 2003, 26 § 227. (See 2003, 26 § 715.)
§ 24, subdivision (1), paragraph (a), subparagraph (1), second paragraph revised, 2003, 26 § 228; paragraph (e), third sentence stricken out, 2003, 28 § 3; paragraph (f), subparagraph (1), third sentence revised, 2003, 28 § 5; subdivision (2), paragraph (a), second paragraph revised, 2003, 26 § 229; **section amended**, 2003, 28 §§ 1,2, 4, 6, 7. (See 2003, 26 § 715.)
§ 24D, first paragraph amended, 2003, 28 § 8; **section amended**, 2003, 28 §§ 9, 10, 11, 12; fourth paragraph revised, 2003, 28 § 13; **section amended**, 2003, 28 §§ 14, 15, 16, 17, 18, 19.
§ 24E amended, 2003, 28 § 20.
§ 24G amended, 2003, 28 §§ 21, 22.
§ 24J amended, 2003, 28 § 23.
§ 24L amended, 2003, 28 §§ 24, 25.
§ 24N amended, 2003, 28 § 26; first paragraph, sixth sentence revised, 2003, 28 § 27.
§ 33, paragraph (36) revised, 2003, 26 § 230. (See 2003, 26 § 715.)

CHAPTER 90A - The Highway Safety Act.

- § 1 amended, 2003, 26 § 233. (See 2003, 26 § 715.)

CHAPTER 90B - Motorboats, Other Vessels and Recreational Vehicles. (Former title- Motorboats and Other Vessels.) (Title revised, 1998, 463 § 72.)

- § 8 amended, 2003, 28 §§ 28, 29.
§ 8A amended, 2003, 28 §§ 30, 31; subsection (2) amended, 2003, 28 § 31.
§ 8B amended, 2003, 28 § 32.
§ 26 amended, 2003, 28 § 33.

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

- § 1, definitions of "District court" and "Division" revised, 2003, 26 § 234. (See 2003, 26 § 715.)
§ 2 amended, 2003, 46 § 99.
§ 3, paragraph (4), fourth paragraph, sentence inserted after first sentence, 2003, 26 § 236. (See 2003, 26 § 715.)

CHAPTER 90D - Motor Vehicle Certificate of Title.

CHAPTER 90E - Bikeways.

CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.

(New chapter inserted, 1990, 246 § 2.)

CHAPTER 90G - CIVIL INFRACTIONS.

(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)

(Chapter repealed, 1993, 182 § 8.)

CHAPTER 90H - GATEWAY ROADS PROGRAM.

(New chapter inserted, 1994, 273 § 26.)

CHAPTER 91 - Waterways.

§ 1 amended, 2003, 26 § 237. (See 2003, 26 § 715.)

§ 3 amended, 2003, 26 § 238. (See 2003, 26 § 715.)

§ 10A½ **repealed**, 2003, 26 § 239. (See 2003, 26 § 713.)

CHAPTER 91A - Port of Boston Commission.

(Former title, Port of Boston Authority.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

§ 1A added, 2003, 26 § 243. (See 2003, 26 § 715.)

§ 1B added, 2003, 26 § 243. (See 2003, 26 § 715.)

§ 9A **repealed**, 2003, 26 § 241. (See 2003, 26 § 715.)

§ 33 revised, 2003, 26 § 242. (See 2003, 26 § 715.)

§ 34 revised, 2003, 26 § 244. (See 2003, 26 § 715.)

§ 34A revised, 2003, 26 § 245. (See 2003, 26 § 715.)

§ 35 amended, 2003, 26 §§ 246, 247; paragraph added, 2003, 26 § 248. (See 2003, 26 § 715.)

§ 35A revised, 2003, 26 § 249. (See 2003, 26 § 715.)

§ 36 amended, 2003, 26 § 251; second and third sentences stricken out, 2003, 26 § 252. (See 2003, 26 § 715.)

§ 37 revised, 2003, 26 § 253. (See 2003, 26 § 715.)

§ 38 amended, 2003, 26 §§ 254, 255, 256, 257. (See 2003, 26 § 715.)

§ 39 **repealed**, 2003, 26 § 258. (See 2003, 26 § 715.)

§ 40 **repealed**, 2003, 26 § 258. (See 2003, 26 § 715.)

§ 48 **repealed**, 2003, 26 § 259. (See 2003, 26 § 715.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks. - continued

- § 53 amended, 2003, 26 § 260. (See 2003, 26 § 715.)
- § 54 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 55 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 59A **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 60 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 64 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 65 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 66 **repealed**, 2003, 26 § 261. (See 2003, 26 § 715.)
- § 74 amended, 2003, 26 § 262. (See 2003, 26 § 715.)
- § 74A **repealed**, 2003, 26 § 263. (See 2003, 26 § 715.)
- § 75 revised, 2003, 26 § 264. (See 2003, 26 § 715.)
- § 76 **repealed**, 2003, 26 § 265. (See 2003, 26 § 715.)
- § 76A amended, 2003, 26 §§ 266, 267, 268, 269. (See 2003, 26 § 715.)
- § 79 amended, 2003, 26 § 270, 271, 272, 273. (See 2003, 26 § 715.)
- § 80 amended, 2003, 26 § 274. (See 2003, 26 § 715.)
- § 83 amended, 2003, 26 § 275. (See 2003, 26 § 715.)
- § 84 amended, 2003, 26 §§ 276, 277. (See 2003, 26 § 715.)
- § 85 amended, 2003, 26 §§ 278, 279, 280, 281. (See 2003, 26 § 715.)
- § 86 amended, 2003, 26 §§ 282, 283. (See 2003, 26 § 715.)
- § 87 amended, 2003, 26 §§ 284, 285, 286. (See 2003, 26 § 715.)
- § 88 amended, 2003, 26 § 287. (See 2003, 26 § 715.)
- § 93 amended, 2003, 26 § 288. (See 2003, 26 § 715.)
- § 96 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 97 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 98 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 100 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 101 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 103 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 104 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 105 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 106 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 107 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 107A **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 108 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 109 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 110 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 111 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 112 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 113 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 113A **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks. - continued

- § 114 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 114A **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 115 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 116 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 117 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 118 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 119 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)
- § 120 **repealed**, 2003, 26 § 289. (See 2003, 26 § 715.)

CHAPTER 92A - Commonwealth Zoological Corporation.
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)

CHAPTER 92A½ - WATERSHED MANAGEMENT.
(New chapter inserted, 2003, 26 § 290.) (See 2003, 26 § 715.)

CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.
(New chapter inserted, 1992, 286 § 165.)

- § 1, definitions of “Commission” and “Commissioner” stricken out, 2003, 26 § 291; definitions of “Director” and “Division” inserted, 2003, 26 § 291A. (See 2003, 26 § 715.)
- § 2 amended, 2003, 26 § 292. (See 2003, 26 § 715.)
- § 5 amended, 2003, 26 § 293. (See 2003, 26 § 715.)
- § 8 amended, 2003, 26 § 294. (See 2003, 26 § 715.)

CHAPTER 93 - Regulation of Trade and Certain Enterprises.

- § 14 **repealed**, 2003, 26 § 295. (See 2003, 26 § 713.)
- § 24 revised, 2003, 130.
- § 24A revised, 2003, 130.
- § 24B revised, 2003, 130.
- § 24C revised, 2003, 130.
- § 24D revised, 2003, 130.
- § 24E added, 2003, 130.
- § 24F added, 2003, 130.
- § 24G added, 2003, 130.
- § 24H added, 2003, 130.
- § 24I added, 2003, 130.
- § 24J added, 2003, 130.
- § 24K added, 2003, 130.
- § 25 revised, 2003, 130.

CHAPTER 93A - Regulation of Business Practices for Consumers Protection.

CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers.
(Chapter revised, 2002, 222 § 3. (See 2002, 222 § 7.)

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.

§ 187, fifth paragraph, definition of "Written prescription" revised, 2003, 133 § 1.
§ 323F **repealed**, 2003, 26 § 296. (See 2003, 26 § 713.)

CHAPTER 94A - MILK CONTROL.

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 23, subsection (g) revised, 2003, 133 § 2.

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.

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- CHAPTER 98 - Weights and Measures.**
- CHAPTER 99 - The Metric System of Weights and Measures.**
- CHAPTER 100 - Auctioneers.**
- CHAPTER 100A - MOTOR VEHICLE DAMAGE REPAIR SHOPS.**
(New chapter inserted, 1988, 273 § 32.) (See 1988, 273 § 77.)
- CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.**
- CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.**
- CHAPTER 103 - Pilots.**
- 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.**
- 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.

§ 6 amended, 2003, 4 § 31.

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.)

§ 1, paragraph (e), introductory paragraph revised, 2003, 127 § 4. (See 2003, 127 § 24.)

§ 2, subsection (e) revised, 2003, 127 § 5. (See 2003, 127 § 24.)

§ 7, first sentence stricken out, three sentences inserted, 127 § 6. (See 2003, 127 § 24.)

§ 8, first paragraph revised, 2003, 127 § 7. (See 2003, 127 § 24.)

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.)

§ 2, paragraph (g), clause (i) revised, 2003, 127 § 8. (See 2003, 127 § 24.)

§ 3, paragraph (f) revised, 2003, 127 § 9. (See 2003, 127 § 24.)

CHAPTER 110G - UNIFORM ELECTRONIC TRANSACTIONS.

(New chapter inserted, 2003, 133 § 3.)

CHAPTER 111 - Public Health.

§ 5K, paragraph (F), last sentence amended, 2003, 26 § 297. (See 2003, 26 § 715.)

§ 20 amended, 2003, 26 § 298. (See 2003, 26 § 715.)

§ 24C **repealed**, 2003, 26 § 299. (See 2003, 26 § 715.)

§ 24D **repealed**, 2003, 26 § 300. (See 2003, 26 § 715.)

§ 24G **repealed**, 2003, 26 § 301. (See 2003, 26 § 715.)

§ 25A, paragraph added, 2003, 140 § 26.

§ 70 amended, 2003, 135 § 1; paragraph added, 2003, 135 § 2. (See 2003, 135 § 5.)

§ 72N amended, 2003, 26 § 302. (See 2003, 26 § 715.)

§ 72Y, fifth paragraph amended, 2003, 26 § 303. (See 2003, 26 § 715.)

CHAPTER 111 - Public Health. - continued

§ 111B amended, 2003, 140 §§ 27, 28. (See 2003, 140 § 136.)

§ 174A amended, 2003, 26 § 304. (See 2003, 26 § 715.)

§ 175, last sentence stricken out, 2003, 26 § 305. (See 2003, 26 § 715.)

§ 197B amended, 2003, 26 § 573. (See 2003, 26 § 715.)

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.)

§ 3, subsection (b), clause (4) revised, 2003, 154.

CHAPTER 111D - Clinical Laboratories.

CHAPTER 111E - DRUG REHABILITATION.

CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.

§ 1 amended, 2003, 26 § 574. (See 2003, 26 § 715.)

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.)

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 12D, second and third paragraphs revised, 2003, 133 § 4.

§ 12CC amended, 2003, 135 § 3. (See 2003, 135 § 5.)

§ 39C added, 2003, 26 § 306. (See 2003, 26 § 715.)

CHAPTER 113 - Promotion of Anatomical Science.

CHAPTER 114 - Cemeteries and Burials.

CHAPTER 115 - Veteran's Benefits.

(Former title, State and Military Aid, Soldier's Relief, etc.)

CHAPTER 115A - Soldier's Homes.

§ 5 amended, 2003, 26 § 307. (See 2003, 26 § 715.)

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.

CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.

CHAPTER 118D - Assistance to Persons who are Disabled.

CHAPTER 118E - Medical Care and Assistance.

(Chapter revised, 1993, 161 § 17.)

- § 1 revised, 2003, 26 § 308. (See 2003, 26 § 715.)
- § 2 revised, 2003, 26 § 308. (See 2003, 26 § 715.)
- § 3 stricken out, 2003, 26 § 308. (See 2003, 26 § 715.)
- § 4 stricken out, 2003, 26 § 308. (See 2003, 26 § 715.)
- § 5 stricken out, 2003, 26 § 308. (See 2003, 26 § 715.)
- § 6 amended, 2003, 26 §§ 309, 310. (See 2003, 26 § 715.)
- § 7 amended, 2003, 26 §§ 311. (See 2003, 26 § 715.)
- § 8, clauses a and b stricken out, clauses a, a ½, a ¾, b, b ½ inserted, 2003, 26 § 312. (See 2003, 26 § 715.)
- § 9, sentence added, 2003, 26 § 313. (See 2003, 26 § 715.)
- § 9A amended, 2003, 26 §§ 314, 315; subsection (3) amended, 2003, 26 § 316. (See 2003, 26 § 715.)
- § 9E added, 2003, 26 § 317. (See 2003, 26 § 715.)
- § 10E added, 2003, 26 § 318. (See 2003, 26 § 715.)
- § 10F added, 2003, 26 § 319. (See 2003, 26 § 715.)
- § 12, paragraph added, 2003, 140 § 29. (See 2003, 140 § 136.)
- § 16D, subsection (2) amended, 2003, 26 § 321; subsections (3), (4), (5) and (6) added, 2003, 26 § 322. (See 2003, 26 § 715.)
- § 21A, subsection (c) revised, 2003, 26 § 323. (See 2003, 26 § 715.)
- § 22, paragraph added, 2003, 26 § 324. (See 2003, 26 § 715.)
- § 23, sixth paragraph, sentence added, 2003, 26 § 325. (See 2003, 26 § 715.)
- § 25, last paragraph, second sentence amended, 2003, 26 § 327; last sentence revised, 2003, 26 § 326; paragraph added, 2003, 26 § 328. (See 2003, 26 § 715.)
- § 31, subsection (c) revised, 2003, 26 § 329. (See 2003, 26 § 715.)
- § 32 revised, 2003, 26 § 330. (See 2003, 26 § 715.)
- § 51 amended, 2003, 26 § 331. (See 2003, 26 § 715.)

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.)

- § 1, definition of “Critical Access services” inserted, 2003, 26 § 332; definitions of “Emergency bad debt”, “Emergency medical condition” and “Emergency services” inserted, 2003, 26 § 333; definition of “Executive office” inserted, 2003, 26 § 334; definition of “Free care” revised, 2003, 26 § 335; definition of “Secretary” inserted, 2003, 26 § 337. (See 2003, 26 § 715.)
- § 2, second paragraph, clause (b) stricken out, 2003, 26 § 339. (See 2003, 26 § 715.)

CHAPTER 118G - HEALTH CARE FINANCE AND POLICY. - continued

- § 2A added, 2003, 26 § 339. (See 2003, 26 § 715.)
- § 7 amended, 2003, 26 § 340; tenth paragraph amended, 2003, 26 § 341; **section amended**, 2003, 26 § 342; twelfth paragraph stricken out, 2003, 26 § 343. (See 2003, 26 § 715.)
- § 8 amended, 2003, 26 § 344. (See 2003, 26 § 715.)
- § 9 amended, 2003, 26 § 345. (See 2003, 26 § 715.)
- § 10 amended, 2003, 26 §§ 346, 347. (See 2003, 26 § 715.)
- § 11 amended, 2003, 26 §§ 348, 349. (See 2003, 26 § 715.)
- § 12 amended, 2003, 26 § 350. (See 2003, 26 § 715.)
- § 15 amended, 2003, 26 § 351. (See 2003, 26 § 715.)
- § 17 amended, 2003, 26 § 352. (See 2003, 26 § 715.)
- § 18, subsection (a), third sentence revised, 2003, 26 § 353; subsection (I), fifth sentence revised, 2003, 26 § 354; subsection (k), first sentence stricken out, 2 sentences inserted, 2003, 26 § 355; subsection (l), first sentence revises, 2003, 26 § 356; paragraph added, 2003, 26 § 357; subsection (m) revised, 2003, 26 § 358; subsection (n), paragraph added, 2003, 26 § 359. (See 2003, 26 § 715.)
- § 25, subsection (c), sentence added, 2003, 26 § 360. (See 2003, 26 § 715.)

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

- § 29A revised, 2003, 26 § 168. (See 2003, 26, § 715.)
- § 39F, second sentence stricken out, 3 sentences inserted, 2003, 26 § 169. (See 2003, 26, § 715.)

CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

- § 2 amended, 2003, 26 § 364. (See 2003, 26 § 713.)
- § 5A amended, 2003, 9 §§ 9, 10. (See 2003, 9 § 38.)
- § 12, subsection (a), first sentence revised, 2003, 9 § 11; **section amended**, 2003, 9 §§ 12, 13, 14, 15, 16; subsection (b), paragraph (5), two sentences inserted after fourth sentence, 2003, 9 § 17; last paragraph, sentence added, 2003, 9 § 19; **section amended**, 2003, 9 §§ 18, 20, 21, 22; subsection (c), third paragraph, sentence inserted after second sentence, 2003, 9 § 23; **section amended**, 2003, 9 §§ 24, 25, 26, 27, 28, 29, 30, 31; subsection (k), first, second and third sentences stricken out and six sentences inserted, 2003, 9 § 32; **section amended**, 2003, 9 § 33; subsection (l), sentence added, 2003, 9 § 34; **section amended**, 2003, 9 § 35. (See 2003, 9 § 38.)
- § 29A revised, 2003, 26 § 168. (See 2003, 26 § 715.)

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.
(Former title, Youth Service Board and Massachusetts Training Schools.)

§ 11 amended, 2003, 26 § 365. (See 2003, 26 § 715.)

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

CHAPTER 121A - Urban Redevelopment Corporations.

CHAPTER 121B - Housing and Urban Renewal.

§ 32, first paragraph, third sentence stricken out, 5 sentences inserted, 2003, 26 § 366. (See 2003, 26 § 715.)

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.)

CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.
(Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)

CHAPTER 123B - MENTAL HEALTH.

CHAPTER 124 - Powers and Duties of the Department of Correction.

§ 1, clause (u) added, 2003, 26 § 367. (See 2003, 26 § 715.)

CHAPTER 125 - Correctional Institutions of the Commonwealth.
(Former title, Penal and Reformatory Institutions of the Commonwealth.)

CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.

CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.

§ 83A amended, 2003, 26 §§ 369, 370. (See 2003, 26 § 715.)

CHAPTER 128 - Agriculture.

§ 1 amended, 2003, 26 §§ 371, 372. (See 2003, 26 § 715.)

§ 2A amended, 2003, 26 §§ 373, 374, 375. (See 2003, 26 § 715.)

§ 2B amended, 2003, 26 § 376. (See 2003, 26 § 715.)

§ 7A added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 7B added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 7C added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 7D added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 7E added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 7F added, 2003, 26 § 377. (See 2003, 26 § 715.)

§ 8B amended, 2003, 26 § 378. (See 2003, 26 § 715.)

§ 13A added, 2003, 26 § 379. (See 2003, 26 § 715.)

§ 13BA added, 2003, 26 § 379. (See 2003, 26 § 715.)

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.)

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.)

§ 1A added, 2003, 26 § 380. (See 2003, 26 § 715.)

§ 1B added, 2003, 26 § 380. (See 2003, 26 § 715.)

§ 2B **repealed**, 2003, 26 § 381. (See 2003, 26 § 713.)

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.
(Former title, Powers and Duties of the Division of Fisheries and Game.)

§ 1 amended, 2003, 26 § 382. (See 2003, 26 § 715.)
§ 1A added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1B added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1C added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1D added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1E added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1F added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1G added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1H added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 1I added, 2003, 26 § 383. (See 2003, 26 § 715.)
§ 2 **repealed**, 2003, 26 § 384. (See 2003, 26 § 713.)
§ 2A amended, 2003, 101 § 3. (See 2003, 101 § 15.)
§ 2B amended, 2003, 101 § 4. (See 2003, 101 § 15.)
§ 2C added, 2003, 101 § 5. (See 2003, 101 § 15.)
§ 22A amended, 2003, 101 § 6. (See 2003, 101 § 15.)
§ 40A amended, 2003, 26 § 386. (See 2003, 26 § 715.)

CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.
(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

CHAPTER 132 - Forestry.

§ 12A amended, 2003, 26 § 387. (See 2003, 26 § 715.)
§ 30 amended, 2003, 26 § 388. (See 2003, 26 § 715.)
§ 31 amended, 2003, 26 § 389. (See 2003, 26 § 715.)
§ 32 amended, 2003, 26 § 390. (See 2003, 26 § 715.)
§ 33 **repealed**, 2003, 26 § 391. (See 2003, 26 § 715.)
§ 36 **repealed**, 2003, 26 § 391. (See 2003, 26 § 715.)
§ 36A **repealed**, 2003, 26 § 391. (See 2003, 26 § 715.)

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.
(Former title, State Parks and Reservations outside of the Metropolitan Parks District.)

§ 1 amended, 2003, 26 § 392. (See 2003, 26 § 715.)
§ 1B added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 1C added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 1D added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 1E added, 2003, 26 § 393. (See 2003, 26 § 715.)

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District. -
continued

- § 1F added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 1G added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 1H added, 2003, 26 § 393. (See 2003, 26 § 715.)
§ 2 amended, 2003, 26 §§ 394, 395. (See 2003, 26 § 715.)
§ 2C amended, 2003, 26 §§ 396. (See 2003, 26 § 715.)
§ 3 amended, 2003, 26 §§ 397, 398; last sentence stricken out, 2003, 26 § 399. (See 2003, 26 § 715.)
§ 3A amended, 2003, 26 § 400. (See 2003, 26 § 715.)
§ 3B added, 2003, 26 § 401. (See 2003, 26 § 715.)
§ 7 revised, 2003, 26 § 402. (See 2003, 26 § 715.)
§ 7A amended, 2003, 26 § 403; sentence added, 2003, 26 § 404. (See 2003, 26 § 715.)
§ 7B added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 7C added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 7D added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 7E added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 7F added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 7G added, 2003, 26 § 405. (See 2003, 26 § 715.)
§ 8 amended, 2003, 26 § 406. (See 2003, 26 § 715.)
§ 10 **repealed**, 2003, 26 § 407. (See 2003, 26 § 713.)
§ 11A **repealed**, 2003, 26 § 408. (See 2003, 26 § 715.)
§ 11B **repealed**, 2003, 26 § 408. (See 2003, 26 § 715.)
§ 11C **repealed**, 2003, 26 § 408. (See 2003, 26 § 715.)
§ 11D **repealed**, 2003, 26 § 408. (See 2003, 26 § 715.)

CHAPTER 132B - Massachusetts Pesticide Control Act.

- § 3A amended, 2003, 26 §§ 409, 410. (See 2003, 26 § 715.)

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, clause (52) revised, 2003, 141 § 31.

CHAPTER 137 - Gaming.

CHAPTER 138 - Alcoholic Liquors.

(Former title, Intoxicating Liquors and Certain Non-intoxicating Beverages.)

§ 1 amended, 2003, 26 § 411. (See 2003, 26 § 715.)

§ 13 revised, 2003, 26 § 412. (See 2003, 26 § 715.)

§ 18, first paragraph, first sentence stricken out, 2 sentences inserted, 2003, 26 § 413. (See 2003, 26 § 715.)

§ 18A amended, 2003, 26 § 414; third paragraph amended, 2003, 140 § 32. (See 2003, 26 § 715; 140 § 136.)

§ 18B amended, 2003, 26 § 415. (See 2003, 26 § 715.)

§ 19 amended, 2003, 26 § 416. (See 2003, 26 § 715.)

§ 19A amended, 2003, 26 § 417. (See 2003, 26 § 715.)

§ 20, first 3 paragraphs revised, 2003, 26 § 418. (See 2003, 26 § 715.)

§ 20A amended, 2003, 26 § 419. (See 2003, 26 § 715.)

§ 22 amended, 2003, 26 § 420, 421, 422, 423. (See 2003, 26 § 715.)

§ 24 amended, 2003, 140 § 33. (See 2003, 140 § 136.)

§ 33 revised, 2003, 141 § 32.

§ 35 amended, 2003, 26 §§ 424, 425. (See 2003, 26 § 715.)

CHAPTER 139 - Common Nuisances.

CHAPTER 140 - Licenses.

§ 2 amended, 2003, 46 §§ 100, 100A. (See 2003, 46 § 142.)

§ 59 amended, 2003, 46 § 101.

§ 122, seventh sentence stricken out, 2 sentences inserted, 2003, 26 § 426. (See 2003, 26 § 715.)

§ 122B, fifth sentence stricken out, 2 sentences inserted, 2003, 26 § 427. (See 2003, 26 § 715.)

§ 129B, clause (9), fifth and sixth sentences stricken out, 3 sentences inserted, 2003, 26 § 428; sentence inserted after sixth sentence, 2003, 46 § 102; revised, 2003, 140 § 34; clauses 9A and 9B inserted, 2003, 140 § 34. (See 2003, 26 § 715.)

§ 131, subsection (i), fourth sentence stricken out, 4 sentences inserted, 2003, 26 § 429; first paragraph, sentence added, 2003, 46 § 103. (See 2003, 26 § 715.)

§ 131A, second paragraph revised, 2003, 26 § 430. (See 2003, 26 § 715.)

§ 131F, fourth paragraph, third sentence stricken out, 2 sentences inserted, 2003, 26 § 431. (See 2003, 26 § 715.)

§ 131H, third sentence stricken out, 2 sentences inserted, 2003, 26 § 432. (See 2003, 26 § 715.)

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.

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.

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§ 10A, first paragraph, last sentence revised, 2003, 46 § 104.

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§ 1 amended, 2003, 26 § 575; definition of "Department" revised, 2003, 26 § 576. (See 2003, 26 § 715.)

§ 38 amended, 2003, 26 § 433. (See 2003, 26 § 715.)

§ 44 amended, 2003, 26 §§ 434, 435, 436. (See 2003, 26 § 715.)

§ 44D, subsection (1), paragraph (a), sentence inserted after fourth sentence, 2003, 46 § 105; subsection (3), sentence added, 2003, 46 § 106.

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§ 183, definition of “Control transferor”, clause (i) revised, 2003, 127 § 10. (See 2003, 127 § 24.)

§ 184, subsection (a) revised, 2003, 127 § 11. (See 2003, 127 § 24.)

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§ 1, definition of “Employer” or “public employer”, sentence added, 2003, 140 § 35. (See 2003, 140 § 136.)

§ 7 amended, 2003, 140 § 36. (See 2003, 140 § 136.)

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(Former title, Minimum Fair Wages for Women and Minors.)

§ 1A, first paragraph, 2 sentences added, 2003, 140 § 37.

§ 2, “definition of “Commissioner” revised, 2003, 26 § 577; definition of “Department” revised, 2003, 26 § 578. (See 2003, 26 § 715.)

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**(Title revised, 1990, 177 § 247. Former title, Employment Security.)
(Chapter amended by striking out the words “division of employment and training”, each time it appears, and inserting the words “division of employment assistance”, in each instance, 2003, 26 § 579.)(See 2003, 26 § 715.)**

§ 1, paragraph (e½) revised, 2003, 26 § 580; paragraph (g) revised, 2003, 26 § 581. (See 2003, 26 § 715.)

§ 13, 4 paragraphs added, 2003, 142 § 3. (See 200, 142 § 16.)

§ 14, subsection (a), paragraph (4) revised, 2003, 142 § 4; subsection (I), paragraph (1) revised, 2003, 142 § 5. (See 2003, 142 § 16.)

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§ 14F amended, 2003, 142 § 6. (See 2003, 142 § 16.)

§ 15, subsection (a), paragraph added, 2003, 142 § 7. (See 2003, 142 § 16.)

§ 22 amended, 2003, 26 § 582. (See 2003, 26 § 715.)

§ 25, subsection (e) 2 paragraphs inserted after eighth paragraph, 2003, 142 § 8; subsection (j) added, 2003, 142 § 9. (See 2003, 142 § 16.)

§ 30 amended, 2003, 142 § 10. (See 2003, 142 § 16.)

§ 47, paragraph added, 2003, 142 § 12. (See 200, 142 § 16.)

§ 58, paragraph (g) inserted, 2003, 26 § 583. (See 2003, 26 § 715.)

§ 58A, paragraph added, 2003, 142 § 13. (See 2003, 142 § 16.)

§ 61, second paragraph revised, 2003, 26 § 584. (See 2003, 26 § 715.)

§ 62A amended, 2003, 26 § 585; subsection (b) revised, 2003, 26 § 586. (See 2003, 26 § 715.)

§ 69 amended, 2003, 142 § 13A. (See 2003, 142 § 16.)

§ 69D added, 2003, 142 § 14. (See 2003, 142 § 16.)

§ 71D, first sentence revised, 2003, 26 § 587. (See 2003, 26 § 715.)

§ 74 amended, 2003, 26 § 588. (See 2003, 26 § 715.)

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§ 3, first paragraph, subsection 15 inserted, 2003, 26 § 437. (See 2003, 26 § 715.)

§ 5, last paragraph revised, 2003, 26 § 438. (See 2003, 26 § 715.)

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§ 1 revised, 2003, 127 § 12. (See 2003, 127 § 24.)

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§ 2 revised, 2003, 127 § 13. (See 2003, 127 § 24.)

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§ 13, subsection (a), clause (3) revised, 2003, 127 § 14. (See 2003, 127 § 24.)

§ 14 revised, 2003, 127 § 15. (See 2003, 127 § 24.)

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§ 83A revised, 2003, 4 § 32.

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(New chapter inserted, 1995, 281 § 18.) (See 1995, 281 § 22.)

§ 2 amended, 2003, 4 § 33.

§ 6, subsection (b), sentence added, 2003, 4 § 34.

§ 8 amended, 2003, 4 §§ 35, 36.

§ 14 amended, 2003, 4 § 37, 38.

§ 17 amended, 2003, 4 § 39.

§ 22 amended, 2003, 4 § 40.

§ 24 amended, 2003, 4 § 41; subsection (b), (c), and (d) inserted, 2003, 4 § 42.

§ 43 amended, 2003, 4 § 43.

§ 59 amended, 2003, 4 § 44; subsection (a) revised, 2003, 127 § 16. (See 2003, 127 § 24.)

§ 69 added, 2003, 4 § 45.

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(New chapter inserted, 2003, 127 § 17.) (See 2003, 127 § 24.)

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§ 3, first paragraph revised, 2003, 127 § 18. (See 2003, 127 § 24.)

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§ 16, paragraph added, 2003, 26 § 440. (See 2003, 26 § 715.)

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§ 6B, first paragraph, sentence added, 2003, 46 § 107.

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(New Chapter inserted, 2002, 265 § 1.) (See 2002, 265 § 2.)

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(Chapter revised, 1999, 127 § 151.) (See 1999, 127 § 385.)

§ 11, first paragraph, last sentence stricken out, 2003, 55 § 5.

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§ 26 added, 2003, 26 § 441. (See 2003, 26 § 715.)

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§ 105A amended, 2003, 140 §§ 38, 39.

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§ 14, first paragraph, clause inserted, 2003, 26 § 444. (See 2003, 26 § 715.)

§ 19E, first paragraph revised, 2003, 127 § 19. (See 2003, 127 § 24.)

§ 24E added, 2003, 26 § 445; subsection (a), first paragraph, fifth sentence amended, 2003, 140 §§ 40, 41; second paragraph, first sentence amended, 2003, 140 § 42; second sentence amended, 2003, 140 § 43; subsection (b ½) inserted, 2003, 140 § 44; subsection (c), third sentence amended, 2003, 140 § 45; subsection (d) amended, 2003, 140 § 46; subsection (e), first sentence revised, 2003, 140 § 47; second sentence amended, 2003, 140 § 48. (See 2003, 26 § 715; 140 § 136.)

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(New chapter inserted, 1993, 226 § 52.)

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§ 1, definition of “Affiliate” inserted, 2003, 141 § 34; definition of “Control” inserted, 2003, 141 § 35; definition of “Foreign health maintenance organization” inserted, 2003, 141 § 36; definition of “Health maintenance organization holding company system, 2003, 141 § 37; definition of “Managed hospital payment basis inserted, definition of “Member” revised, definition of “Net worth” inserted, 2003, 141 § 38; definitions of “Person”, “Subsidiary”, “Uncovered expenditures” and “Voting security” inserted, 2003, 141 § 39. (See 2003, 141 § 83.)

§ 3, clause (1) revised, 2003, 141 § 40. (See 2003, 141 § 83.)

§ 10 revised, 2003, 141 § 41. (See 2003, 141 § 83.)

§ 14, first sentence revised, 2003, 141 § 42. (See 2003, 141 § 83.)

§ 20 amended, 2003, 141 §§ 43, 44. (See 2003, 141 § 83.)

§ 20A added, 2003, 141 § 45. (See 2003, 141 § 83.)

§ 25 added, 2003, 141 § 46. (See 2003, 141 § 83.)

§ 26 added, 2003, 141 § 46. (See 2003, 141 § 83.)

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§ 1A amended, 2003, 4 § 46.

§ 5D revised, 2003, 18 § 1.

§ 6D added, 2003, 4 § 47.

§ 7 amended, 2003, 4 § 48.

§ 8A, subsection (a) revised, 2003, 4 § 49.

§ 9A revised, 2003, 46 § 108.

§ 12 amended, 2003, 4 § 50.

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§ 3 amended, 2003, 26 § 454. (See 2003, 26 § 715.)

§ 6 amended, 2003, 26 §§ 455, 456, 457. (See 2003, 26 § 715.)

§ 8, first sentence revised, 2003, 26 § 458. (See 2003, 26 § 715.)

§ 9, paragraph inserted after first paragraph, 2003, 26 § 459. (See 2003, 26 § 715.)

§ 10, fourth paragraph amended, 2003, 26 § 460; eighth paragraph amended, 2003, 26 §§ 461, 462; eleventh and twelfth paragraphs stricken out, 2003, 26 § 463; fifteenth paragraph amended, 2003, 26 §§ 464, 465. (See 2003, 26 § 715.)

§ 10A amended, 2003, 26 § 466. (See 2003, 26 § 715.)

§ 11 amended, 2003, 26 § 467. (See 2003, 26 § 715.)

§ 22 amended, 2003, 26 § 468. (See 2003, 26 § 715.)

§ 26 amended, 2003, 26 § 469. (See 2003, 26 § 715.)

§ 38 amended, 2003, 26 §§ 470, 471. (See 2003, 26 § 715.)

§ 39 amended, 2003, 26 § 472. (See 2003, 26 § 715.)

§ 40 amended, 2003, 26 §§ 473, 474. (See 2003, 26 § 715.)

§ 47 amended, 2003, 26 § 475. (See 2003, 26 § 715.)

§ 48 amended, 2003, 26 § 476. (See 2003, 26 § 715.)

§ 49 amended, 2003, 26 § 477. (See 2003, 26 § 715.)

§ 50 amended, 2003, 26 § 478. (See 2003, 26 § 715.)

§ 51A, paragraph inserted after first paragraph, 2003, 26 § 479. (See 2003, 26 § 715.)

§ 53 amended, 2003, 26 § 480; 5 paragraphs added, 2003, 26 § 481. (See 2003, 26 § 715.)

§ 53A revised, 2003, 26 § 482. (See 2003, 26 § 715.)

§ 54 amended, 2003, 26 §§ 483, 484. (See 2003, 26 § 715.)

§ 57, paragraph under caption “Suffolk county” stricken out, 3 paragraphs inserted, 2003, 26 § 485. (See 2003, 26 § 715.)

§ 66 amended, 2003, 26 § 486. (See 2003, 26 § 715.)

§ 68 amended, 2003, 26 § 487. (See 2003, 26 § 715.)

§ 70 amended, 2003, 26 § 488. (See 2003, 26 § 715.)

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§ 15 revised, 2003, 132.

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§ 8 revised, 2003, 26 § 503. (See 2003, 26 § 715.)

§ 34 amended, 2003, 26 § 504; clause (42) stricken out, 2003, 55 § 6. (See 2003, 26 § 715)

§ 38 revised, 2003, 4 § 51. (See 2003, 4 § 85.)

§ 39 amended, 2003, 4 §§ 52, 53, 54, 55, 56, 57, 58; first paragraph amended, 2003, 26 § 505; 2 paragraphs added, 2003, 4 § 59; **section amended**, 2003, 26 § 506. (See 2003, 4 § 85; 26 § 715.)

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